

H.R. REP. 104-798, H.R. Rep. No. 798, 104TH Cong., 2ND Sess. 1996, 1996 WL 532692 (Leg.Hist.)

P.L. 104-317, *1 FEDERAL COURTS IMPROVEMENT ACT OF 1996

DATES OF CONSIDERATION AND PASSAGE

House: September 17, October 4, 1996

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House Report (Judiciary Committee) No. 104-798,

Sept. 17, 1996

(To accompany H.R. 3968)

Senate Report (Judiciary Committee) No. 104-366,

Sept. 9, 1996

(To accompany S. 1887)

HOUSE REPORT NO. 104-798

September 17, 1996

Mr. Moorhead, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 3968]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3968) to make improvements in the operation and administration of the Federal courts, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary.....	11
Background and Need for Legislation	11
Hearings	12
Committee Consideration.....	12
Committee Oversight Findings	12
Committee on Government Reform and Oversight Findings.....	12

New Budget Authority and Tax Expenditures 13

Congressional Budget Office Estimate 13

Inflationary Impact Statement 17

Section-by-Section Analysis and Discussion 18

Changes in Existing Law 32

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Federal Courts Improvement Act of 1996”.

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CRIMINAL LAW AND CRIMINAL JUSTICE AMENDMENTS

Sec. 101. New authority for probation and pretrial services officers.

***2 TITLE II—JUDICIAL PROCESS IMPROVEMENTS**

Sec. 201. Duties of magistrate judge on emergency assignment.

Sec. 202. Registration of judgments for enforcement in other districts.

Sec. 203. Vacancy in clerk position; absence of clerk.

Sec. 204. Removal of cases against the United States and Federal officers or agencies.

Sec. 205. Appeal route in civil cases decided by magistrate judges with consent.

Sec. 206. Reports by judicial councils relating to misconduct and disability orders.

Sec. 207. Consent to trial in certain criminal actions.

TITLE III—JUDICIARY PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

Sec. 301. Refund of contribution for deceased deferred annuitant under the Judicial Survivors’ Annuities System.

Sec. 302. Bankruptcy judges reappointment procedure.

Sec. 303. Technical correction related to commencement date of temporary judgeships.

Sec. 304. Full-time status of court reporters.

Sec. 305. Court interpreters.

Sec. 306. Technical amendment related to commencement date of temporary bankruptcy judgeships.

Sec. 307. Contribution rate for senior judges under the Judicial Survivors' Annuities System.

Sec. 308. Proceedings on complaints against judicial conduct.

TITLE IV—JUDICIAL FINANCIAL ADMINISTRATION

Sec. 401. Increase in civil action filing fee.

Sec. 402. Interpreter performance examination fees.

Sec. 403. Judicial panel on multidistrict litigation.

Sec. 404. Disposition of fees.

TITLE V—FEDERAL COURTS STUDY COMMITTEE RECOMMENDATIONS

Sec. 501. Qualification of Chief Judge of Court of International Trade.

TITLE VI—PLACES OF HOLDING COURT

Sec. 601. Place of holding court in the Southern District of New York.

Sec. 602. Place of holding court in the Eastern District of Texas.

TITLE VII—MISCELLANEOUS

Sec. 701. Participation in judicial governance activities by district, senior, and magistrate judges.

Sec. 702. The Director and Deputy Director of the Administrative Office as officers of the United States.

Sec. 703. Removal of action from State court.

Sec. 704. Federal Judicial Center employee retirement provisions.

Sec. 705. Abolition of the special court, Regional Rail Reorganization Act of 1973.

Sec. 706. Exception of residency requirement for district judges appointed to the Southern District and Eastern District of New York.

Sec. 707. Civil justice expense and delay reduction plans.

Sec. 708. Venue for territorial courts.

TITLE I—CRIMINAL LAW AND CRIMINAL JUSTICE AMENDMENTS

SEC. 101. NEW AUTHORITY FOR PROBATION AND PRETRIAL SERVICES OFFICERS.

(a) Probation Officers.—[Section 3603 of title 18, United States Code](#), is amended—

- (1) by striking out “and” at the end of paragraph (8)(B);
- (2) by redesignating paragraph (9) as paragraph (10); and
- (3) by inserting after paragraph (8) the following new paragraph:

“(9) if approved by the court, be authorized to carry firearms under such regulations as the Director of the Administrative Office of the United States Courts may prescribe; and”.

(b) Pretrial Services Officers.—[Section 3154 of title 18, United States Code](#), is amended—

- (1) by redesignating paragraph (13) as paragraph (14); and
- (2) by inserting after paragraph (12) the following new paragraph:

“(13) If approved by the court, be authorized to carry firearms under such regulations as the Director of the Administrative Office of the United States Courts may prescribe.”.

TITLE II—JUDICIAL PROCESS IMPROVEMENTS

SEC. 201. DUTIES OF MAGISTRATE JUDGE ON EMERGENCY ASSIGNMENT.

The first sentence of [section 636\(f\) of title 28, United States Code](#), is amended by striking out “(a) or (b)” and inserting in lieu thereof “(a), (b), or (c)”.

SEC. 202. REGISTRATION OF JUDGMENTS FOR ENFORCEMENT IN OTHER DISTRICTS.

(a) In General.—[Section 1963 of title 28, United States Code](#), is amended—

- (1) by amending the section heading to read as follows:

***3** “[S 1963](#). Registration of judgments for enforcement in other districts”;

- (2) in the first sentence—

(A) by striking out “district court” and inserting in lieu thereof “court of appeals, district court, or bankruptcy court”; and

(B) by striking out “such judgment” and all that follows through “Trade,” and inserting in lieu thereof “the judgment”; and

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

“The procedure prescribed under this section is in addition to other procedures provided by law for the enforcement of

judgments.”.

(b) Technical and Conforming Amendment.—The table of sections for chapter 125 of title 28, United States Code, relating to [section 1963](#) is amended to read as follows:

“1963. Registration of judgments for enforcement in other districts.”.

SEC. 203. VACANCY IN CLERK POSITION; ABSENCE OF CLERK.

(a) In General.—[Section 954 of title 28, United States Code](#), is amended to read as follows:

“[S 954](#). Vacancy in clerk position; absence of clerk

“When the office of clerk is vacant, the deputy clerks shall perform the duties of the clerk in the name of the last person who held that office. When the clerk is incapacitated, absent, or otherwise unavailable to perform official duties, the deputy clerks shall perform the duties of the clerk in the name of the clerk. The court may designate a deputy clerk to act temporarily as clerk of the court in his or her own name.”.

(b) Technical and Conforming Amendment.—The table of sections for chapter 57 of title 28, United States Code, relating to [section 954](#) is amended to read as follows:

“954. Vacancy in clerk position; absence of clerk.”.

SEC. 204. REMOVAL OF CASES AGAINST THE UNITED STATES AND FEDERAL OFFICERS OR AGENCIES.

(a) In General.—[Section 1442 of title 28, United States Code](#), is amended—

(1) in the section heading by inserting “or agencies” after “officers”; and

(2) in subsection (a)—

(A) in the matter preceding paragraph (1) by striking out “persons”; and

(B) in paragraph (1) by striking out “Any officer of the United States or any agency thereof, or person acting under him, for any act under color of such office” and inserting in lieu thereof “The United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, sued in an official or individual capacity for any act under color of such office”.

(b) Technical and Conforming Amendment.—The table of sections for chapter 89 of title 28, United States Code, is amended by amending the item relating to [section 1442](#) to read as follows:

“1442. Federal officers or agencies sued or prosecuted.”.

SEC. 205. APPEAL ROUTE IN CIVIL CASES DECIDED BY MAGISTRATE JUDGES WITH CONSENT.

[Section 636 of title 28, United States Code](#), is amended—

(1) in subsection (c)—

(A) in paragraph (3) by striking out “In this circumstance, the” and inserting in lieu thereof “The”;

(B) by striking out paragraphs (4) and (5); and

(C) by redesignating paragraphs (6) and (7) as paragraphs (4) and (5); and

(2) in subsection (d) by striking out “, and for the taking and hearing of appeals to the district courts,”.

SEC. 206. REPORTS BY JUDICIAL COUNCILS RELATING TO MISCONDUCT AND DISABILITY ORDERS.

Section 332 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

“(g) No later than January 31 of each year, each judicial council shall submit a report to the Administrative Office of the United States Courts on the number and nature of orders entered under this section during the preceding calendar year that relate to judicial misconduct or disability.”.

*4 SEC. 207. CONSENT TO TRIAL IN CERTAIN CRIMINAL ACTIONS.

(a) Amendments to Title 18.—(1) Section 3401(b) of title 18, United States Code, is amended—

(A) in the first sentence by inserting “, other than a petty offense that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction,” after “misdemeanor”;

(B) in the second sentence by inserting “judge” after “magistrate” each place it appears;

(C) by striking out the third sentence and inserting in lieu thereof the following: “The magistrate judge may not proceed to try the case unless the defendant, after such explanation, expressly consents to be tried before the magistrate judge and expressly and specifically waives trial, judgment, and sentencing by a district judge. Any such consent and waiver shall be made in writing or orally on the record.”; and

(D) by striking out “judge of the district court” each place it appears and inserting in lieu thereof “district judge”.

(2) Section 3401(g) of title 18, United States Code, is amended by striking out the first sentence and inserting in lieu thereof the following: “The magistrate judge may, in a petty offense case involving a juvenile, that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction, exercise all powers granted to the district court under chapter 403 of this title. The magistrate judge may, in any other class B or C misdemeanor case involving a juvenile in which consent to trial before a magistrate judge has been filed under subsection (b), exercise all powers granted to the district court under chapter 403 of this title.”.

(b) Amendments to Title 28.—Section 636(a) of title 28, United States Code, is amended—

(1) by striking out “, and” at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(2) by striking out paragraph (4) and inserting the following:

“(4) the power to enter a sentence for a petty offense that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction; and

“(5) the power to enter a sentence for a class A misdemeanor, or a class B or C misdemeanor not covered by paragraph (4), in a case in which the parties have consented.”.

TITLE III—JUDICIARY PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

SEC. 301. REFUND OF CONTRIBUTION FOR DECEASED DEFERRED ANNUITANT UNDER THE JUDICIAL

SURVIVORS' ANNUITIES SYSTEM.

Section 376(o)(1) of title 28, United States Code, is amended by striking out “or while receiving ‘retirement salary,’” and inserting in lieu thereof “while receiving retirement salary, or after filing an election and otherwise complying with the conditions under subsection (b)(2) of this section.”.

SEC. 302. BANKRUPTCY JUDGES REAPPOINTMENT PROCEDURE.

Section 120 of the Bankruptcy Amendments and Federal Judgeship Act of 1984 (Public Law 98–353; 28 U.S.C. 152 note), is amended—

(1) in subsection (a) by adding at the end thereof the following new paragraph:

“(3) When filling vacancies, the court of appeals may consider reappointing incumbent bankruptcy judges under procedures prescribed by regulations issued by the Judicial Conference of the United States.”; and

(2) in subsection (b) by adding at the end thereof the following: “All incumbent nominees seeking reappointment thereafter may be considered for such a reappointment, pursuant to a majority vote of the judges of the appointing court of appeals, under procedures authorized under subsection (a)(3).”.

SEC. 303. TECHNICAL CORRECTION RELATED TO COMMENCEMENT DATE OF TEMPORARY JUDGESHIPS.

Section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101–650; 104 Stat. 5101; 28 U.S.C. 133 note) is amended by adding at the end thereof the following: “For districts named in this subsection for which multiple judgeships are created by this Act, the last of those judgeships filled shall be the judgeship created under this subsection.”.

*5 SEC. 304. FULL-TIME STATUS OF COURT REPORTERS.

Section 753(e) of title 28, United States Code, is amended by inserting after the first sentence the following: “For the purposes of subchapter III of chapter 83 of title 5 and chapter 84 of such title, a reporter shall be considered a full-time employee during any pay period for which a reporter receives a salary at the annual salary rate fixed for a full-time reporter under the preceding sentence.”.

SEC. 305. COURT INTERPRETERS.

Section 1827 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

“(1) Notwithstanding any other provision of this section or section 1828, the presiding judicial officer may appoint a certified or otherwise qualified sign language interpreter to provide services to a party, witness, or other participant in a judicial proceeding, whether or not the proceeding is instituted by the United States, if the presiding judicial officer determines, on such officer’s own motion or on the motion of a party or other participant in the proceeding, that such individual suffers from a hearing impairment. The presiding judicial officer shall, subject to the availability of appropriated funds, approve the compensation and expenses payable to sign language interpreters appointed under this subsection in accordance with the schedule of fees prescribed by the Director under subsection (b)(3) of this section.”.

SEC. 306. TECHNICAL AMENDMENT RELATED TO COMMENCEMENT DATE OF TEMPORARY BANKRUPTCY JUDGESHIPS.

Section 3(b) of the Bankruptcy Judgeship Act of 1992 (Public Law 102–361; 106 Stat. 965; 28 U.S.C. 152 note) is amended in the first sentence by striking out “date of the enactment of this Act” and inserting in lieu thereof “appointment date of the judge named to fill the temporary judgeship position”.

SEC. 307. CONTRIBUTION RATE FOR SENIOR JUDGES UNDER THE JUDICIAL SURVIVORS' ANNUITIES SYSTEM.

Section 376(b)(1) of title 28, United States Code, is amended to read as follows:

“(b)(1) Every judicial official who files a written notification of his or her intention to come within the purview of this section, in accordance with paragraph (1) of subsection (a) of this section, shall be deemed thereby to consent and agree to having deducted and withheld from his or her salary a sum equal to 2.2 percent of that salary, and a sum equal to 3.5 percent of his or her retirement salary. The deduction from any retirement salary—

“(A) of a justice or judge of the United States retired from regular active service under section 371(b) or section 372(a) of this title,

“(B) of a judge of the United States Court of Federal Claims retired under section 178 of this title, or

“(C) of a judicial official on recall under section 155(b), 373(c)(4), 375, or 636(h) of this title,

shall be an amount equal to 2.2 percent of retirement salary.”.

SEC. 308. PROCEEDINGS ON COMPLAINTS AGAINST JUDICIAL CONDUCT.

(a) In General.—Section 372(c) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting “(A)” after “(c)(1)”; and

(B) by adding at the end the following: “In the case of a complaint so identified, the chief judge shall notify the clerk of the court of appeals of the complaint, together with a brief statement of the facts underlying the complaint.

“(B) Complaints filed under subparagraph (A) in one judicial circuit shall be referred to another judicial circuit for proceedings under this subsection, in accordance with a system established by rule by the Judicial Conference, which prescribes the circuits to which the complaints will be referred. The Judicial Conference shall establish and submit to the Congress the system described in the preceding sentence not later than 180 days after the date of the enactment of this subparagraph.”;

(2) in paragraph (2)—

(A) by amending the first sentence to read as follows: “Upon receipt of a complaint filed or notice of a complaint identified under paragraph (1) of this subsection, the clerk shall promptly transmit such complaint or (in the case of a complaint identified under paragraph (1)) the statement of facts underlying the complaint to the chief judge of the circuit assigned to conduct proceedings on the complaint in accordance with the system established under paragraph (1)(B) (hereafter in this subsection referred to as the ‘chief judge’).”; and

(B) in the second sentence by inserting “or statement of facts underlying the complaint (as the case may be)” after “copy of the complaint”;

*6 (3) in paragraph (4)(A) by inserting “(to which the complaint or statement of facts underlying the complaint is referred)” after “the circuit”;

(4) in paragraph (5)—

(A) in the first sentence by inserting “to which the complaint or statement of facts underlying the complaint is referred” after “the circuit”; and

(B) in the second sentence by striking “the circuit” and inserting “that circuit”;

(5) in the first sentence of paragraph (15) by inserting before the period at the end the following: “in which the complaint was filed or identified under paragraph (1)”;

(6) by amending paragraph (18) to read as follows:

“(18) The Judicial Conference shall prescribe rules, consistent with the preceding provisions of this subsection—

“(A) establishing procedures for the filing of complaints with respect to the conduct of any judge of the United States Court of Federal Claims, the Court of International Trade, or the Court of Appeals for the Federal Circuit, and for the investigation and resolution of such complaints; and

“(B) establishing a system for referring complaints filed with respect to the conduct of a judge of any such court to any of the first eleven judicial circuits or to another court for investigation and resolution.

The Judicial Conference shall establish and submit to the Congress the system described in subparagraph (B) not later than 180 days after the date of the enactment of the Federal Courts Improvement Act of 1996.”.

(b) Effective Date.—The amendments made by this section apply to complaints filed on or after the 180th day after the date of the enactment of this Act.

TITLE IV—JUDICIAL FINANCIAL ADMINISTRATION

SEC. 401. INCREASE IN CIVIL ACTION FILING FEE.

(a) Filing Fee Increase.—Section 1914(a) of title 28, United States Code, is amended by striking out “\$120” and inserting in lieu thereof “\$150”.

(b) Disposition of Increase.—Section 1931 of title 28, United States Code, is amended—

(1) in subsection (a) by striking out “\$60” and inserting in lieu thereof “\$90”; and

(2) in subsection (b)—

(A) by striking out “\$120” and inserting in lieu thereof “\$150”; and

(B) by striking out “\$60” and inserting in lieu thereof “\$90”.

(c) Effective Date.—This section shall take effect 60 days after the date of the enactment of this Act.

SEC. 402. INTERPRETER PERFORMANCE EXAMINATION FEES.

(a) In General.—Section 1827(g) of title 28, United States Code, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

“(5) If the Director of the Administrative Office of the United States Courts finds it necessary to develop and administer criterion-referenced performance examinations for purposes of certification of interpreters, or other examinations for the selection of otherwise qualified interpreters, the Director may prescribe for each examination a uniform fee for applicants

to take such examination. In determining the rate of the fee for each examination, the Director shall consider the fees charged by other organizations for examinations that are similar in scope or nature. Notwithstanding section 3302(b) of title 31, the Director is authorized to provide in any contract or agreement for the development or administration of examinations and the collection of fees that the contractor may retain all or a portion of the fees in payment for the services. Notwithstanding paragraph (6) of this subsection, all fees collected after the effective date of this paragraph and not retained by a contractor shall be deposited in the fund established under [section 1931](#) of this title and shall remain available until expended.”.

(b) Payment for Contractual Services.—Notwithstanding [sections 3302\(b\), 1341, and 1517 of title 31, United States Code](#), the Director of the Administrative Office of the United States Courts may include in any contract for the development or administration of examinations for interpreters (including such a contract entered into before the date of the enactment of this Act) a provision which permits the contractor *7 to collect and retain fees in payment for contractual services in accordance with [section 1827\(g\)\(5\) of title 28, United States Code](#).

SEC. 403. JUDICIAL PANEL ON MULTIDISTRICT LITIGATION.

(a) In General.—(1) Chapter 123 of title 28, United States Code, is amended by adding after section 1932 the following new section:

“S 1933. Judicial Panel on Multidistrict Litigation

“The Judicial Conference of the United States shall prescribe from time to time the fees and costs to be charged and collected by the Judicial Panel on Multidistrict Litigation.”.

(2) The table of sections for chapter 123 of title 28, United States Code, is amended by adding after the item relating to [section 1931](#) the following:

“1933. Judicial Panel on Multidistrict Litigation.”.

(b) Related Fees for Access to Information.—Section 303(a) of the Judiciary Appropriations Act, 1992 ([Public Law 102–140](#); 105 Stat. 810; [28 U.S.C. 1913](#) note) is amended in the first sentence by striking out “1926, and 1930” and inserting in lieu thereof “1926, 1930, and 1932”.

SEC. 404. DISPOSITION OF FEES.

(a) Disposition of Attorney Admission Fees.—For each fee collected for admission of an attorney to practice, as prescribed by the Judicial Conference of the United States pursuant to [section 1914 of title 28, United States Code](#), \$30 of that portion of the fee exceeding \$20 shall be deposited into the special fund of the Treasury established under [section 1931 of title 28, United States Code](#). Any portion exceeding \$5 of the fee for a duplicate certificate of admission or certificate of good standing, as prescribed by the Judicial Conference of the United States pursuant to [section 1914 of title 28, United States Code](#), shall be deposited into the special fund of the Treasury established under [section 1931 of title 28, United States Code](#).

(b) Disposition of Bankruptcy Complaint Filing Fees.—For each fee collected for filing an adversary complaint in a bankruptcy proceeding, as established in Item 6 of the Bankruptcy Court Miscellaneous Fee Schedule prescribed by the Judicial Conference of the United States pursuant to [section 1930\(b\) of title 28, United States Code](#), the portion of the fee exceeding \$120 shall be deposited into the special fund of the Treasury established under [section 1931 of title 28, United States Code](#).

(c) Effective Date.—This section shall take effect 60 days after the date of the enactment of this Act.

TITLE V—FEDERAL COURTS STUDY COMMITTEE RECOMMENDATIONS

SEC. 501. QUALIFICATION OF CHIEF JUDGE OF COURT OF INTERNATIONAL TRADE.

(a) In General.—Chapter 11 of title 28, United States Code, is amended by adding at the end thereof the following new section:

“S 258. Chief judges; precedence of judges

“(a)(1) The chief judge of the Court of International Trade shall be the judge of the court in regular active service who is senior in commission of those judges who—

“(A) are 64 years of age or under;

“(B) have served for 1 year or more as a judge of the court; and

“(C) have not served previously as chief judge.

“(2)(A) In any case in which no judge of the court meets the qualifications under paragraph (1), the youngest judge in regular active service who is 65 years of age or over and who has served as a judge of the court for 1 year or more shall act as the chief judge.

“(B) In any case under subparagraph (A) in which there is no judge of the court in regular active service who has served as a judge of the court for 1 year or more, the judge of the court in regular active service who is senior in commission and who has not served previously as chief judge shall act as the chief judge.

“(3)(A) Except as provided under subparagraph (C), the chief judge serving under paragraph (1) shall serve for a term of 7 years and shall serve after expiration of such term until another judge is eligible under paragraph (1) to serve as chief judge.

“(B) Except as provided under subparagraph (C), a judge of the court acting as chief judge under subparagraph (A) or (B) of paragraph (2) shall serve until a judge meets the qualifications under paragraph (1).

*8 “(C) No judge of the court may serve or act as chief judge of the court after attaining the age of 70 years unless no other judge is qualified to serve as chief judge under paragraph (1) or is qualified to act as chief judge under paragraph (2).

“(b) The chief judge shall have precedence and preside at any session of the court which such judge attends. Other judges of the court shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

“(c) If the chief judge desires to be relieved of the duties as chief judge while retaining active status as a judge of the court, the chief judge may so certify to the

Chief Justice of the United States, and thereafter the chief judge of the court shall be such other judge of the court who is qualified to serve or act as chief judge under subsection (a).

“(d) If a chief judge is temporarily unable to perform the duties as chief judge, such duties shall be performed by the judge of the court in active service, able and qualified to act, who is next in precedence.”.

(b) Technical and Conforming Amendments.—Chapter 11 of title 28, United States Code, is amended—

(1) in section 251 by striking out subsection (b) and redesignating subsection (c) as subsection (b);

(2) in section 253—

(A) by amending the section heading to read as follows:

“S 253. Duties of chief judge”;

and

(B) by striking out subsections (d) and (e); and

(3) in the table of sections for chapter 11 of title 28, United States Code—

(A) by amending the item relating to section 253 to read as follows:

“253. Duties of chief judge.”;

and

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

“258. Chief judges; precedence of judges.”.

(c) Application.—(1) Notwithstanding the provisions of [section 258\(a\) of title 28, United States Code](#) (as added by subsection (a) of this section), the chief judge of the United States Court of International Trade who is in office on the day before the date of enactment of this Act shall continue to be such chief judge on or after such date until any one of the following events occurs:

(A) The chief judge is relieved of his duties under [section 258\(c\) of title 28, United States Code](#).

(B) The regular active status of the chief judge is terminated.

(C) The chief judge attains the age of 70 years.

(D) The chief judge has served for a term of 7 years as chief judge.

(2) When the chief judge vacates the position of chief judge under paragraph (1), the position of chief judge of the Court of International Trade shall be filled in accordance with [section 258\(a\) of title 28, United States Code](#).

TITLE VI—PLACES OF HOLDING COURT

SEC. 601. PLACE OF HOLDING COURT IN THE SOUTHERN DISTRICT OF NEW YORK.

The last sentence of [section 112\(b\) of title 28, United States Code](#), is amended to read as follows:

“Court for the Southern District shall be held at New York, White Plains, and in the Middletown-Walkill area of Orange County or such nearby location as may be deemed appropriate.”.

SEC. 602. PLACE OF HOLDING COURT IN THE EASTERN DISTRICT OF TEXAS.

(a) The second sentence of [section 124\(c\)\(3\) of title 28, United States Code](#), is amended by inserting “and Plano” after “held at Sherman”.

(b) Sections 83(b)(1) and 124(c)(6) of title 28, United States Code, are each amended in the last sentence by inserting before the period the following: “, and may be held anywhere within the Federal courthouse in Texarkana that is located astride the State line between Texas and Arkansas”.

***9 TITLE VII—MISCELLANEOUS**

SEC. 701. PARTICIPATION IN JUDICIAL GOVERNANCE ACTIVITIES BY DISTRICT, SENIOR, AND MAGISTRATE JUDGES.

(a) Judicial Conference of the United States.—Section 331 of title 28, United States Code, is amended by striking out the second undesignated paragraph and inserting in lieu thereof the following:

“The district judge to be summoned from each judicial circuit shall be chosen by the circuit and district judges of the circuit and shall serve as a member of the Judicial Conference of the United States for a term of not less than 3 successive years nor more than 5 successive years, as established by majority vote of all circuit and district judges of the circuit. A district judge serving as a member of the Judicial Conference may be either a judge in regular active service or a judge retired from regular active service under section 371(b) of this title.”.

(b) Board of the Federal Judicial Center.—Section 621 of title 28, United States Code, is amended—

(1) in subsection (a) by striking out paragraph (2) and inserting in lieu thereof the following:

“(2) two circuit judges, three district judges, one bankruptcy judge, and one magistrate judge, elected by vote of the members of the Judicial Conference of the United States, except that any circuit or district judge so elected may be either a judge in regular active service or a judge retired from regular active service under section 371(b) of this title but shall not be a member of the Judicial Conference of the United States; and”;

(2) in subsection (b) by striking out “retirement,” and inserting in lieu thereof “retirement pursuant to section 371(a) or section 372(a) of this title,”.

SEC. 702. THE DIRECTOR AND DEPUTY DIRECTOR OF THE ADMINISTRATIVE OFFICE AS OFFICERS OF THE UNITED STATES.

Section 601 of title 28, United States Code, is amended by adding at the end thereof the following: “The Director and Deputy Director shall be deemed to be officers for purposes of title 5, United States Code.”.

SEC. 703. REMOVAL OF ACTION FROM STATE COURT.

Section 1446(c)(1) of title 28, United States Code, is amended by striking out “petitioner” and inserting in lieu thereof “defendant or defendants”.

SEC. 704. FEDERAL JUDICIAL CENTER EMPLOYEE RETIREMENT PROVISIONS.

Section 627(b) of title 28, United States Code, is amended—

(1) in the first sentence by inserting “Deputy Director,” before “the professional staff”; and

(2) in the first sentence by inserting “chapter 84 (relating to the Federal Employees’ Retirement System),” after “(relating to civil service retirement),”.

SEC. 705. ABOLITION OF THE SPECIAL COURT, REGIONAL RAIL REORGANIZATION ACT OF 1973.

(a) Abolition of the Special Court.—Section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719) is amended in subsection (b)—

(1) by inserting “(1)” before “Within 30 days after”; and

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

“(2) The special court referred to in paragraph (1) of this subsection is abolished effective 90 days after the date of the enactment of the Federal Courts Improvement Act of 1996. On such effective date, all jurisdiction and other functions of the special court shall be assumed by the United States District Court for the District of Columbia. With respect to any proceedings that arise or continue after the date on which the special court is abolished, the references in the following provisions to the special court established under this subsection shall be deemed to refer to the United States District Court for the District of Columbia:

“(A) Subsections (c), (e)(1), (e)(2), (f) and (g) of this section.

“(B) Sections 202 (d)(3), (g), 207 (a)(1), (b)(1), (b)(2), 208(d)(2), 301 (e)(2), (g), (k)(3), (k)(15), 303 (a)(1), (a)(2), (b)(1), (b)(6)(A), (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), 304 (a)(1)(B), (i)(3), 305 (c), (d)(1), (d)(2), (d)(3), (d)(4), (d)(5), (d)(8), (e), (f)(1), (f)(2)(B), (f)(2)(D), (f)(2)(E), (f)(3), 306 (a), (b), (c)(4), and 601 (b)(3), (c) of this Act (45 U.S.C. 712 (d)(3), (g), 717 (a)(1), (b)(1), (b)(2), 718(d)(2), 741 (e)(2), (g), (k)(3), (k)(15), 743 (a)(1), (a)(2), (b)(1), (b)(6)(A), (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), 744 (a)(1)(B), (i)(3), 745 (c), (d)(1), (d)(2), (d)(3), (d)(4), (d)(5), (d)(8), (e), (f)(1), (f)(2)(B), (f)(2)(D), (f)(2)(E), (f)(3), 746 (a), (b), (c)(4), 791 (b)(3), (c)).

*10 “(C) Sections 1152(a) and 1167(b) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105(a), 1115(a)).

“(D) Sections 4023 (2)(A)(iii), (2)(B), (2)(C), (3)(C), (3)(E), (4)(A) and 4025(b) of the Conrail Privatization Act (45 U.S.C. 1323 (2)(A)(iii), (2)(B), (2)(C), (3)(C), (3)(E), (4)(A), 1324(b)).

“(E) Section 24907(b) of title 49, United States Code.

“(F) Any other Federal law (other than this subsection and section 605 of the Federal Courts Improvement Act of 1996), Executive order, rule, regulation, delegation of authority, or document of or relating to the special court as established under paragraph (1) of this subsection.”.

(b) Appellate Review.—(1) Section 209(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719) is amended by striking paragraph (3) and inserting in lieu thereof the following:

“(3) An order or judgment of the United States District Court for the District of Columbia in any action referred to in this section shall be reviewable in accordance with sections 1291, 1292, and 1294 of title 28, United States Code.”.

(2) Section 303 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743) is amended by striking out subsection (d) and inserting in lieu thereof the following:

“(d) Appeal.—An order or judgment entered by the United States District Court for the District of Columbia pursuant to subsection (c) of this section or section 306 shall be reviewable in accordance with sections 1291, 1292, and 1294 of title 28, United States Code.”.

(3) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended by striking out subsection (b) and inserting in lieu thereof the following:

“(b) Appeal.—An order or judgment of the United States District Court for the District of Columbia in any action referred to in this section shall be reviewable in accordance with sections 1291, 1292, and 1294 of title 28, United States Code.”.

(c) Technical and Conforming Amendments.—(1) Section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719) is amended—

(A) in subsection (g) by inserting “or the Court of Appeals for the District of Columbia Circuit” after “Supreme Court”; and

(B) by striking out subsection (h).

(2) Section 305(d)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(d)) is amended by striking out “a judge of the United States district court with respect to such proceedings and such powers shall include those of”.

(3) Section 1135(a)(8) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1104(8)) is amended to read as follows:

“(8) ‘Special court’ means the judicial panel established under section 209(b)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719(b)(1)) or, with respect to any proceedings that arise or continue after the panel is abolished pursuant to section 209(b)(2) of such Act, the United States District Court for the District of Columbia.”.

(4) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is further amended by striking out subsection (d).

(d) Pending Cases.—Effective 90 days after the date of the enactment of this Act, any case pending in the special court established under section 209(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719(b)) shall be assigned to the United States District Court for the District of Columbia as though the case had originally been filed in that court. The amendments made by subsection (b) of this section shall not apply to any final order or judgment entered by the special court for which—

(1) a petition for writ of certiorari has been filed before the date on which the special court is abolished; or

(2) the time for filing a petition for writ of certiorari has not expired before that date.

(e) Effective Date.—The amendments made by subsections (b) and (c) of this section shall take effect 90 days after the date of the enactment of this Act and, except as provided in subsection (d), shall apply with respect to proceedings that arise or continue on or after such effective date.

SEC. 706. EXCEPTION OF RESIDENCY REQUIREMENT FOR DISTRICT JUDGES APPOINTED TO THE SOUTHERN DISTRICT AND EASTERN DISTRICT OF NEW YORK.

Section 134(b) of title 28, United States Code, is amended—

(1) by inserting “the Southern District of New York, and the Eastern District of New York,” after “the District of Columbia,”;

(2) by inserting “or she” after “he”; and

*11 (3) by inserting at the end the following: “Each district judge of the Southern District of New York and the Eastern District of New York may reside within 20 miles of the district for which he or she is appointed.”.

SEC. 707. CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS.

(a) Authorization of Arbitration.—Section 473(a)(6)(B) of title 28, United States Code, is amended by inserting “arbitration,” before “mediation”.

(b) Report on Demonstration Program.—Section 104(d) of the Civil Justice Reform Act of 1990 (28 U.S.C. 471 note) is

amended by striking out “December 31, 1996,” and inserting in lieu thereof “June 30, 1997.”

(c) Report on Pilot Program.—Section 105(c)(1) of the Civil Justice Reform Act of 1990 (28 U.S.C. 471 note) is amended by striking out “December 31, 1996,” and inserting in lieu thereof “June 30, 1997.”

SEC. 708. VENUE FOR TERRITORIAL COURTS.

(a) Change of Venue.—Section 1404(d) of title 28, United States Code, is amended to read as follows:

“(d) As used in this section, the term ‘district court’ includes the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands, and the term ‘district’ includes the territorial jurisdiction of each such court.”

(b) Cure or Waiver of Defects.—Section 1406(c) of title 28, United States Code, is amended to read as follows:

“(c) As used in this section, the term ‘district court’ includes the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands, and the term ‘district’ includes the territorial jurisdiction of each such court.”

(c) Applicability.—The amendments made by this section apply to cases pending on the date of the enactment of this Act and to cases commenced on or after such date.

PURPOSE AND SUMMARY

The Subcommittee on Courts and Intellectual Property exercises the jurisdiction of the Committee on the Judiciary to oversee the operation of the federal judiciary. H.R. 3968, the “Federal Courts Improvement Act of 1996”, is designed to improve administration and procedures, eliminate operational inefficiencies, and, to the extent prudent, reduce judicial operating expenses.

The bill affects a wide range of judicial branch programs and operations. The reappointment procedure of bankruptcy judges is simplified. Provisions affecting court reporters, court interpreters, and employees of the Administrative Office the United States Courts are included. The bill corrects inconsistencies in the operation of the Judicial Survivors’ Annuities System. Civil action filing fees and other user fees are increased for the first time in 10 years. Clarifications of statutory removal and venue provisions are made. The bill also addresses several personnel provisions affecting court employees.

BACKGROUND AND NEED FOR THE LEGISLATION

The Subcommittee Chairman, Mr. Moorhead, and the ranking minority Member, Mrs. Schroeder, introduced H.R. 1989, the “Federal Courts Improvement Act of 1995,” on June 30, 1995. The bill was introduced at the request of the Judicial Conference of the United States.

The Judicial Conference is the policy making body of the federal judiciary, and through a committee system evaluates court operations. The Judicial Conference is supported by the Administrative Office of the United States Courts. Also, the circuit judicial councils of the regional districts have statutory responsibility for certain administrative *12 and operational matters. The provisions of H.R. 1989 were developed within the judiciary and approved by the Judicial Conference.

After the hearing held by the Subcommittee on Courts and Intellectual Property on H.R. 1989 on March 14, 1996, the Subcommittee marked up and favorably reported a committee print, that represented a scaled back version of H.R. 1989. The committee print was then introduced as a clean bill, H.R. 3968, the “Federal Courts Improvement Act of 1996.” The provisions in H.R. 3968 address administrative, financial, personnel, organizational and technical changes that are needed by the Federal courts and their supporting agencies. These provisions are designed to have a positive impact on the operations of the federal courts and enhance the delivery of justice in the federal system.

HEARINGS

The Committee's Subcommittee on Courts and Intellectual Property held a hearing on H.R. 1989, the "Federal Courts Improvement Act of 1995" on March 14, 1996, in Room B-352 Rayburn House Office Building. Testifying on behalf of the Judicial Conference of the United States were: Judge Stephen Anderson, U.S. Court of Appeals for the Tenth Circuit; Judge Emmett Cox, U.S. Court of Appeals for the Eleventh Circuit; and Judge Barefoot Sanders, U.S. District Court of the Northern District of Texas. Also presenting testimony were Judge W. Earl Britt, U.S. District Court for the Eastern District of North Carolina, on behalf of the Federal Judges Association and Mitchell F. Dolin, Attorney at Law, Covington & Burling, on behalf of the American Bar Association.

COMMITTEE CONSIDERATION

On July 23, 1996, the Subcommittee on Courts and Intellectual Property met in open session to markup a Committee print that represented a scaled-back version of H.R. 1989. The Committee print was ordered reported by voice vote, a quorum being present. On August 2, 1996, the committee print was then introduced as a clean bill, H.R. 3968. On September 11, 1996, the Committee met in open session and ordered reported the bill H.R. 3968, as amended, by a voice vote, a quorum being present.

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.

*13 NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(C)(3) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 3968, 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 16, 1996.

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 H.R. 3968, the Federal Courts Improvement Act of 1996.

Enacting H.R. 3968 would affect direct spending. Therefore, pay-as-you-go procedures would apply to the bill.

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: H.R. 3968.
2. Bill title: Federal Courts Improvement Act of 1996.
3. Bill status: As ordered reported by the House Committee on the Judiciary on September 11, 1996.
4. Bill purpose: H.R. 3968 would make numerous operational and administrative changes to the federal court system. Provisions that would have significant budgetary effects include section 306, which would allow the terms of certain bankruptcy judgeships to be extended, and sections 401 and 404, which would increase offsetting receipts and the spending of such receipts by increasing civil filing fees and other miscellaneous fees.
5. Estimated cost to the Federal Government: CBO estimates that enacting H.R. 3968 would increase discretionary spending by about \$2 million over the 1997–2002 period, subject to the availability of appropriated funds, and would increase mandatory spending by \$1 million over the same period. The following table summarizes the estimated budgetary impact of the bill.

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

*14 The cost of this bill fall within budget function 750.

Basis of estimate

Title I

Section 101 of this title would allow probation officers and pretrial officers to carry firearms with the approval of federal district courts and according to the rules and regulations prescribed by the Administrative Office of the United States Courts (AOUSC). Currently, the Judicial Conference of the United States maintains an informal policy that enables these officers to carry firearms if allowed under existing state and local law. As a result of this policy, a firearms training program is in operation and surplus firearms from other agencies are provided to the officers in the program. Thus far, overall expenses for this program have been minimal. According to the AOUSC, about 60 percent of the probation officers and pretrial services officers currently carry firearms, and enacting this bill would probably not increase participation in the firearms programs significantly. Thus, CBO estimates that enacting this provision would not have a significant budgetary impact.

Title II

Because section 208 would allow civil actions and criminal actions against federal agencies and federal officers to be removed from state court to a federal district court, enacting this provision could affect the number of cases that are tried in federal courts. However, according to the national Center for State Courts, very few of these cases are currently tried in state court. Hence, CBO estimates that enacting this provision would not significantly increase the federal caseload and thus would not have any significant impact on the federal budget.

CBO estimates that the other changes contained in this title that would affect judicial process would have no significant budgetary impact.

Title III

Section 305 would require the courts, subject to the availability of appropriated funds, to provide sign-language interpreters as necessary during any type of judicial proceeding. Under current law, such services are provided in some cases. Based on information from the AOUSC, CBO estimates that it would cost the courts about \$40,000 annually to provide court interpreters in additional cases.

Section 306 would amend the Bankruptcy Judgeship Act of 1992 ([Public Law 102-361](#)), which created 10 temporary judgeship positions and required that the next vacancy in each of the 10 affected district courts occurring five years after the effective date of the act *15 (August 26, 1992) not be filled. Enacting section 309 would change the controlling date for leaving vacancies unfilled to five years after the confirmation date of the temporary judge, rather than five years after the effective date of the Bankruptcy Judgeship Act of 1992. Based on information from the AOUSC, CBO estimates that over the next five years about two more workyears for judges would be incurred under the bill than under current law. We estimate that enacting section 309 would result in about \$1 million in new mandatory spending from fiscal year 1999 through fiscal year 2002 for salaries and benefits of judges. Salaries and benefits for support personnel and other expenditures related to the judgeships, which would require an appropriation, are estimated to cost about \$2 million over the same period.

The other sections of this title would make various changes that would affect the salaries and benefits for judiciary personnel. However, based on information from the AOUSC, CBO does not estimate that any of those changes would affect a significant number of judicial personnel. Thus, CBO estimates that neither discretionary nor mandatory spending would significantly increase by enacting these sections.

Title IV

Two of the four sections under this title would increase offsetting collections and the spending of such receipts. Section 401 would increase the filing fee for filing a civil action in district court from \$120 to \$150. Also, this section would increase the portion of this fee that would be deposited into the special judiciary fund in the Treasury to be used to finance activities of the AOUSC. Currently, this fund retains \$60 of the \$120 fee and enacting this section would require that an additional \$30 (that is, \$90 of the \$150 fee) be deposited into this fund. According to the AOUSC, filing fees are paid in about 220,000 civil actions each year. Thus, CBO estimates that enacting this section would increase offsetting collections by about \$7 million each year, beginning in 1997.

Section 404 would allow the judiciary to retain revenue from future increases in fees paid for attorney's admission to the federal district bar, duplicate admission certificates, certificates of good standing, and filing an adversary complaint in bankruptcy cases. CBO expects that the Judicial Conference of the United States would increase such fees following enactment of this bill. We estimate the increase would generate about \$3 million in offsetting collections each year. Because these collections as well as the amounts collected under section 401 would be spent without appropriations action, CBO estimates that enacting these provisions would have no net impact on the federal budget.

Titles V and VI

Titles V and VI would change the system for selecting the chief judge of the Court of International Trade and would establish the southern district of New York and the eastern district of Texas for holding court. CBO estimates that enacting those provisions would not result in any significant cost to the federal government.

*16 Title VII

Section 705 would abolish the Special Court that was established under the Regional Rail Reorganization Act of 1973 to oversee the reorganization of insolvent railroads. The court's current proceedings, which consist of less than 10 cases, and any future cases would be transferred to the district court for the District of Columbia. Based on information from the AOUSC, CBO estimates that eliminating this court would result in annual cost savings of about \$200,000, assuming that

appropriations were reduced accordingly.

Section 708 would extend the authorization for appropriations from fiscal year 1997 to 1998 for the use of arbitration by certain district courts. Based on historical expenditures for the arbitration program. CBO estimates that the district courts would require an appropriation for this purpose of about \$500,000 in fiscal year 1998.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. The various fee increases under Title IV would affect direct spending. However, because these fees, which are recorded as offsetting collections, would be mostly spent in the same year in which they are collected, CBO estimates that enacting the fee provisions would have no significant net impact on direct spending in each year. Because additional mandatory spending for the salaries and benefits for bankruptcy judges would not begin until fiscal year 1999, these amounts would not affect pay-as-you-go scoring.

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

7. Estimated impact on State, local and tribal governments: H.R. 3968 contains two intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 ([Public Law 104-4](#)). CBO estimates that the aggregate net cost of these mandates of state, local, and tribal governments would total, at most, \$1 million annually—well below the \$50 million threshold established in [Public Law 104-4](#).

Preemption of certain state and local gun laws.—The bill would preempt some state and local laws by authorizing federal pretrial and probation officers to carry guns. According to information from the AOUSC, at least one state prohibits pretrial officers from carrying concealed weapons. In addition, many of these officials who must travel across state and municipal borders find that their existing state authorization is not always legal in bordering areas. (Generally there is a residency requirement to obtain a permit to carry a gun in an area.)

The regulations implementing this provision would also preclude the need for these federal officials to obtain permits or licenses from state and local governments. Currently, federal pretrial and probation officers pay gun permit fees in three states. Reductions *17 in fee revenues would be slightly offset by savings in administrative costs. CBO estimates that providing these officials federal authorization to carry guns would result in a net loss of revenues for state and local governments totaling less than \$2,000 per year.

Increase in civil action filing fees.—The bill would increase the fee that parties, including state, local, and tribal governments, must pay to file civil actions in U.S. district courts. H.R. 3968 would raise the fee to \$150 per filing (an increase \$30). According to the AOUSC, only a fraction of the 220,000 such cases filed annually are filed by state, local, or tribal governments. CBO estimates the costs to these governments of complying with the fee increase would be less than \$1 million per year.

8. Estimated impact on the private sector: H.R. 3968 would impose new private-sector mandates as defined in [Public Law 104-4](#). First section 401 would increase the filing fee that parties who institute civil actions in federal district are required to pay. That fee would be increased to \$150 from its current law amount of \$120. Second, section 402 would authorize the Director of the AOUSC to develop a performance-based system of certification for court interpreters, and to change fees to interpreters for purposes of obtaining certification.

CBO estimates that the direct costs associated with new private-sector mandates in the bill would fall well below the \$100 million threshold specified in [Public Law 104-4](#). Increasing the civil action filing fee would result in additional payments by the private sector of about \$7 million per year. Authorizing the AOUSC Director to develop a certification system for court interpreters and to charge testing fees would essentially codify existing practices. Thus, the direct cost of section 402 would be zero.

9. Previous CBO estimate: On September 6, 1996, CBO transmitted a cost estimate for S. 1887, the Federal Courts Improvement Act of 1996, as reported by the Senate Committee on the Judiciary on July 30, 1996. H.R. 3968 is similar to S. 1887. The only significant difference between the two bills that affects their cost is that S. 1887 would authorize appropriations for the State Justice Institute while H.R. 3968 does not contain that authorization.

10. Estimate prepared by: Federal Cost Estimate: Susanne S. Mehlman; State and local government impact: Karen McVey; private sector impact: Matthew Eyles.

11. Estimate approved by: Robert A. Sunshine, Paul N. Van de Water, Assistant Director for Budget Analysis.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.R. 3968 will have no significant inflationary impact on prices and costs in the national economy.

*18 SECTION-BY-SECTION ANALYSIS

TITLE I—CRIMINAL LAW AND CRIMINAL JUSTICE AMENDMENTS

Sec. 101. New authority for probation and pretrial services officers

This section provides federal authority for probation and pretrial services officers to carry firearms under rules prescribed by the Director of the Administrative Office of the United States Courts, if approved by the appropriate district court.

Probation and pretrial services officers may presently carry weapons under circumstances specified by the Judicial Conference only if state law permits. In some jurisdictions, state law prohibits or limits these officers from carrying weapons, even where the officer has federal court approval to do so. In those states, the personal security of these officers is being compromised. Without a federal statute authorizing officers to carry firearms, these officers can encounter legal problems in crossing state lines while performing their duties. For example, when an officer is working in the community supervising offenders near a state border, the officer's state authorization to carry firearms may not be legal if the officer should cross a state border while conducting normal supervision activities. An offender may have a nearby job in an adjacent state and the officer must travel to the job site to verify the employment. Lack of federal authorization to carry firearms can also have fiscal consequences. In Puerto Rico, for example, officers must pay a license fee of several hundred dollars to carry firearms.

There are sound reasons supporting a federal law to supersede state law. This section corrects the situation in which the security of federal probation and pretrial services officers is left to the vagaries of state law. The section removes the uncertainty of the authority of officers who are required to cross state lines in the course of their duties. It also clarifies the removability from state court of a civil action arising out of the use of a firearm by an officer under [28 U.S.C. S 1442](#). The firearms are to be carried pursuant to regulations promulgated by the Director of the Administrative Office. These regulations would include extensive training and safety requirements, most of which are already in effect for those officers authorized to carry firearms.

Congress has addressed and remedied this problem for the employees of other federal government agencies involved in the criminal justice system, e.g., Bureau of Prisons, [18 U.S.C. S 3050](#); Drug Enforcement Administration, [21 U.S.C. S 878](#); Environmental Protection Agency, [18 U.S.C. S 3063](#); Federal Bureau of Investigation, [18 U.S.C. S 3052](#); Postal Service, [18 U.S.C. S 3061](#); Secret Service, [18 U.S.C. S 3056](#); U.S. Marshals Service, [18 U.S.C. S 3053](#). This section provides identical legal treatment for federal probation and pretrial officers.

TITLE II—JUDICIAL PROCESS IMPROVEMENTS

Sec. 201. Duties of magistrate judge on emergency assignment

This section authorizes magistrate judges temporarily assigned to another judicial district because of an emergency to dispose of civil cases with the consent of the parties. This authority is already possessed by magistrate judges sitting in their own districts. Magistrate *19 judges serving on emergency assignment, therefore, would have the same authority in this regard as

those serving in regular status.

Section 636(f) of title 28 permits the temporary assignment of a magistrate judge from one judicial district to another in emergency situations upon the concurrence of the chief judges of the districts involved. The magistrate judge may perform duties specified in section 636(a) and (b). Subsection (f) was added to the Federal Magistrates Act in 1972. The civil consent provisions in section 636(c) were enacted in 1979, subsequent to the enactment of the emergency provisions. It would appear that through oversight no corresponding subsection (f) amendment was made in 1979 to permit magistrate judges on emergency assignment in another district to enter judgment in civil cases upon the consent of the parties. Accordingly, this section corrects that oversight.

Sec. 202. Registration of judgments for enforcement in other districts

This section clarifies that in 28 U.S.C. S 1963, a judgment in an action for recovery of money or property that was entered in a court of appeals or a bankruptcy court may also be registered for enforcement purposes in any district. Such judgments of a district court are currently covered by this statute. As a practical matter, bankruptcy courts, as adjuncts to the district courts, have been relatively unaffected by the present law specifying the district court. However, this change is necessary to clarify the statute as to bankruptcy courts and to enable courts of appeals judgments to be registered for enforcement in other districts. This need arises at the appellate level especially in the enforcement of administrative law orders which have been appealed to the courts of appeals, but are to be enforced at the district level.

Sec. 203. Vacancy in clerk position; absence of clerk

While it might be thought self-evident that deputy clerks may act for the clerk of court whenever the clerk is unable to perform official duties for any reason, the current language of 28 U.S.C. S 954 speaks only to deputy clerks acting in lieu of a deceased clerk. This section amends section 954 to clarify that deputy clerks may act whenever the clerk cannot perform his or her official duties. It also permits the court to designate an acting clerk of court, when it is expected that the clerk will be unavailable or the office of clerk will be vacant for a prolonged period. This section also deletes an obsolete provision in section 954 relating to the compensation of a deceased clerk of the Supreme Court. A conforming amendment changes the chapter's table of contents.

Sec. 204. Removal of cases against the United States and Federal officers or agencies

This section allows civil actions and criminal prosecutions against federal agencies as well as those against federal officers sued in either an individual or official capacity to be removed to federal district court. A federal forum in such cases is important since state court actions against federal agencies and officers often involve complex federal issues and federal-state conflicts. This bill *20 legislatively reverses the Supreme Court's decision in *International Primate Protection League, et al. v. Administrators of Tulane Educational Fund, et al.*, 111 S.Ct. 1700 (1991), which held that only federal officers, not federal agencies, may remove state court actions to federal court pursuant to 28 U.S.C. S 1442(a)(1).

This section also reverses at least three lower court decisions, viz., *Western Securities v. Derwinski*, 937 F.2d 1276 (7th Cir. 1991); *American Policyholders Insurance Company v. Nyacol*, 989 F.2d 1256 (1st Cir. 1993), cert. denied, 114 S.Ct. 682 (1994), and *Turner v. Espy*, 863 F. Supp. 1198 (D. Haw. 1994), which held that federal officers sued exclusively in their official capacities cannot remove state court actions to federal court. The holdings in those cases directly contravened the statutory language. The result of these decisions has been that federal agencies have had to defend themselves in state court, despite important and complex federal issues such as preemption and sovereign immunity. Note that under the change made in this section, cases would be removable only where federal officers are acting pursuant to a federal law.

This section fulfills Congress' intent that questions concerning the exercise of federal authority, the scope of federal immunity and federal-state conflicts be adjudicated in federal court. It also clarifies that suits against federal agencies, as well as those against federal officers sued in either an individual or official capacity, may be removed to federal district court. This section does not alter the requirement that a federal law defense be alleged for a suit to be removable pursuant to 28 U.S.C. S 1442(a)(1).

Sec. 205. Appeal route in civil cases decided by magistrate judges with consent

In cases where parties to a civil action have consented to case-dispositive authority of a magistrate judge, current law permits an appeal of the judgment directly to the court of appeals or, as an alternative if the parties agree, to a district judge followed by discretionary review in the court of appeals.

This section eliminates the alternative route of appeal to the district judge, as recommended in the Judicial Conference's Long Range Plan for the Federal Courts. Although intended as a less-expensive means of obtaining appellate review, this alternative appeal route is inconsistent with the principle underlying the "consent" authority of magistrate judges—that the parties agree to disposition of their case without involving a district judge. A single forum of appeal in civil consent cases simplifies court procedures and recognizes the existing practice in most districts. When the statistics were last analyzed in preparation of the Long Range Plan, for the two year period from July 1, 1991 through June 30, 1993, only three percent of the civil consent cases disposed of by magistrate judges (338 out of 12,219) were appealed to a district judge. These appeals to district judges occurred in only 33 of the 94 district courts, 18 of which experienced only one appeal and another seven experienced only two or three such appeals. Moreover, the dual system of appeals has led to confusion among litigants, with some parties appealing to the wrong forum and others failing to recognize that appeal to a district judge might bar rights of further appeal. See, e.g., *21 *Stull v. Sec. of Health and Human Services*, 749 F.2d 9 (6th Cir. 1984) (no automatic right to appeal to court of appeals after parties chose to appeal to district court); *Webster v. Spraying Systems*, 727 F. Supp. 381 (N.D. Ill. 1989) (case improperly before district judge where parties elected to appeal directly to court of appeals). This section does not alter the role of magistrate judges as adjuncts to Article III courts since district judges would still control the referral of consent cases to magistrate judges.

Sec. 206. Reports by judicial councils relating to misconduct and disability orders

This section requires each Judicial Council to submit an annual report to the Administrative Office of the United States Courts on the number and nature of orders relating to judicial misconduct or disability under 28 U.S.C. S 332. This reporting requirement was recommended by the Report of the National Commission on Judicial Discipline and Removal (August 1993), which found that reliable information concerning Council orders was difficult to obtain.

Sec. 207. Consent to trial in certain criminal actions

Under current law, United States magistrate judges have jurisdiction to try misdemeanor cases, but persons charged with a misdemeanor may elect to be tried before the district judge in those cases. Trial by the magistrate judge can occur only when the defendant files a written consent to that trial.

Under this section, certain petty offenses could be tried by the magistrate judge without the consent of the defendant, and in those cases in which consent would continue to be required, that consent could be made either in writing or orally on the record.

Specifically, this section would permit trial by the magistrate judge without consent in the following cases:

Petty offenses that are infractions, punishable by imprisonment of five days or less;

Petty offenses that are Class C misdemeanors, punishable by imprisonment of thirty days or less; and

Petty offenses that are Class B misdemeanors charging a motor vehicle violation, punishable by imprisonment of six months or less.

For all other misdemeanors, including non-motor vehicle violations that are Class B misdemeanors, trial could occur before the magistrate judge, as happens under the law now in effect, with consent. This section does change the consent provision to permit consent to be made orally on the record as well as in writing.

TITLE III—JUDICIARY PERSONNEL ADMINISTRATION, BENEFITS AND PROTECTIONS

Sec. 301. Refund of contribution for deceased deferred annuitant under the Judicial Survivors' Annuities System

This section is a technical amendment to [28 U.S.C. S 376\(o\)\(1\)](#) addressing a contingency not addressed under the current statute relating to officials who retire on deferred annuities, i.e., what happens if a judicial official retires on a deferred annuity and agrees to continue Judicial Survivors' Annuities System (JSAS) contributions *22 during the period between leaving office and commencement of the annuity, but either dies before making the requisite 18 months of contributions for vesting purposes (a possibility for individuals who join JSAS during an "open season" and retire shortly thereafter) or dies without eligible survivors. Under the current statute, in cases where a judicial official dies without eligible survivors or before his or her JSAS benefits have become vested, a lump sum payment of contributions, with interest, is made to designated beneficiaries if the judicial official "dies while in office, or while receiving 'retirement pay'". This amendment applies the same policy to a judicial official who dies between the time of retirement and commencement of annuity payments.

Sec. 302. Bankruptcy judges reappointment procedure

This section amends the Bankruptcy Amendments and Federal Judgeship Act of 1984, [Pub. L. No. 98-353](#), S 120, as amended by [Pub. L. No. 99-554](#), S 102, 100 Stat. 3089, to authorize the Judicial Conference to prescribe regulations which provide for the reappointment of incumbent bankruptcy judges that differ from the initial appointment of bankruptcy judges.

The Bankruptcy Amendments and Federal Judgeship Act of 1984 articulated strict, specifically detailed ethical and scholastic standards for the selection of United States bankruptcy judges to ensure that such selections are governed by merit, character, and scholastic ability. This Act also requires the judicial council for each circuit, or a merit selection panel, if so convened by the council, to screen and review the qualifications of applicants, using strict criteria specified both by the Act and by accompanying regulations issued by the Judicial Conference of the United States. These procedures are thorough and time-consuming, both for the applicants and the reviewers. These procedures are unnecessary, however, in the case of applicants who are incumbent bankruptcy judges. The information regarding an incumbent's merit, scholarship, judicial temperament, etc., is no longer a matter which a judicial council or a merit selection screening panel need attempt to ascertain; they are facts, amply supported by a fourteen-year-old record. Thus, this section simply eliminates unnecessary expenditures of time and money.

The expectation is that a system similar to that utilized for incumbent magistrate judges would be established, i.e., if the appointing court of appeals determines that a reappointment is appropriate, then it publishes its intention to reappoint the incumbent and seeks public comment on the incumbent's record. The judge's performance is reviewed, as well as any comments received, and a report is forwarded to the court of appeals, which then decides whether to reappoint. If the court of appeals decides not to reappoint, then the normal recruiting and selection procedures begin.

The 1984 Act sought to eliminate any constitutional concerns from the 1978 Act, as expressed in [Northern Pipeline Construction Co. v. Marathon Pipe Line Co.](#), 458 U.S. 50 (1982). The concern at that time was to continue the then-incumbent bankruptcy judges in office and to encourage their reappointment when their existing terms expired. The failure to provide provisions concerning the reappointment *23 of future incumbents (i.e., incumbents reappointed after the filling of first vacancies following the 1984 Act) with waiver of the fact-finding procedures appears to be an oversight. Thus, this section is more in the nature of a technical correction. This change also provides uniformity in the procedures for reappointing incumbent bankruptcy judges with that of magistrate judges.

Sec. 303. Technical correction related to commencement date of temporary judgeships

When the Federal Judgeship Act was passed in 1990, it created, among other things, both permanent judgeships and a temporary judgeship in two district courts, the Eastern District of Missouri and the Eastern District of Pennsylvania. This section eliminates potential confusion about the date on which the temporary judgeship will lapse. When these judgeship positions have been filled, the source of the position has been identified as the Federal Judgeship Act of 1990 without

specifying whether the position being filled is the permanent or the temporary position.

The amended language of the 1990 Act creating temporary judgeships specifies that the first vacancy occurring five years after the confirmation of the judge appointed to fill the position shall not be filled. Without more specificity on which of the judgeships is the temporary position, uncertainty exists as to the date on when the position will lapse.

This section eliminates that confusion by specifying that the last of the judgeships (created by this Act in these two districts) filled shall be the temporary position. In this manner, the legislation will more fully comport with the intent of the temporary judgeship positions by assuring that the courts have the benefit of those temporary judgeships for at least the five year period specified in the Act.

Sec. 304. Full-time status of court reporters

This section corrects an inequity caused by the unique nature of court reporter work that unjustly penalizes court reporters at retirement. Sections 8339(o) and 8415(e) of title 5 were added in 1986 by the Omnibus Budget Reconciliation Act of 1985 to eliminate the availability of windfall retirement annuities for part-time employees. The Office of Personnel Management has issued a formal opinion which could deprive court reporters who are not on a regularly scheduled 40 hour weekly tour of duty in the courthouse of a full retirement annuity, irrespective of receipt of a full-time salary and concomitant full retirement contributions. Under this opinion, court reporters who wish to receive a retirement annuity based upon “full-time” service (as opposed to part-time service and a resulting reduction in annuity) must either (a) work a scheduled tour of duty in the courthouse of 80 hours per pay period; or (b) maintain records of the actual hours worked on federal business and work a minimum of 2080 hours per year on that business. However, court reporters work irregular hours and may not work the entire 40 hours in the courthouse. This section remedies this by providing that court reporters who are paid a full-time salary will be treated like full-time employees for retirement purposes.

***24** In order that annuities not be reduced solely due to the lack of a regularly scheduled tour of duty if the reporter is paid a full salary as fixed by the Judicial Conference, the Conference in September 1988 recommended the proposed legislative change to define court reporters as “full-time” employees for annuity purposes if they are paid full-time salaries.

Sec. 305. Court interpreters

This section cures what was an unanticipated statutory restriction on the federal courts’ ability to respond to the needs of hearing-impaired persons participating in court proceedings. The Court Interpreters Act at 28 U.S.C. S 1827(d)(1) and (e)(2) authorizes the provision of paid interpreting services to the hearing-impaired (as well as to non-English speakers), but only to parties and witnesses and only in criminal cases or civil actions instituted by the United States. At 28 U.S.C. S 1827(g)(4) and 1828(b) (with regard to special interpretation services), the Act provides that such services may be provided in other proceedings with the approval of the presiding judicial officer, but only on a cost-reimbursable basis.

Especially in recent years, since the enactment of the Americans with Disabilities Act, hearing-impaired persons in a variety of circumstances, such as debtors in bankruptcy cases, parties in private civil cases, attorneys representing private clients, and others, have requested federal courts to provide them with sign language interpreters so that they may meaningfully participate in court proceedings. No matter how sympathetic a presiding judge may be to such requests, however, because of the restriction in the Court Interpreters Act, the courts have been limited to providing this service on a reimbursable basis.

This section promotes accommodation to this class of disabled persons by vesting judicial officers with the discretion to provide sign language interpreters at court expense, subject to the availability of funds, to any participant in any type of judicial proceeding. The Committee contemplates that discretion under subsection (l) will be exercised sparingly to advance the interests of justice. The presiding officer, of course, must consider the availability of appropriated funds before exercising discretion under subsection (l) to appoint a sign language interpreter and avoid making such an appointment under this subsection in the absence of funds to pay for the services. Other provisions of the Court Interpreters Act remain unchanged, however, so that the provision of interpretation services for government witnesses, for example, remains the financial responsibility of the Department of Justice under 28 U.S.C. S 1827(g)(3).

Sec. 306. Technical amendment related to commencement date of temporary bankruptcy judgeships

Temporary judgeships were first established for bankruptcy judges in the Bankruptcy Judgeship Act of 1992 (the 1992 Act), which authorized ten temporary judgeship positions. Temporary judgeship positions are intended to provide a court with a needed judgeship for a minimum of five years. However, the language of section 3(b) of the 1992 Act followed language used for Article III *25 judges, which provided that a vacancy occurring five years or more after the date of the enactment of the Act shall not be filled.

By linking the temporary judgeship terms (5 years) to the enactment date of a particular judgeship act, a district could lose most or all of the benefit of an authorized temporary judgeship position. The period between the effective date of a particular judgeship act and the time new judges actually take office to fill newly-created positions is often years, due to delays in funding and selection processes.

The Article III judiciary has had temporary judgeships for years and has struggled with the harsh effects of linking the five-year period to the date of enactment of the particular judgeship act. Congress recognized this problem and passed legislation to amend the commencement date of certain temporary Article III judgeships. Pub. Law 104-60.

Sec. 307. Contribution rate for senior judges under the Judicial Survivors' Annuities System

This section corrects an anomaly between categories of disabled judges and their rate of contribution to the Judicial Survivors' Annuities System (JSAS) and provides equal treatment for all disabled judges. Currently, a senior judge who is disabled and retires under 28 U.S.C. S 371(b) (senior status) contributes to the JSAS at a rate of 2.2 percent. However, a disabled judge who retires under 28 U.S.C. S 372(a) (permanent disability) contributes to JSAS at a rate of 3.5 percent unless he or she is "willing and able" to work. This section applies a 2.2 percent contribution rate to all senior Article III judges and all retired judges of the United States Court of Federal Claims.

Sec. 308. Proceedings on complaints against judicial conduct

This section amends section 372(c) of title 28, United States Code, to provide that complaints filed in one judicial circuit shall be referred to another judicial circuit for proceedings under this subsection. The Judicial Conference is directed to prescribe by rule the system by which complaints will be referred among judicial circuits, as well as the United States Court of Federal Claims, the Court of International Trade, and the Court of Appeals for the Federal Circuit. The Judicial Conference shall establish and submit to Congress the system of referral within 180 days after the date of enactment of this Act.

TITLE IV—JUDICIAL FINANCIAL ADMINISTRATION

Sec. 401. Increase in civil action filing fee

In September 1992, the Judicial Conference, noting that civil filing fees had been increased from \$15 to \$60 in 1978 and from \$60 to \$120 in 1986, recommended that 28 U.S.C. S 1914(a) be amended to increase the civil filing fee from \$120 to \$150.

This section increases the filing fee for civil actions in the district courts under 28 U.S.C. S 1914 from \$120 to \$150. This modest adjustment affects only the initial "user fee" for all litigants not proceeding in forma pauperis under 28 U.S.C. S 1915. Although the initial filing fee of some state courts of general jurisdiction may be *26 less, many states have add-on fees. For example, in twenty-six states, courts charge a jury demand fee which can be as high as \$300, according to the National Center for State Courts. Also, actual reimbursement fees for jury trials ordered in certain judgments run much higher, depending upon the length of trial. Other states impose a fee for filing an answer, requesting a trial or filing a motion.

Additionally, this section amends 28 U.S.C. S 1931 to have the first \$90 (rather than \$60) of each fee be deposited into the special judiciary fund in the Treasury to be available to offset funds appropriated for the operation and maintenance of the

courts. According to the Judicial Conference, as a result, the judiciary would receive about \$6.6 million annually, thereby reducing the need for direct appropriations.

The section provides for a 60 day delay in the effective date in the proposed increase to the civil filing fee. This delay would allow clerks of court to implement the filing fee increase.

Sec. 402. Interpreter performance examination fees

Since the enactment in 1978 of the Court Interpreters Act, [28 U.S.C. S 1827](#), the Administrative Office has been responsible for the development and administration of interpreter certification examinations. From 1985 to the present, the Administrative Office has contracted with the University of Arizona to perform this function. Under this contract, the contractor may charge a fee to offset costs of developing and administering the exam. For the Spanish certification exam, the fees collected by the University defray a significant portion of the cost.

While this contracting approach has been followed for almost a decade, a review of the program has raised some concerns about the validity of contract language permitting the contractor to collect fees and budget funds without clear statutory authorization. Accordingly, this section amends [28 U.S.C. S 1827](#) to expressly authorize the Director of the Administrative Office to prescribe fees for examinations given for the purpose of certifying qualified interpreters, and to permit the contractor to collect and retain some or all of the fees as direct payment for contract services. The section also validates such provisions in current and past contracts. Any funds collected after this section takes effect that are not retained by a contractor are to be deposited into the offsetting fund established under [28 U.S.C. S 1931](#).

Sec. 403. Judicial panel on multidistrict litigation

Several provisions of title 28, United States Code, authorize the Judicial Conference to establish miscellaneous fee schedules for the federal, appellate, district, claims and bankruptcy courts. The Judiciary's 1991 appropriations act provided permanent authority for fees charged for electronic public access to these courts' databases to be deposited into the Judiciary Automation Fund, which pays the costs of providing those services. Currently, the Judicial Panel on Multidistrict Litigation is included in these statutes. The purpose of this section is to establish conformity in the federal judiciary by authorizing the Judicial Conference to establish a Miscellaneous Fee Schedule for the Panel and by authorizing the deposit *27 of electronic public access fees collected by the Panel into the Judiciary Automation Fund.

Sec. 404. Disposition of fees

This section allows the judiciary to retain the revenue from increases above current levels in (1) attorney admission fees, (2) duplicate admission certificates, and (3) certificates of good standing. It is anticipated that if such legislation were enacted, the Judicial Conference would raise the attorney admission fee from \$20 to \$50, and raise fees for duplicate judiciary certificates and certificates of good standing from \$5 to \$15. This would provide about \$2 million annually for the judiciary.

This section also allows the judiciary to retain additional revenues derived from increases in fees for filing an adversary complaint in bankruptcy cases. Item 6 of the Bankruptcy Court Miscellaneous Fee Schedule, which was adopted by the Judicial Conference pursuant to [28 U.S.C. S 1930](#), provides that the fee charged for filing a complaint be the same amount as the filing fee prescribed in [28 U.S.C. S 1914\(a\)](#) for instituting any civil action other than a writ of habeas corpus.

Additionally, this section provides that the additional \$30 from each bankruptcy complaint filing is to be deposited into the special judiciary fund in the Treasury. These revenues would be available to offset funds appropriated for the operation and maintenance of the courts.

TITLE V—FEDERAL COURTS STUDY COMMITTEE RECOMMENDATIONS

Sec. 501. Qualification of chief judge of court of international trade

Under existing [28 U.S.C. S 251\(b\)](#), the President designates one of the nine judges of the court, who is less than 70 years old, to serve as chief judge. The chief judge so designated continues to serve as chief judge until the judge reaches the age of seventy and another judge is designated as chief judge by the President.

The method for selecting the chief judges of the other Article III courts provides that the chief judge of the court shall be the judge in regular service who is senior in commission of those judges who (a) is sixty-four years of age or under; (b) has served as a judge of the court for at least one year; and (c) has not previously served as chief judge.

This method of selection was reviewed by the Federal Courts Study Committee, which recommended that this method not be changed. In particular, the Committee Report stated:

The modified seniority method of chief judge selection established in 1982 (see [28 U.S.C. S S 45 & 136](#)) is not faultless, but it operates well in practice and is preferable to any other method. The statutorily specified term for chief judges is a definite improvement over the previous pattern of very short or very long periods of service.

This section changes the system for selecting the chief judge of the Court of International Trade to conform with the modified seniority system applicable to every other Article III court. This significantly improves the political selection of a chief judge by the *28 President and has the support of the Judicial Conference of the United States.

TITLE VI—PLACES OF HOLDING COURT

Sec. 601. Place of holding court in the Southern District of New York

In March 1993, the Judicial Conference approved a proposal to amend [28 U.S.C. S 112\(b\)](#) to establish the Middletown-Wallkill area of Orange County, New York (west of Hudson) as a place of holding court in the Southern District of New York. This section implements that proposal.

Sec. 602. Place of holding court in the Eastern District of Texas

This amendment would implement the March 1991 Judicial Conference proposal to designate Plano, Texas as a place of holding court in the Eastern District of Texas. In addition, the provision clarifies that court for the Eastern District of Texas and the Western District of Arkansas may be held anywhere in the Federal Courthouse which sits astride the Texas-Arkansas state line.

TITLE VII—MISCELLANEOUS

Sec. 701. Participation in judicial governance activities by district, senior, and magistrate judges

Currently, [28 U.S.C. S 331](#) provides, in relevant part, that “[t]he district judge to be summoned [to the Judicial Conference] from each judicial circuit shall be chosen by the circuit and district judges of the circuit at the annual judicial conference of the circuit held pursuant to section 333 of this title * * * .” In 1990, [28 U.S.C. S 333](#) was amended to permit the circuit judicial conferences to be held biennially instead of annually. This raised the question of whether the circuit and district judges could elect their district court representative to the Judicial Conference without holding an annual meeting. The General Counsel’s office of the Administrative Office of the United States Courts concluded that it was reasonable to assume the judges could make this decision without a formal meeting, but recommended a technical amendment. Accordingly, this section amends [28 U.S.C. S 331](#) to authorize each judicial conference to choose a representative in accordance with rules adopted by the judicial conference of the circuit.

Sec. 702. The Director and Deputy Director of the Administrative Office as officers of the United States

The Judicial Improvements Act of 1990 (Pub. L. No. 101–650) changed the authority for appointment of the Director and Deputy Director of the Administrative Office from the Supreme Court to the Chief Justice (after consulting with the Judicial Conference). In so doing, it appears Congress inadvertently eliminated these two positions from the definition of “officer” of the United States under 5 U.S.C. S 2104, which defines an “officer of the United States” for purposes of title 5, United States Code. While qualification of these positions under the definition of “employee” of the United States prevents inadvertent disqualification for certain benefits, the positions should be clearly included under the term “officer”.

*29 In the past, the Director and Deputy Director have qualified as “officers” under the title 5 definition because they were (1) appointed by a court of the United States, (2) engaged in the performance of a federal function under authority of law, and (3) were subject to the supervision of the Judicial Conference while engaged in the performance of the duties of office. Appointment by the Chief Justice will not allow a Director or Deputy Director literally to meet the definition of “officer”. Accordingly, the General Counsel of the Administrative Office suggested legislation to make it clear that the Director and Deputy Director of the Administrative Office are “officers” of the United States. This section accomplishes that purpose by adding a new sentence to the end of 28 U.S.C. S 601 to the effect that “[t]he Director and Deputy Director shall be deemed to be ‘officers’ for the purposes of title 5, United States Code.”

Sec. 703. Removal of action from State court

This section conforms 28 U.S.C. S 1446(c)(1) to the language in the rest of the section by substituting “defendant or defendants” for “petitioner”.

Sec. 704. Federal Judicial Center employee retirement provisions

This section clarifies 28 U.S.C. S 627(b) to remove any doubt that eligible Federal Judicial Center staff, including the Deputy Director, are covered by the Federal Employees Retirement System (FERS) under 5 U.S.C. S S 8401 et seq.

Sec. 705. Abolition of the Special Court, Regional Rail Reauthorization Act of 1973.

Section 705 abolishes the Special Court that was established in the early 1970’s to oversee the reorganization of insolvent railroads. That court’s caseload has declined to less than 10 cases, none of which involve significant activity. The section transfers the Special Court’s jurisdiction over those cases and any future rail reorganization proceedings to the U.S. District Court for the District of Columbia, where the court’s records and a majority of its judges are currently located, and makes other changes incidental to the court’s abolition. As there is already an established, uniform body of law regarding these matters, it is easier to maintain that unified body of law within one court. Further, the precedential value of the Special Court will be retained and the jurisprudence of the Special Court will be adopted by the District Court for the District of Columbia for the purpose of deciding these cases.

More specifically, subsection (a) amends 45 U.S.C. S 719 to provide that the Special Court is abolished after a 90-day transition period. At the end of the transition period, the District Court for the District of Columbia assumes responsibility for the Special Court’s remaining docket and acquires the latter’s exclusive, nationwide jurisdiction under the Regional Rail Reorganization Act of 1973, the Northeast Rail Service Act of 1981, the Conrail Privatization Act, and related statutes. Subsection (a) also deems all statutory or regulatory references to the Special Court to refer to the District Court for the District of Columbia for purposes of any proceedings after the Special Court is abolished. Subsection (b) provides that appeals in rail reorganization cases decided by the District *30 Court for the District of Columbia shall lie to the Court of Appeals for the District of Columbia Circuit.

Subsection (c) makes necessary conforming amendments. Subsection (d) provides that cases pending at the time of the Special Court’s abolition will be assigned to the District Court for the District of Columbia as if they had been filed originally in that court. Subsection (e) provides that the amendments concerning appellate review and the conforming amendments become effective 90 days after enactment. The appellate review amendments, however, do not apply to any final order or judgment entered by the Special Court, which is a three-judge court, for which a petition for writ of certiorari has already been filed or the time for filing such petition has not expired.

By way of background, in the early 1970's, Congress was confronted with a rail transportation crisis when the eight major railroads in the Northeast and Midwest filed for bankruptcy relief and faced likely dissolution. It responded with emergency legislation to reorganize and streamline the insolvent railroads and, as part of that scheme, established a "Special Court" of three federal judges, drawn from other courts, to oversee the reorganization by approving a new rail system plan, reviewing and ordering the requisite property conveyances, determining appropriate compensation, and making other necessary findings and determinations. During the 1980's, the court was expanded to six judges (sitting in three-judge panels), and its jurisdiction was extended to include oversight of the subsequent reorganization of northeast rail service and privatization of the Consolidated Rail Corporation (Conrail).

With the Special Court's unique mission essentially completed, it is now appropriate to abolish that court and send any remaining proceedings to a regular district court. This section produces budgetary and administrative economies and, according to the Judicial Conference, will result in an annual cost savings of approximately \$175,000. Elimination of a special tribunal with narrow jurisdiction also accords with the view, expressed in Recommendations 16 and 24 of the Judicial Conference's Long Range Plan for the Federal Courts, that federal litigation ordinarily should proceed in the regular trial and appellate courts.

Sec. 706. Exception of residency requirement for district judges appointed to the Southern District and Eastern District of New York

This section amends [28 U.S.C. S 134\(b\)](#) to allow judges from the Southern District of New York (which includes the Burroughs of Manhattan and the Bronx and nine northern suburban counties) to reside within 20 miles of the district to which they were appointed.

[Title 28 U.S.C. S 134\(b\)](#) requires district court judges to reside in the district to which they were appointed. The underlying policy for this statute is that judges should reside in the community in which they administer the law. Because of its unique geographic status, judges appointed to the District of Columbia District are already exempt from this requirement.

As with judges, and for similar policy reasons, United States Attorneys are required to reside in the district to which they are appointed. However, there are three exceptions to this requirement: ***31** the District of Columbia; the Eastern District of New York; and the Southern District of New York. In these three exceptions, the United States Attorneys may reside within 20 miles of the district. This section applies the same residency requirements presently in effect for United States Attorneys in the Southern and Eastern Districts of New York to federal district judges in those districts.

This exemption applies a common sense approach to the residency requirement. New York is the only city in the United States that is divided between two federal judicial districts. Judges, while still being required to live in the community in which they administer the law, would not be prohibited from residing in a particular section of the city because of this jurisdictional anomaly.

Sec. 707. Civil justice expense and delay reduction plans

In the Civil Justice Reform Act of 1990, Congress directed that district courts "shall consider and may include" in their civil justice expense and delay reduction plans "(6) authorization to refer appropriate cases to alternative dispute resolution programs that (A) have been designated for use in a district court; or (B) the court may make available, including mediation, minitrial, and summary jury trial." ([28 USC S 473\(a\)\(6\)](#)) The omission of reference to arbitration programs has left a void in the implementation of the Civil Justice Reform Act and reduced its utility as a vehicle to further the installation of ADR programs in the federal courts.

This section would add arbitration to ([28 USC S 473\(a\) \(6\)](#)) to make it clear that courts are free to adopt an arbitration program if they think it is appropriate.

Section 707 also amends sections 104(d) and 105(c) of the Civil Justice Reform Act (CJRA) of 1990 to extend to June 30, 1997, the date by which the Judicial Conference is required to submit reports on the CJRA demonstration program and the

CJRA pilot program.

Section 105 of the CJRA requires the Judicial Conference to transmit to Congress a final report containing recommendations on the implementation of cost and delay reduction programs in the federal district courts. These recommendations are to be based on the results of the independent assessment of the CJRA pilot and comparison courts presently being conducted by the RAND Corporation.

Under the current statute, both the RAND report and the Judicial Conference report are to be transmitted to Congress no later than December 31, 1996. The RAND Corporation plans to submit a draft of its report to the Judicial Conference Committee on Court Administration and Case Management on June 30, 1996, and then the final report to the Judicial Conference in September 1996. Under this schedule, the Judicial Conference and its committees will have only three months thereafter to analyze the RAND report, which is expected to be 400 to 600 pages in length, and develop appropriate recommendations for its report to Congress.

Due to the importance of the CJRA for the entire judiciary and the effort and funds already expended on the study, sufficient time should be allotted to develop a thorough, reasoned, and complete report to Congress. The Conference would greatly benefit from receiving the views of individual judges, Judicial Conference committees, and private sector groups, including the organized bar, regarding *32 the RAND report. It would be very difficult to obtain and consider all these disparate opinions under the current three-month timeline. Therefore, this section extends by six months, to June 30, 1997, the date by which the Judicial Conference's CJRA report is to be transmitted to Congress.

Section 104 of the CJRA imposes the additional requirement that the Judicial Conference submit a separate report on the district courts that participated in the Act's demonstration program. For the sake of consistency, section 104 of the CJRA is amended to state that this report is also due on June 30, 1997.

Sec. 708. Venue in the territorial courts

Section 708 would correct an anomaly in existing law relating to the venue transfer provisions contained in 28 U.S.C. S S 1404 and 1406. Under current law, district courts may transfer cases to other district courts where venue is proper either if the transferee court is more convenient (28 U.S.C. S 1404) or if venue is improper in the transferor court (28 U.S.C. S 1406). As currently written, these transfer provisions specifically apply to the District Court for the District of the Canal Zone (which no longer exists), but not to the other territorial courts under the jurisdiction of the United States. A recent unpublished decision of the Third Circuit asked us to address this anomaly. *Abdullah v. AMR Corp.*, No. 95-7025 (3d Cir. May 15, 1995). Although the territorial courts (i.e. the District Courts of the Virgin Islands, Guam, and the Northern Mariana Islands) are not like U.S. District Courts in all respects, they should have the benefit of these transfer mechanisms whenever they are needed. Enacting S 708 will improve the administration of justice by improving the courts' ability to send cases to the appropriate district. Section 708 would make it clear that the territorial courts may use the venue transfer provisions, and it would also eliminate the anachronistic reference to the Canal Zone court.

CHANGES IN EXISTING LAW MADE BY 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*):

TITLE 18, UNITED STATES CODE

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PART II—CRIMINAL PROCEDURE

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CHAPTER 207—RELEASE AND DETENTION PENDING JUDICIAL PROCEEDINGS

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S 3154. Functions and powers relating to pretrial services

* * * * *

*33 Pretrial services functions shall include the following:

(1) * * *

* * * * *

(13) If approved by the court, be authorized to carry firearms under such regulations as the Director of the Administrative Office of the United States Courts may prescribe.

[(13)] (14) Perform such other functions as specified under this chapter.

* * * * *

CHAPTER 219—TRIAL BY UNITED STATES MAGISTRATES

* * * * *

S 3401. Misdemeanors; application of probation laws

(a) * * *

(b) Any person charged with a misdemeanor, other than a petty offense that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction, may elect, however, to be tried before a [judge of the district court] district judge for the district in which the offense was committed. The magistrate judge shall carefully explain to the defendant that he has a right to trial, judgment, and sentencing by a [judge of the district court] district judge and that he may have a right to trial by jury before a district judge or magistrate judge. [The magistrate shall not proceed to try the case unless the defendant, after such explanation, files a written consent to be tried before the magistrate that specifically waives trial, judgment, and sentencing by a judge of the district court.] The magistrate judge may not proceed to try the case unless the defendant, after such explanation, expressly consents to be tried before the magistrate judge and expressly and specifically waives trial, judgment, and sentencing by a district judge. Any such consent and waiver shall be made in writing or orally on the record.

* * * * *

(g) [The magistrate may, in a Class B or C misdemeanor case, or infraction case, involving a juvenile in which consent to trial before a magistrate has been filed under subsection (b) of this section, exercise all powers granted to the district court under chapter 403 of this title.] The magistrate judge may, in a petty offense case involving a juvenile, that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction, exercise all powers granted to the district court under chapter 403 of this title. The magistrate judge may, in any other class B or C misdemeanor case involving a juvenile in which consent to trial before a magistrate judge has been filed under subsection (b), exercise all powers granted to the district court under chapter 403 of this title. For purposes of this subsection, proceedings under chapter 403 of this title may be instituted against a juvenile by a violation notice or complaint, except that no such case may proceed unless the certification referred to in section 5032 of this title has been filed in open court at the arraignment. No term of imprisonment shall be imposed by the magistrate in any such case.

* * * * *

*34 CHAPTER 229—POSTSENTENCE ADMINISTRATION

* * * * *

S 3603. Duties of probation officers

A probation officer shall—

(1) * * *

* * * * *

(8)(A) * * *

(B) immediately report any violation of the conditions of release to the court and the Attorney General or his designee; [and]

(9) if approved by the court, be authorized to carry firearms under such regulations as the Director of the Administrative Office of the United States Courts may prescribe; and

[(9)] (10) perform any other duty that the court may designate.

* * * * *

TITLE 28, UNITED STATES CODE

PART I—ORGANIZATION OF COURTS

* * * * *

CHAPTER 5—DISTRICT COURTS

* * * * *

S 83. Arkansas

Arkansas is divided into two judicial districts to be known as the Eastern and Western Districts of Arkansas.

Eastern District

(a) * * *

* * * * *

Western District

(b) The Western District comprises six divisions.

(1) The Texarkana Division comprises the counties of Hempstead, Howard, Lafayette, Little River, Miller, Nevada, and Sevier.

Court for the Texarkana Division shall be held at Texarkana, and may be held anywhere within the Federal courthouse in Texarkana that is located astride the State line between Texas and Arkansas.

* * * * *

S 112. New York

New York is divided into four judicial districts to be known as the Northern, Southern, Eastern, and Western Districts of

New York.

* * * * *

***35 Northern District**

(a) * * *

Southern District

(b) The Southern District comprises the counties of Bronx, Dutchess, New York, Orange, Putnam, Rockland, Sullivan, and Westchester and concurrently with the Eastern District, the waters within the Eastern District.

[Court for the Southern District shall be held at New York and White Plains.]

Court for the Southern District shall be held at New York, White Plains, and in the Middletown-Walkkill area of Orange County or such nearby location as may be deemed appropriate.

* * * * *

S 124. Texas

Texas is divided into four judicial districts to be known as the Northern, Southern, Eastern, and Western Districts of Texas.

(a) * * *

* * * * *

Eastern District

(c) The Eastern District comprises seven divisions.

(1) * * *

* * * * *

(3) The Sherman Division comprises the counties of Collin, Cook, Denton, and Grayson.

Court for the Sherman Division shall be held at Sherman and Plano.

* * * * *

(6) The Texarkana Division comprises the counties of Bowie, Franklin, and Titus.

Court for the Texarkana Division shall be held at Texarkana, and may be held anywhere within the Federal courthouse in Texarkana that is located astride the State line between Texas and Arkansas.

* * * * *

S 134. Tenure and residence of district judges

(a) The district judges shall hold office during good behavior.

(b) Each district judge, except in the District of Columbia, the Southern District of New York, and the Eastern District of New York, shall reside in the district or one of the districts for which he or she is appointed. Each district judge of the Southern District of New York and the Eastern District of New York may reside within 20 miles of the district for which he or she is appointed.

* * * * *

***36 CHAPTER 11—COURT OF INTERNATIONAL LAW**

Sec.

251. Appointment and number of judges; offices.

* * * * *

[253. Duties of chief judge; precedence of judges.]

253. Duties of chief judge.

* * * * *

258. Chief judges; precedence of judges.

* * * * *

S 251. Appointment and number of judges; offices

(a) * * *

[(b) The President shall designate one of the judges of the Court of International Trade who is less than seventy years of age to serve as chief judge. The chief judge shall continue to serve as chief judge until he reaches the age of seventy years and another judge is designated as chief judge by the President. After the designation of another judge to serve as chief judge, the former chief judge may continue to serve as a judge of the court.]

[(b)] (c) The offices of the Court of International Trade shall be located in New York, New York.

* * * * *

[S 253. Duties of chief judge; precedence of judges]

S 253. Duties of chief judge

(a) * * *

* * * * *

[(d) Whenever the chief judge is unable to perform the duties of his office or the office is vacant, his powers and duties shall devolve upon the judge next in precedence who is able to act, until such disability is removed or another chief judge is appointed and duly qualified.

[(e) The chief judge shall have precedence and shall preside at any session which he attends. Other judges shall have precedence and shall preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.]

* * * * *

S 258. Chief judges; precedence of judges

(a)(1) The chief judge of the Court of International Trade shall be the judge of the court in regular active service who is senior in commission of those judges who—

(A) are 64 years of age or under;

(B) have served for 1 year or more as a judge of the court; and

(C) have not served previously as chief judge.

(2)(A) In any case in which no judge of the court meets the qualifications under paragraph (1), the youngest judge in regular active service who is 65 years of age or over and who has served as a judge of the court for 1 year or more shall act as the chief judge.

***37** (B) In any case under subparagraph (A) in which there is no judge of the court in regular active service who has served as a judge of the court for 1 year or more, the judge of the court in regular active service who is senior in commission and who has not served previously as chief judge shall act as the chief judge.

(3)(A) Except as provided under subparagraph (C), the chief judge serving under paragraph (1) shall serve for a term of 7 years and shall serve after expiration of such term until another judge is eligible under paragraph (1) to serve as chief judge.

(B) Except as provided under subparagraph (C), a judge of the court acting as chief judge under subparagraph (A) or (B) of paragraph (2) shall serve until a judge meets the qualifications under paragraph (1).

(C) No judge of the court may serve or act as chief judge of the court after attaining the age of 70 years unless no other judge is qualified to serve as chief judge under paragraph (1) or is qualified to act as chief judge under paragraph (2).

(b) The chief judge shall have precedence and preside at any session of the court which such judge attends. Other judges of the court shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

(c) If the chief judge desires to be relieved of the duties as chief judge while retaining active status as a judge of the court, the chief judge may so certify to the Chief Justice of the United States, and thereafter the chief judge of the court shall be such other judge of the court who is qualified to serve or act as chief judge under subsection (a).

(d) If a chief judge is temporarily unable to perform the duties as chief judge, such duties shall be performed by the judge of the court in active service, able and qualified to act, who is next in precedence.

* * * * *

CHAPTER 15—CONFERENCES AND COUNCILS OF JUDGES

* * * * *

S 331. Judicial Conference of the United States

* * * * *

[The district judge to be summoned from each judicial circuit shall be chosen by the circuit and district judges of the circuit at the annual judicial conference of the circuit held pursuant to [section 333](#) of this title and shall serve as a member of the conference for three successive years, except that in the year following the enactment of this amended section the judges in the first, fourth, seventh, and tenth circuits shall choose a district judge to serve for one year, the judges in the second, fifth, and eighth circuits shall choose a district judge to serve for two years and the judges in the third, sixth, ninth, and District of Columbia circuits shall choose a district judge to serve for three years.]

The district judge to be summoned from each judicial circuit shall be chosen by the circuit and district judges of the circuit and shall ***38** serve as a member of the Judicial Conference of the United States for a term of not less than 3 successive years nor more than 5 successive years, as established by majority vote of all circuit and district judges of the circuit. A district judge serving as a member of the Judicial Conference may be either a judge in regular active service or a judge retired from regular active service under [section 371\(b\)](#) of this title.

* * * * *

S 332. Judicial councils of circuits

(a) * * *

* * * * *

(g) No later than January 31 of each year, each judicial council shall submit a report to the Administrative Office of the United States Courts on the number and nature of orders entered under this section during the preceding calendar year that relate to judicial misconduct or disability.

CHAPTER 17—RESIGNATION AND RETIREMENT OF JUSTICES AND JUDGES

* * * * *

S 372. Retirement for disability; substitute judge on failure to retire; judicial discipline

(a) * * *

* * * * *

(c)(1)(A) Any person alleging that a circuit, district, or bankruptcy judge, or a magistrate, has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts, or alleging that such a judge or magistrate is unable to discharge all the duties of office by reason of mental or physical disability, may file with the clerk of the court of appeals for the circuit a written complaint containing a brief statement of the facts constituting such conduct. In the interests of the effective and expeditious administration of the business of the courts and on the basis of information available to the chief judge of the circuit, the chief judge may, by written order stating reasons therefor, identify a complaint for purposes of this subsection and thereby dispense with filing of a written complaint. In the case of a complaint so identified, the chief judge shall notify the clerk of the court of appeals of the complaint, together with a brief statement of the facts underlying the complaint.

(B) Complaints filed under subparagraph (A) in one judicial circuit shall be referred to another judicial circuit for proceedings under this subsection, in accordance with a system established by rule by the Judicial Conference, which prescribes the circuits to which the complaints will be referred. The Judicial Conference shall establish and submit to the Congress the system described in the preceding sentence not later than 180 days after the date of the enactment of this subparagraph.

(2) [Upon receipt of a complaint filed under paragraph (1) of this subsection, the clerk shall promptly transmit such complaint to the *39 chief judge of the circuit, or, if the conduct complained of is that of the chief judge, to that circuit judge in regular active service next senior in date of commission (hereafter, for purposes of this subsection only, included in the term “chief judge”).] Upon receipt of a complaint filed or notice of a complaint identified under paragraph (1) of this subsection, the clerk shall promptly transmit such complaint or (in the case of a complaint identified under paragraph (1)) the statement of facts underlying the complaint to the chief judge of the circuit assigned to conduct proceedings on the complaint in accordance with the system established under paragraph (1)(B) (hereafter in this subsection referred to as the “chief judge”). The clerk shall simultaneously transmit a copy of the complaint or statement of facts underlying the complaint (as the case may be) to the judge or magistrate whose conduct is the subject of the complaint .

* * * * *

(4) If the chief judge does not enter an order under paragraph (3) of this subsection, such judge shall promptly—

(A) appoint himself and equal numbers of circuit and district judges of the circuit (to which the complaint or statement of facts underlying the complaint is referred) to a special committee to investigate the facts and allegations contained in the complaint;

* * * * *

(5) Each committee appointed under paragraph (4) of this subsection shall conduct an investigation as extensive as it considers necessary, and shall expeditiously file a comprehensive written report thereon with the judicial council of the circuit to which the complaint or statement of facts underlying the complaint is referred. Such report shall present both the findings of the investigation and the committee's recommendations for necessary and appropriate action by the judicial council of [the] that circuit.

* * * * *

(15) Each written order to implement any action under paragraph (6)(B) of this subsection, which is issued by a judicial council, the Judicial Conference, or the standing committee established under [section 331](#) of this title, shall be made available to the public through the appropriate clerk's office of the court of appeals for the circuit in which the complaint was filed or identified under paragraph (1). Unless contrary to the interests of justice, each such order issued under this paragraph shall be accompanied by written reasons therefor.

* * * * *

[(18) The United States Court of Federal Claims, the Court of International Trade, and the Court of Appeals for the Federal Circuit shall each prescribe rules, consistent with the foregoing provisions of this subsection, establishing procedures for the filing of complaints with respect to the conduct of any judge of such court and for the investigation and resolution of such complaints. In investigating and taking action with respect to any such complaint, each such court shall have the powers granted to a judicial council under this subsection.]

***40** (18) The Judicial Conference shall prescribe rules, consistent with the preceding provisions of this subsection—

(A) establishing procedures for the filing of complaints with respect to the conduct of any judge of the United States Court of Federal Claims, the Court of International Trade, or the Court of Appeals for the Federal Circuit, and for the investigation and resolution of such complaints; and

(B) establishing a system for referring complaints filed with respect to the conduct of a judge of any such court to any of the first eleven judicial circuits or to another court for investigation and resolution.

The Judicial Conference shall establish and submit to the Congress the system described in subparagraph (B) not later than 180 days after the date of the enactment of the Federal Courts Improvement Act of 1996.

* * * * *

S 376. Annuities for survivors of certain judicial officials of the United States

(a) * * *

* * * * *

(o)(1) In any case in which a judicial official dies while in office, [or while receiving "retirement salary",] while receiving retirement salary, or after filing an election and otherwise complying with the conditions under subsection (b)(2) of this section, and;

(A) * * *

* * * * *

CHAPTER 23—CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS

* * * * *

S 473. Content of civil justice expense and delay reduction plans

(a) In formulating the provisions of its civil justice expense and delay reduction plan, each United States district court, in

consultation with an advisory group appointed under section 478 of this title, shall consider and may include the following principles and guidelines of litigation management and cost and delay reduction:

(1) * * *

* * * * *

(6) authorization to refer appropriate cases to alternative dispute resolution programs that—

(A) have been designated for use in a district court; or

(B) the court may make available, including arbitration, mediation, minitrial, and summary jury trial.

* * * * *

PART III—COURT OFFICERS AND EMPLOYEES

* * * * *

*41 CHAPTER 41—ADMINISTRATIVE OFFICE OF UNITED STATES COURTS

* * * * *

S 601. Creation; Director and Deputy Director

The Administrative Office of the United States Courts shall be maintained at the seat of government. It shall be supervised by a Director and a Deputy Director appointed and subject to removal by the Chief Justice of the United States, after consulting with the Judicial Conference. The Director and Deputy Director shall be deemed to be officers for purposes of title 5, United States Code.

* * * * *

CHAPTER 42—FEDERAL JUDICIAL CENTER

* * * * *

S 621. Board; composition, tenure of members, compensation

(a) The activities of the Center shall be supervised by a Board to be composed of—

(1) the Chief Justice of the United States, who shall be the permanent Chairman of the Board;

[(2) two active judges of the courts of appeals of the United States, three active judges of the district courts of the United States, one active judge of the bankruptcy courts of the United States elected by vote of the members of the Judicial Conference of the United States: Provided, however, That the judges so elected shall not be members of the Judicial Conference of the United States; and]

(2) two circuit judges, three district judges, one bankruptcy judge, and one magistrate judge, elected by vote of the members of the Judicial Conference of the United States, except that any circuit or district judge so elected may be either a judge in regular active service or a judge retired from regular active service under [section 371\(b\)](#) of this title but shall not be a member of the Judicial Conference of the United States; and

(3) the Director of the Administrative Office of the United States Courts, who shall be a permanent member of the Board.

(b) The term of office of each elected member of the Board shall be four years. A member elected to serve for an unexpired term arising by virtue of the death, disability, [retirement,] retirement pursuant to [section 371\(a\)](#) or [section 372\(a\)](#) of this title, or resignation of a member shall be elected only for such unexpired term.

* * * * *

S 627. Retirement; employee benefits

(a) A Director of the Federal Judicial Center who attains the age of seventy years shall be retired from that office.

(b) The Director, Deputy Director, the professional staff, and the clerical and secretarial employees of the Federal Judicial Center shall be deemed to be officers and employees of the judicial branch of the United States Government within the meaning of subchapter III of chapter 83 (relating to civil service retirement), chapter 84 *42 (relating to the Federal Employees' Retirement System), chapter 87 (relating to Federal employees' life insurance program), and chapter 89 (relating to Federal employees' health benefits program) of title 5, United States Code: Provided, however, That the Director, upon written notice filed with the Director of the Administrative Office of the United States Courts within 6 months after the date on which he takes office, may waive coverage under chapter 83 of title 5, subchapter III (the Civil Service Retirement System) or chapter 84 of title 5 (the Federal Employees' Retirement System), whichever is applicable, and elect coverage under the retirement and disability provisions of this section. A Director who elects coverage under this section shall be deemed an "employee" for purposes of chapter 84 of title 5, subchapter III, regardless of whether he has waived the coverage of chapter 83, subchapter III, or chapter 84: And provided further, That upon his nonretirement separation from the Federal Judicial Center, waiver of coverage under chapter 83, subchapter III, and election of this section shall not operate to foreclose to the Director such opportunity as the law may provide to secure retirement credit under chapter 83 for service as Director by depositing with interest the amount required by section 8334 of title 5. A Director who waives coverage under chapter 84 and elects this section may secure retirement credit under chapter 84 for service as Director by depositing with interest 1.3 percent of basic pay for service from January 1, 1984, through December 31, 1986, and the amount referred to in section 8422(a) of title 5, for service after December 31, 1986. Interest shall be computed under section 8334(e) of title 5.

* * * * *

CHAPTER 43—UNITED STATES MAGISTRATES

* * * * *

S 636. Jurisdiction, powers, and temporary assignment

(a) Each United States magistrate serving under this chapter shall have within the territorial jurisdiction prescribed by his appointment—

(1) * * *

* * * * *

(3) the power to conduct trials under [section 3401, title 18, United States Code](#), in conformity with and subject to the limitations of that section [, and];

[(4) the power to enter a sentence for a misdemeanor or infraction with the consent of the parties.]

(4) the power to enter a sentence for a petty offense that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction; and

(5) the power to enter a sentence for a class A misdemeanor, or a class B or C misdemeanor not covered by paragraph (4), in a case in which the parties have consented.

* * * * *

(c) Notwithstanding any provision of law to the contrary—

*43 (1) * * *

* * * * *

(3) Upon entry of judgment in any case referred under paragraph (1) of this subsection, an aggrieved party may appeal directly to the appropriate United States court of appeals from the judgment of the magistrate in the same manner as an appeal from any other judgment of a district court. [In this circumstance, the] The consent of the parties allows a magistrate designated to exercise civil jurisdiction under paragraph (1) of this subsection to direct the entry of a judgment of the district court in accordance with the Federal Rules of Civil Procedure. Nothing in this paragraph shall be construed as a limitation of any party's right to seek review by the Supreme Court of the United States.

[(4) Notwithstanding the provisions of paragraph (3) of this subsection, at the time of reference to a magistrate, the parties may further consent to appeal on the record to a judge of the district court in the same manner as on an appeal from a judgment of the district court to a court of appeals. Wherever possible the local rules of the district court and the rules promulgated by the conference shall endeavor to make such appeal inexpensive. The district court may affirm, reverse, modify, or remand the magistrate's judgment.

[(5) Cases in the district courts under paragraph (4) of this subsection may be reviewed by the appropriate United States court of appeals upon petition for leave to appeal by a party stating specific objections to the judgment. Nothing in this paragraph shall be construed to be a limitation on any party's right to seek review by the Supreme Court of the United States.]

[(6)] (4) The court may, for good cause shown on its own motion, or under extraordinary circumstances shown by any party, vacate a reference of a civil matter to a magistrate under this subsection.

[(7)] (5) The magistrate shall, subject to guidelines of the Judicial Conference, determine whether the record taken pursuant to this section shall be taken by electronic sound recording, by a court reporter, or by other means.

(d) The practice and procedure for the trial of cases before officers serving under this chapter[, and for the taking and hearing of appeals to the district courts,] shall conform to rules promulgated by the Supreme Court pursuant to section 2072 of this title.

* * * * *

(f) In an emergency and upon the concurrence of the chief judges of the districts involved, a United States magistrate may be temporarily assigned to perform any of the duties specified in subsection [(a) or (b)] (a), (b), or (c) of this section in a judicial district other than the judicial district for which he has been appointed. No magistrate shall perform any of such duties in a district to which he has been temporarily assigned until an order has been issued by the chief judge of such district specifying (1) the emergency by reason of which he has *44 been transferred, (2) the duration of his assignment, and (3) the duties which he is authorized to perform. A magistrate so assigned shall not be entitled to additional compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of his duties in accordance with section 635.

* * * * *

CHAPTER 49—DISTRICT COURTS

* * * * *

S 753. Reports

(a) * * *

* * * * *

(e) Each reporter shall receive an annual salary to be fixed from time to time by the Judicial Conference of the United States. All supplies shall be furnished by the reporter at his own expense. For the purposes of subchapter III of chapter 83 of title 5 and chapter 84 of such title, a reporter shall be considered a full-time employee during any pay period for which a reporter receives a salary at the annual salary rate fixed for a full-time reporter under the preceding sentence.

* * * * *

CHAPTER 57—GENERAL PROVISIONS APPLICABLE TO COURT OFFICERS AND EMPLOYEES

Sec.

951. Oath of office of clerks and deputies.

* * * * *

[954. Death of clerk; duties of deputies.]

954. Vacancy in clerk position; absence of clerk.

* * * * *

[S 954. Death of clerk; duties of deputies

[Upon the death of any clerk of court, his deputy or deputies shall execute the duties of the deceased clerk in his name until his successor is appointed and qualifies.

[The compensation of a deceased clerk of the Supreme Court may be paid to his personal representatives until his successor is appointed and qualifies.]

S 954. Vacancy in clerk position; absence of clerk

When the office of clerk is vacant, the deputy clerks shall perform the duties of the clerk in the name of the last person who held that office. When the clerk is incapacitated, absent, or otherwise unavailable to perform official duties, the deputy clerks shall perform the duties of the clerk in the name of the clerk. The court may designate a deputy clerk to act temporarily as clerk of the court in his or her own name.

* * * * *

*45 PART IV—JURISDICTION AND VENUE

* * * * *

CHAPTER 87—DISTRICT COURTS; VENUE

* * * * *

S 1404. Change of venue

(a) * * *

* * * * *

[(d) As used in this section, “district court” includes the United States District Court for the District of the Canal Zone; and “district” includes the territorial jurisdiction of that court.]

(d) As used in this section, the term “district court” includes the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands, and the term “district” includes the territorial jurisdiction of each such court.

* * * * *

S 1406. Cure or waiver of defects

(a) * * *

* * * * *

[(c) As used in this section, “district court” includes the United States District Court for the District of the Canal Zone, and “district” includes the territorial jurisdiction of that court.]

(c) As used in this section, the term “district court” includes the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands, and the term “district” includes the territorial jurisdiction of each such court.

* * * * *

CHAPTER 89—DISTRICT COURTS; REMOVAL OF CASES FROM STATE COURTS

Sec.

1441. Actions removable generally.

[1442. Federal officers sued or prosecuted.]

1442. Federal officers or agencies sued or prosecuted.

* * * * *

S 1442. Federal officers or agencies sued or prosecuted

(a) A civil action or criminal prosecution commenced in a State court against any of the following [persons] may be removed by them to the district court of the United States for the district and division embracing the place wherein it is pending:

(1) [Any officer of the United States or any agency thereof, or person acting under him, for any act under color of such office] The United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, sued in an official or individual capacity *46 for any act under color of such office or on account of any right, title or authority claimed under any Act of Congress for the apprehension or punishment of criminals or the collection of the revenue.

* * * * *

S 1446. Procedure for removal

(a) * * *

* * * * *

(c)(1) A notice of removal of a criminal prosecution shall be filed not later than thirty days after the arraignment in the State court, or at any time before trial, whichever is earlier, except that for good cause shown the United States district court may enter an order granting the [petitioner] defendant or defendants leave to file the notice at a later time.

* * * * *

PART V—PROCEDURE

* * * * *

CHAPTER 119—EVIDENCE; WITNESSES

* * * * *

S 1827. Interpreters in courts of the United States

(a) * * *

* * * * *

(g)(1) There are authorized to be appropriated to the Federal judiciary, and to be paid by the Director of the Administrative Office of the United States Courts, such sums as may be necessary to establish a program to facilitate the use of certified and otherwise qualified interpreters, and otherwise fulfill the provisions of this section and the Judicial Improvements and Access to Justice Act, except as provided in paragraph (3).

* * * * *

(5) If the Director of the Administrative Office of the United States Courts finds it necessary to develop and administer criterion-referenced performance examinations for purposes of certification of interpreters, or other examinations for the selection of otherwise qualified interpreters, the Director may prescribe for each examination a uniform fee for applicants to take such examination. In determining the rate of the fee for each examination, the Director shall consider the fees charged by other organizations for examinations that are similar in scope or nature. Notwithstanding section 3302(b) of title 31, the Director is authorized to provide in any contract or agreement for the development or administration of examinations and the collection of fees that the contractor may retain all or a portion of the fees in payment for the services. Notwithstanding paragraph (6) of this subsection, all fees collected after the effective date of this paragraph and not retained by a contractor shall be deposited *47 in the fund established under section 1931 of this title and shall remain available until expended.

[(5)] (6) Any moneys collected under this subsection may be used to reimburse the appropriations obligated and disbursed in payment for such services.

* * * * *

(l) Notwithstanding any other provision of this section or section 1828, the presiding judicial officer may appoint a certified or otherwise qualified sign language interpreter to provide services to a party, witness, or other participant in a judicial proceeding, whether or not the proceeding is instituted by the United States, if the presiding judicial officer determines, on such officer’s own motion or on the motion of a party or other participant in the proceeding, that such individual suffers from a hearing impairment. The presiding judicial officer shall, subject to the availability of appropriated funds, approve the compensation and expenses payable to sign language interpreters appointed under this subsection in accordance with the schedule of fees prescribed by the Director under subsection (b)(3) of this section.

* * * * *

CHAPTER 123—FEES AND COSTS

Sec.

1911. Supreme Court.

* * * * *

1933. Judicial Panel on Multidistrict Litigation.

* * * * *

S 1914. District court; filing and miscellaneous fees; rules of court

(a) The clerk of each district court shall require the parties instituting any civil action, suit or proceeding in such court, whether by original process, removal or otherwise, to pay a filing fee of [\$120] \$150, except that on application for a writ of habeas corpus the filing fee shall be \$5.

* * * * *

S 1931. Disposition of filing fees

(a) Of the amounts paid to the clerk of court as a fee under [section 1914\(a\)](#) or as part of a judgment for costs under section 2412(a)(2) of this title, [\$60] \$90 shall be deposited into a special fund of the Treasury to be available to offset funds appropriated for the operation and maintenance of the courts of the United States.

(b) If the court authorizes a fee under [section 1914\(a\)](#) or an amount included in a judgment for costs under section 2412(a)(2) of this title of less than [\$120] \$150, the entire fee or amount, up to [\$60] \$90, shall be deposited into the special fund provided in this section.

* * * * *

***48 S 1933.** Judicial Panel on Multidistrict Litigation

The Judicial Conference of the United States shall prescribe from time to time the fees and costs to be charged and collected by the Judicial Panel on Multidistrict Litigation.

* * * * *

CHAPTER 125—PENDING ACTIONS AND JUDGMENTS

Sec.

1961. Interest.

* * * * *

[1963. Registration of judgments of the district courts and the Court of International Trade.]

1963. Registration of judgments for enforcement in other districts.

* * * * *

[[S 1963.](#) Registration of judgments of the district courts and the Court of International Trade]

S 1963. Registration of judgments for enforcement in other districts

A judgment in an action for the recovery of money or property entered in any [district court] court of appeals, district court, or bankruptcy court or in the Court of International Trade may be registered by filing a certified copy of [such judgment in any other district or, with respect to the Court of International Trade,] the judgment in any judicial district, when the judgment has become final by appeal or expiration of the time for appeal or when ordered by the court that entered the judgment for good cause shown. Such a judgment entered in favor of the United States may be so registered any time after judgment is entered. A judgment so registered shall have the same effect as a judgment of the district court of the district where registered and may be enforced in like manner.

A certified copy of the satisfaction of any judgment in whole or in part may be registered in like manner in any district in which the judgment is a lien.

The procedure prescribed under this section is in addition to other procedures provided by law for the enforcement of judgments.

* * * * *

SECTION 120 OF THE BANKRUPTCY AMENDMENTS AND FEDERAL JUDGESHIP ACT OF 1984

* * * * *

Sec. 120. (a)(1) * * *

* * * * *

(3) When filling vacancies, the court of appeals may consider reappointing incumbent bankruptcy judges under procedures prescribed by regulations issued by the Judicial Conference of the United States.

(b) The judicial council of the circuit involved shall assist the court of appeals by evaluating potential nominees and by recommending *49 to such court for consideration for appointment to each vacancy on the bankruptcy court persons who are qualified to be bankruptcy judges under regulations prescribed by the Judicial Conference of the United States. In the case of the first vacancy which arises after the date of the enactment of this Act in the office of each bankruptcy judge, such potential nominees shall include the bankruptcy judge who holds such office immediately before such vacancy arises, if such bankruptcy judge requests to be considered for such appointment and the judicial council determines that such judge is qualified under subsection (c) of this section to continue to serve. Such potential nominees shall receive consideration equal to that given all other potential nominees for such position. All incumbent nominees seeking reappointment thereafter may be considered for such a reappointment, pursuant to a majority vote of the judges of the appointing court of appeals, under procedures authorized under subsection (a)(3).

* * * * *

SECTION 203 OF THE JUDICIAL IMPROVEMENTS ACT OF 1990

* * * * *

SEC. 203. DISTRICT JUDGES FOR THE DISTRICT COURTS.

(a) * * *

* * * * *

(c) Temporary Judgeships.—The President shall appoint, by and with the advice and consent of the Senate—

(1) * * *

* * * * *

The first vacancy in the office of district judge in each of the judicial districts named in this subsection, occurring 5 years or more after the effective date of this title, shall not be filled. For districts named in this subsection for which multiple judgeships are created by this Act, the last of those judgeships filled shall be the judgeship created under this subsection.

* * * * *

SECTION 3 OF THE BANKRUPTCY JUDGESHIP ACT OF 1992

SEC. 3. TEMPORARY JUDGESHIPS.

(a) * * *

* * * * *

(b) Vacancies.—The first vacancy in the office of bankruptcy judge in each of the judicial districts set forth in subsection (a), resulting from the death, retirement, resignation, or removal of a bankruptcy judge, and occurring 5 years or more after the [date of the enactment of this Act] appointment date of the judge named to fill the temporary judgeship position, shall not be filled. In the case of a vacancy resulting from the expiration of the term of a bankruptcy *50 judge not described in the preceding sentence, that judge shall be eligible for reappointment as a bankruptcy judge in that district.

* * * * *

SECTION 303 OF THE JUDICIARY APPROPRIATIONS ACT, 1992

Sec. 303. (a) The Judicial Conference shall hereafter prescribe reasonable fees, pursuant to [sections 1913, 1914, \[1926, and 1930\] 1926, 1930, and 1932 of title 28, United States Code](#), for collection by the courts under those sections for access to information available through automatic data processing equipment. These fees may distinguish between classes of persons, and shall provide for exempting persons or classes of persons from the fees, in order to avoid unreasonable burdens and to promote public access to such information. The Director of the Administrative Office of the United States Courts, under the direction of the Judicial Conference of the United States, shall prescribe a schedule of reasonable fees for electronic access to information which the Director is required to maintain and make available to the public.

* * * * *

REGIONAL RAIL REORGANIZATION ACT OF 1973

* * * * *

TITLE II—UNITED STATES RAILWAY ASSOCIATION

* * * * *

JUDICIAL REVIEW

Sec. 209. (a) * * *

(b) Special Court.—(1) Within 30 days after the date of enactment of this Act, the Association shall make application to the judicial panel on multi-district litigation authorized by [section 1407 of title 28, United States Code](#), for the consolidation in a single, three-judge district court of the United States of all judicial proceedings with respect to the final system plan. Within 30 days after such application is received, the panel shall make the consolidation in a district court (cited herein as the “special court”) which the panel determines to be convenient to the parties and the one most likely to be able to conduct any proceedings under this section with the least delay and the greatest possible fairness and ability. Such proceedings shall be conducted by the special court which shall be composed of three Federal judges who shall be selected by the panel, except that none of the judges selected may be a judge assigned to a proceeding involving any railroad in reorganization in the region under section 77 of the Bankruptcy Act (11 U.S.C. 205). The special court is authorized to exercise the powers of a district judge in any judicial district with respect to such proceedings and such powers shall include those of a reorganization court. The special court shall have the power to order the conveyance of rail properties *51 of railroads leased, operated, or controlled by a railroad in reorganization in the region. The special court may issue rules for the conduct of any proceedings under this section and under section 305 of this Act, including rules with respect to the time within which motions may be filed, and with respect to appropriate representation of interests not otherwise represented (including the Secretary with respect to a petition by the Association in the case of a proposal developed by the Secretary, under such section 305). No determination by the panel under this subsection may be reviewed in any court.

(2) The special court referred to in paragraph (1) of this subsection is abolished effective 90 days after the date of the enactment of the Federal Courts Improvement Act of 1996. On such effective date, all jurisdiction and other functions of the special court shall be assumed by the United States District Court for the District of Columbia. With respect to any proceedings that arise or continue after the date on which the special court is abolished, the references in the following provisions to the special court established under this subsection shall be deemed to refer to the United States District Court for the District of Columbia:

(A) Subsections (c), (e)(1), (e)(2), (f) and (g) of this section.

(B) Sections 202 (d)(3), (g), 207 (a)(1), (b)(1), (b)(2), 208(d)(2), 301 (e)(2), (g), (k)(3), (k)(15), 303 (a)(1), (a)(2), (b)(1), (b)(6)(A), (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), 304 (a)(1)(B), (i)(3), 305 (c), (d)(1), (d)(2), (d)(3), (d)(4), (d)(5), (d)(8), (e), (f)(1), (f)(2)(B), (f)(2)(D), (f)(2)(E), (f)(3), 306 (a), (b), (c)(4), and [601 \(b\)\(3\), \(c\)](#) of this Act (45U.S.C. 712 (d)(3), (g), 717 (a)(1), (b)(1), (b)(2), 718(d)(2), 741 (e)(2), (g), (k)(3), (k)(15), 743 (a)(1), (a)(2), (b)(1), (b)(6)(A), (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), 744 (a)(1)(B), (i)(3), 745 (c), (d)(1), (d)(2), (d)(3), (d)(4), (d)(5), (d)(8), (e), (f)(1), (f)(2)(B), (f)(2)(D),

(f)(2)(E), (f)(3), 746 (a), (b), (c)(4), 791 (b)(3), (c)).

(C) Sections 1152(a) and 1167(b) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105(a), 1115(a)).

(D) Sections 4023 (2)(A)(iii), (2)(B), (2)(C), (3)(C), (3)(E), (4)(A) and 4025(b) of the Conrail Privatization Act (45 U.S.C. 1323 (2)(A)(iii), (2)(B), (2)(C), (3)(C), (3)(E), (4)(A), 1324(b)).

(E) Section 24907(b) of title 49, United States Code.

(F) Any other Federal law (other than this subsection and section 605 of the Federal Courts Improvement Act of 1996), Executive order, rule, regulation, delegation of authority, or document of or relating to the special court as established under paragraph (1) of this subsection.

* * * * *

(e) Original and Exclusive Jurisdiction.—(1) * * *

* * * * *

[(3) A final order or judgment of the special court in any action referred to in this section 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 order or judgment.]

*52 (3) An order or judgment of the United States District Court for the District of Columbia in any action referred to in this section shall be reviewable in accordance with sections 1291, 1292, and 1294 of title 28, United States Code.

* * * * *

(g) Stay of Court Proceedings.—The special court may stay or enjoin any action or proceeding in any State court or in any court of the United States other than the Supreme Court or the Court of Appeals for the District of Columbia Circuit if such action or proceeding is contrary to any provision of this Act, impairs the effective implementation of this Act, or interferes with the execution of any order of the special court pursuant to this Act.

[(h) Special Masters.—(1) The special court may appoint and fix the compensation and assign the duties of such special masters as it considers necessary or appropriate to conduct hearings, receive evidence and report thereon to the special court, and perform such other acts as the special court may require. The special court may employ such special masters by contract or otherwise, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) or part III of title 5 of the United States Code, on such terms and conditions as it may determine. Such special masters shall not be deemed to be employees of the Federal Government or any department, agency, or instrumentality thereof. The special court may also appoint employees in such number as may be approved by the Director of the Administrative Office of the United States Courts, and may procure such administrative services as may be necessary for it or the special masters to complete their assignments expeditiously.

(2) There are authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection. Sums appropriated under this subsection are authorized to remain available until expended.]

* * * * *

TITLE III—CONSOLIDATED RAIL CORPORATION

* * * * *

VALUATION AND CONVEYANCE OF RAIL PROPERTIES

Sec. 303. (a) * * *

* * * * *

[(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.]

(d) Appeal.—An order or judgment entered by the United States District Court for the District of Columbia pursuant to subsection (c) of this section or section 306 shall be reviewable in accordance with [sections 1291, 1292, and 1294 of title 28, United States Code](#).

* * * * *

***53 CONTINUING REORGANIZATION; SUPPLEMENTAL TRANSACTIONS**

Sec. 305. (a) * * *

* * * * *

(d) Special Court Proceedings.—(1) * * *

* * * * *

(4) In proceedings under this subsection, the special court is authorized to exercise the powers of [a judge of a United States district court with respect to such proceedings and such powers shall include those of] a reorganization court.

* * * * *

NORTHEAST RAIL SERVICE ACT OF 1981

* * * * *

PART 1—GENERAL PROVISIONS

* * * * *

DEFINITIONS

Sec. 1135. (a) As used in this subtitle, unless the context otherwise requires, the term:

(1) * * *

* * * * *

[(8) Special court” means the judicial panel established under section 209 of the Regional Rail Reorganization Act of 1973 ([45 U.S.C. 719](#)).]

(8) “Special court” means the judicial panel established under section 209(b)(1) of the Regional Rail Reorganization Act of 1973 ([45 U.S.C. 719\(b\)\(1\)](#)) or, with respect to any proceedings that arise or continue after the panel is abolished pursuant to section 209(b)(2) of such Act, the United States District Court for the District of Columbia.

* * * * *

PART 6—MISCELLANEOUS PROVISIONS

JUDICIAL REVIEW

Sec. 1152. (a) * * *

[(b) A judgment of the special court in any action referred to in this section 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 such entry of such order or judgment.]

(b) Appeal.—An order or judgment of the United States District Court for the District of Columbia in any action referred to in this section shall be reviewable in accordance with [sections 1291, 1292, and 1294 of title 28, United States Code](#).

* * * * *

***54** [(d) If the volume of civil actions under subsection (a) of this section so requires, the United States Railway Association shall apply to the judicial panel on multi-district litigation authorized by [section 1407 of title 28, United States Code](#), for the assignment of additional judges to the special court. Within 30 days after the date of such application, the panel shall assign to the special court such additional judges as may be necessary to exercise the jurisdiction described in subsection (a) of this section.]

* * * * *

CIVIL JUSTICE REFORM ACT OF 1990

* * * * *

TITLE I—CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS

* * * * *

SEC. 104. DEMONSTRATION PROGRAM.

(a) * * *

* * * * *

(d) Report.—Not later than [December 31, 1996,] June 30, 1997, the Judicial Conference of the United States shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report of the results of the demonstration program.

SEC. 105. PILOT PROGRAM.

(a) * * *

* * * * *

(c) Program Study Report.—(1) Not later than [December 31, 1996,] June 30, 1997, the Judicial Conference shall submit to the Committees on the Judiciary of the Senate and House of Representatives a report on the results of the pilot program under this section that includes an assessment of the extent to which costs and delays were reduced as a result of the program. The report shall compare those results to the impact on costs and delays in ten comparable judicial districts for which the application of [section 473\(a\) of title 28, United States Code](#), had been discretionary. That comparison shall be based on a study conducted by an independent organization with expertise in the area of Federal court management.

* * * * *