

104TH CONGRESS
2D SESSION

H. R. 2903

To provide for deficit reduction and achieve a balanced budget by fiscal year 2002.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 1996

Mr. KASICH (by request): introduced the following bill; which was referred to the Committee on the Budget, and in addition to the Committees on Ways and Means, Commerce, Banking and Financial Services, the Judiciary, Agriculture, Economic and Educational Opportunities, Government Reform and Oversight, House Oversight, National Security, Veterans' Affairs, Resources, International Relations, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for deficit reduction and achieve a balanced budget by fiscal year 2002.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Balanced Budget Act
5 of 1995 for Economic Growth and Fairness".

6 **SEC. 2. TABLE OF CONTENTS.**

7 This Act is organized into titles as follows:

Title I—Banking, Housing, and Related Provisions
 Title II—Spectrum Allocation Provisions
 Title III—Medicaid
 Title IV—Medicare
 Title V—Welfare Reform
 Title VI—Federal Retirement Provisions
 Title VII—Veterans Provisions
 Title VIII—Asset Sales, User Fees, and other Mandatory Provisions
 Title IX—Revenues
 Title X—Budget Enforcement

1 **TITLE I—BANKING, HOUSING,**
 2 **AND RELATED PROVISIONS**

3 **Subtitle A—Financial Institutions**

4 **SEC. 2011. SPECIAL ASSESSMENT TO CAPITALIZE SAIF.**

5 (a) IN GENERAL.—Except as provided in subsection
 6 (f), the Board of Directors shall impose a special assess-
 7 ment on the SAIF-assessable deposits of each insured de-
 8 pository at a rate applicable to all such institutions that
 9 the Board of Directors, in its ‘sole discretion, determines
 10 (after taking into account the adjustments described in
 11 subsections (g) through (j)) will cause the Savings Asso-
 12 ciation Insurance Fund to achieve the designated reserve
 13 ratio on the first business day of January 1996.

14 (b) FACTORS TO BE CONSIDERED.—In carrying out
 15 subsection (a), the Board of Directors shall base its deter-
 16 mination on—

17 (1) the monthly Savings Association Insurance
 18 Fund balance most recently calculated;

19 (2) data on insured deposits reported in the
 20 most recent reports of condition filed not later than

1 70 days before the date of enactment of this Act by
2 insured depository institutions; and

3 (3) any other factors that the Board of Direc-
4 tors deems appropriate.

5 (c) DATE OF DETERMINATION.—For purposes of
6 subsection (a), the amount of the SAIF-assessable depos-
7 its of an insured depository institution shall be determined
8 as of March 31, 1995.

9 (d) DATE PAYMENT DUE.—The special assessment
10 imposed under this section shall be—

11 (1) due on the first business day of January
12 1996; and

13 (2) paid to the Corporation on the later of—

14 (A) the first business day of January
15 1996; or

16 (B) such other date as the Corporation
17 shall prescribe, but not later than 60 days after
18 the date of enactment of this Act.

19 (e) ASSESSMENT DEPOSITED IN SAIF.—Notwith-
20 standing any other provisions of law, the proceeds of the
21 special assessment imposed under this section shall be de-
22 posited in the Savings Association Insurance Fund.

23 (f) EXEMPTIONS FOR CERTAIN INSTITUTIONS.—

24 (1) EXEMPTION FOR WEAK INSTITUTIONS.—

25 The Board of Directors may, by order, in its sole

1 discretion, exempt any insured depository institution
2 that the Board of Directors determines to be weak,
3 from paying the special assessment imposed under
4 this section if the Board of Directors determines
5 that the exemption would reduce risk to the Savings
6 Association Insurance Fund.

7 (2) GUIDELINES REQUIRED.—Not later than 30
8 days after the date of enactment of this Act, the
9 Board of Directors shall prescribe guidelines setting
10 forth the criteria that the Board of Directors will
11 use in exempting institutions under paragraph (1).
12 Such guidelines shall be published in the Federal
13 Register.

14 (3) EXEMPTION FOR CERTAIN NEWLY CHAR-
15 TERED AND OTHER DEFINED INSTITUTIONS.—

16 (A) IN GENERAL.—In addition to the insti-
17 tutions exempted from paying the special as-
18 sessment under paragraph (1), the Board of
19 Directors shall exempt any insured depository
20 institution from payment of the special assess-
21 ment if the institution—

22 (i) was in existence on October 1,
23 1995, and held no SAIF-assessable depos-
24 its prior to January 1, 1993;

25 (ii) is a Federal savings bank which—

1 (I) was established de novo in
2 April 1994 in order to acquire the de-
3 posits of a savings association which
4 was in default or in danger of default;
5 and

6 (II) received minority interim
7 capital assistance from the Resolution
8 Trust Corporation under section
9 21A(w) of the Federal Home Loan
10 Bank Act in connection with the ac-
11 quisition of any such savings associa-
12 tion; or

13 (iii) is a savings association, the de-
14 posits of which are insured by the Savings
15 Association Insurance Fund, which—

16 (I) prior to January 1, 1987, was
17 chartered as a Federal savings bank
18 insured by the Federal Savings and
19 Loan Insurance Corporation for the
20 purpose of acquiring all or substan-
21 tially all of the assets and assuming
22 all or substantially all of the deposit
23 liabilities of a national bank in a
24 transaction consummated after July
25 1, 1986; and

1 (II) as of the date of that trans-
2 action, had assets of less than
3 \$150,000,000.

4 (B) DEFINITION.—For purposes of this
5 paragraph, an institution shall be deemed to
6 have held SAIF-assessable deposits prior to
7 January 1, 1993, if—

8 (i) it directly held SAIF-assessable in-
9 sured deposits prior to that date; or

10 (ii) it succeeded to, acquired, pur-
11 chased, or otherwise holds any SAIF-as-
12 sessable deposits as of the date of enact-
13 ment of this Act that were SAIF-assess-
14 able deposits prior to January 1, 1993.

15 (4) EXEMPT INSTITUTIONS REQUIRED TO PAY
16 ASSESSMENTS AT FORMER RATES.—

17 (A) PAYMENTS TO SAIF AND DIF.—Any in-
18 sured depository institution that the Board of
19 Directors exempts under this subsection from
20 paying the special assessment imposed under
21 this section shall pay semiannual assessments—

22 (i) during calendar years 1996 and
23 1997, into the Savings Association Insur-
24 ance Fund, based on SAIF-assessable de-
25 posits of that institution, at assessment

1 rates calculated under the schedule in ef-
2 fect for Savings Association Insurance
3 Fund members on June 30, 1995; and

4 (ii) during calendar years 1998 and
5 1999—

6 (I) into the Deposit Insurance
7 Fund, based on SAIF-assessable de-
8 posits of that institution as of Decem-
9 ber 31, 1997, at assessment rates cal-
10 culated under the schedule in effect
11 for Savings Association Insurance
12 Fund members on June 30, 1995; or

13 (II) in accordance with clause (i),
14 if the Bank Insurance Fund and the
15 Savings Association Insurance Fund
16 are not merged into the Deposit In-
17 surance Fund.

18 (B) OPTIONAL PRO RATA PAYMENT OF
19 SPECIAL ASSESSMENT.—This paragraph shall
20 not apply with respect to any insured depository
21 institution (or successor insured depository in-
22 stitution) that has paid, during any calendar
23 year from 1997 through 1999, upon such terms
24 as the Corporation may announce, an amount
25 equal to the product of—

1 (i) 12.5 percent of the special assess-
2 ment that the institution would have been
3 required to pay under subsection (a), if the
4 Board of Directors had not exempted the
5 institution; and

6 (ii) the number of full semiannual pe-
7 riods remaining between the date of the
8 payment and December 31, 1999.

9 (g) SPECIAL ELECTION FOR CERTAIN INSTITUTIONS
10 FACING HARDSHIP AS A RESULT OF THE SPECIAL AS-
11 SESSMENT.—

12 (1) ELECTION AUTHORIZED.—If—

13 (A) an insured depository institution, or
14 any depository institution holding company
15 which, directly or indirectly, controls such insti-
16 tution, is subject to terms or covenants in any
17 debt obligation or preferred stock outstanding
18 on September 13, 1995; and

19 (B) the payment of the special assessment
20 under subsection (a) would pose a significant
21 risk of causing such depository institution or
22 holding company to default or violate any such
23 term or covenant,

24 the depository institution may elect, with the ap-
25 proval of the Corporation, to pay such special as-

1 assessment in accordance with paragraphs (2) and (3)
2 in lieu of paying such assessment in the manner re-
3 quired under subsection (a).

4 (2) 1ST ASSESSMENT.—An insured depository
5 institution which makes an election under paragraph
6 (1) shall pay an assessment of 50 percent of the
7 amount of the special assessment that would other-
8 wise apply under subsection (a), by the date on
9 which such special assessment is otherwise due
10 under subsection (d).

11 (3) 2D ASSESSMENT.—An insured depository
12 institution which makes an election under paragraph
13 (1) shall pay a 2d assessment, by the date estab-
14 lished by the Board of Directors in accordance with
15 paragraph (4), in an amount equal to the product of
16 51 percent of the rate determined by the Board of
17 Directors under subsection (a) for determining the
18 amount of the special assessment and the SAIF-as-
19 sessable deposits of the institution on March 31,
20 1996, or such other date in calendar year 1996 as
21 the Board of Directors determines to be appropriate.

22 (4) DUE DATE OF 2D ASSESSMENT.—The date
23 established by the Board of Directors for the pay-
24 ment of the assessment under paragraph (3) by a
25 depository institution shall be the earliest practicable

1 date which the Board of Directors determines to be
2 appropriate, which is at least 15 days after the date
3 used by the Board of Directors under paragraph (3).

4 (5) SUPPLEMENTAL SPECIAL ASSESSMENT.—
5 An insured depository institution which makes an
6 election under paragraph (1) shall pay a supple-
7 mental special assessment, at the same time the pay-
8 ment under paragraph (3) is made, in an amount
9 equal to the product of—

10 (A) 50 percent of the rate determined by
11 the Board of Directors under subsection (a) for
12 determining the amount of the special assess-
13 ment; and

14 (B) 95 percent of the amount by which the
15 SAIF-assessable deposits used by the Board of
16 Directors for determining the amount of the 1st
17 assessment under paragraph (2) exceeds, if any,
18 the SAIF-assessable deposits used by the Board
19 for determining the amount of the 2d assess-
20 ment under paragraph (3).

21 (h) ADJUSTMENT OF SPECIAL ASSESSMENT FOR
22 CERTAIN BANK INSURANCE FUND MEMBER BANKS.—

23 (1) IN GENERAL.—For purposes of computing
24 the special assessment imposed under this section
25 with respect to a Bank Insurance Fund member

1 bank, the amount of any deposits of any insured de-
2 pository institution which section 5(d)(3) of the Fed-
3 eral Deposit Insurance Act treats as insured by the
4 Savings Association Insurance Fund shall be re-
5 duced by 20 percent—

6 (A) if the adjusted attributable deposit
7 amount of the Bank Insurance Fund member
8 bank is less than 50 percent of the total domes-
9 tic deposits of that member bank as of June 30,
10 1995; or

11 (B) if, as of June 30, 1995, the Bank In-
12 surance Fund member—

13 (i) had an adjusted attributable de-
14 posit amount equal to less than 75 percent
15 of the total assessable deposits of that
16 member bank;

17 (ii) had total assessable deposits
18 greater than \$5,000,000,000; and

19 (iii) was owned or controlled by a
20 bank holding company that owned or con-
21 trolled insured depository institutions hav-
22 ing an aggregate amount of deposits in-
23 sured or treated as insured by the Bank
24 Insurance Fund greater than the aggre-
25 gate amount of deposits insured or treated

1 as insured by the Savings Association In-
2 surance Fund.

3 (2) ADJUSTED ATTRIBUTABLE DEPOSIT
4 AMOUNT.—For purposes of this subsection, the “ad-
5 justed attributable deposit amount; shall be deter-
6 mined in accordance with section 5(d)(3)(C) of the
7 Federal Deposit Insurance Act.

8 (i) ADJUSTMENT TO THE ADJUSTED ATTRIBUTABLE
9 DEPOSIT AMOUNT FOR CERTAIN BANK INSURANCE FUND
10 MEMBER BANKS.—Section 5(d)(3) of the Federal Deposit
11 Insurance Act (12 U.S.C. 1815(d)(3)) is amended—

12 (1) in subparagraph (C), by striking “The ad-
13 justed attributable deposit amount” and inserting
14 “Except as provided in subparagraph (K), the ad-
15 justed attributable deposit amount”; and

16 (2) by adding at the end the following new sub-
17 paragraph:

18 “(K) ADJUSTMENT OF ADJUSTED ATTRIB-
19 UTABLE DEPOSIT AMOUNT.—The amount deter-
20 mined under subparagraph (C)(i) for deposits
21 acquired by March 31, 1995, shall be reduced
22 by 20 percent for purposes of computing the
23 adjusted attributable deposit amount for the
24 payment of any assessment for any semiannual
25 period after December 31, 1995 (other than the

1 special assessment imposed under section
2 2011(a) of the Balanced Budget Act of 1995),
3 for a Bank Insurance Fund member bank that,
4 as of June 30, 1995—

5 “(i) had an adjusted attributable de-
6 posit amount that was less than 50 percent
7 of the total deposits of that member bank;
8 or

9 “(ii)(I) had an adjusted attributable
10 deposit amount equal to less than 75 per-
11 cent of the total assessable deposits of that
12 member bank;

13 “(II) had total assessable deposits
14 greater than \$5,000,000,000; and

15 “(III) was owned or controlled by a
16 bank holding company that owned or con-
17 trolled insured depository institutions hav-
18 ing an aggregate amount of deposits in-
19 sured or treated as insured by the Bank
20 Insurance Fund greater than the aggre-
21 gate amount of deposits insured or treated
22 as insured by the Savings Association In-
23 surance Fund.”.

24 (j) ADJUSTMENT OF SPECIAL ASSESSMENT FOR
25 CERTAIN SAVINGS ASSOCIATIONS.—

1 (1) SPECIAL ASSESSMENT REDUCTION.—For
2 purposes of computing the special assessment im-
3 posed under this section, in the case of any con-
4 verted association, the amount of any deposits of
5 such association which were insured by the Savings
6 Association Insurance Fund as of March 31, 1995,
7 shall be reduced by 20 percent.

8 (2) CONVERTED ASSOCIATION.—For purposes
9 of this subsection, the term “converted association”
10 means—

11 (A) any Federal savings association—

12 (i) that is a member of the Savings
13 Association Insurance Fund and that has
14 deposits subject to assessment by that
15 fund which did not exceed \$4,000,000,000,
16 as of March 31, 1995; and

17 (ii) that had been, or is a successor by
18 merger, acquisition, or otherwise to an in-
19 stitution that had been, a State savings
20 bank, the deposits of which were insured
21 by the Federal Deposit Insurance Corpora-
22 tion prior to August 9, 1989, that con-
23 verted to a Federal savings association
24 pursuant to section 5(i) of the Home Own-
25 ers Loan Act prior to January 1, 1985;

1 (B) a State depository institution that is a
2 member of the Savings Association Insurance
3 Fund that had been a State savings bank prior
4 to October 15, 1982, and was a Federal savings
5 association on August 9, 1989;

6 (C) an insured bank that—

7 (i) was established de novo in order to
8 acquire the deposits of a savings associa-
9 tion in default or in danger of default;

10 (ii) did not open for business before
11 acquiring the deposits of such savings as-
12 sociation; and

13 (iii) was a Savings Association Insur-
14 ance Fund member as of the date of enact-
15 ment of this Act; and

16 (D) an insured bank that—

17 (i) resulted from a savings association
18 before December 19, 1991, in accordance
19 with section 5(d)(2)(G) of the Federal De-
20 posit Insurance Act; and

21 (ii) had an increase in its capital in
22 conjunction with the conversion in an
23 amount equal to more than 75 percent of
24 the capital of the institution on the day be-
25 fore the date of the conversion.

1 **SEC. 2012. FINANCING CORPORATION ASSESSMENTS**
2 **SHARED PROPORTIONALLY BY ALL INSURED**
3 **DEPOSITORY INSTITUTIONS.**

4 (a) IN GENERAL.—Section 21 of the Federal Home
5 Loan Bank Act (12 U.S.C. 1441) is amended—

6 (1) in subsection (f)(2)—

7 (A) in the matter immediately preceding
8 subparagraph (A)—

9 (i) by striking “Savings Association
10 Insurance Fund member” and inserting
11 “insured depository institution”; and

12 (ii) by striking “members” and insert-
13 ing “institutions”; and

14 (B) by striking “, except that—” and all
15 that follows through the end of the paragraph
16 and inserting “, except that—

17 “(A) the Financing Corporation shall have
18 first priority to make the assessment; and

19 “(B) no limitation under clause (i) or (iii)
20 of section 7(b)(2)(A) of the Federal Deposit In-
21 surance Act shall apply for purposes of this
22 paragraph.”; and

23 (2) in subsection (k)—

24 (A) by striking “section—” and inserting
25 “section, the following definitions shall apply:”;

26 (B) by striking paragraph (1);

1 (C) by redesignating paragraphs (2) and
2 (3) as paragraphs (1) and (2), respectively; and
3 (D) by adding at the end the following new
4 paragraph:

5 “(3) INSURED DEPOSITORY INSTITUTION.—The
6 term ‘insured depository institution’ has the same
7 meaning as in section 3 of the Federal Deposit In-
8 surance Act.”.

9 (b) CONFORMING AMENDMENT.—Section 7(b)(2) of
10 the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2))
11 is amended by striking subparagraph (D).

12 (c) EFFECTIVE DATE.—This section and the amend-
13 ments made by this section shall become effective on Janu-
14 ary 1, 1996.

15 **SEC. 2013. MERGER OF BIF AND SAIF.**

16 (a) IN GENERAL.—

17 (1) MERGER.—The Bank Insurance Fund and
18 the Savings Association Insurance Fund shall be
19 merged into the Deposit Insurance Fund established
20 by section 11(a)(4) of the Federal Deposit Insurance
21 Act, as amended by this section.

22 (2) DISPOSITION OF ASSETS AND LIABIL-
23 ITIES.—All assets and liabilities of the Bank Insur-
24 ance Fund and the Savings Association Insurance

1 Fund shall be transferred to the Deposit Insurance
2 Fund.

3 (3) NO SEPARATE EXISTENCE.—The separate
4 existence of the Bank Insurance Fund and the Sav-
5 ings Association Insurance Fund shall cease.

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

8 (1) IN GENERAL.—Immediately before the
9 merger of the Bank Insurance Fund and the Sav-
10 ings Association Insurance Fund, if the reserve ratio
11 of the Savings Association Insurance Fund exceeds
12 the designated reserve ratio, the amount by which
13 that reserve ratio exceeds the designated reserve
14 ratio shall be placed in the Special Reserve of the
15 Deposit Insurance Fund, established under section
16 11(a)(5) of the Federal Deposit Insurance Act, as
17 amended by this section.

18 (2) DEFINITION.—For purposes of this sub-
19 section, the term “reserve ratio” means the ratio of
20 the net worth of the Savings Association Insurance
21 Fund to aggregate estimated insured deposits held
22 in all Savings Association Insurance Fund members.

23 (c) EFFECTIVE DATE.—This section and the amend-
24 ments made by this section shall become effective on Janu-

1 ary 1, 1998, if no insured depository institution is a sav-
2 ings association on that date.

3 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

4 (1) DEPOSIT INSURANCE FUND.—Section
5 11(a)(4) of the Federal Deposit Insurance Act (12
6 U.S.C. 1821(a)(4)) is amended—

7 (A) by redesignating subparagraph (B) as
8 subparagraph (C);

9 (B) by striking subparagraph (A) and in-
10 sserting the following:

11 “(A) ESTABLISHMENT.—There is estab-
12 lished the Deposit Insurance Fund, which the
13 Corporation shall—

14 “(i) maintain and administer;

15 “(ii) use to carry out its insurance
16 purposes in the manner provided by this
17 subsection; and

18 “(iii) invest in accordance with section
19 13(a).

20 “(B) USES.—The Deposit Insurance Fund
21 shall be available to the Corporation for use
22 with respect to Deposit Insurance Fund mem-
23 bers.”; and

1 (C) by striking “(4) GENERAL PROVISIONS
2 RELATING TO FUNDS.—” and inserting the fol-
3 lowing:

4 “(4) ESTABLISHMENT OF THE DEPOSIT INSUR-
5 ANCE FUND.—”.

6 (2) OTHER REFERENCES.—Section 11(a)(4)(C)
7 of the Federal Deposit Insurance Act (12 U.S.C.
8 1821(a)(4)(C), as redesignated by paragraph (1) of
9 this subsection) is amended by striking “Bank In-
10 surance Fund and the Savings Association Insur-
11 ance Fund” and inserting “Deposit Insurance
12 Fund”.

13 (3) DEPOSITS INTO FUND.—Section 11(a)(4) of
14 the Federal Deposit Insurance Act (12 U.S.C.
15 1821(a)(4)) is amended by adding at the end the
16 following new subparagraph:

17 “(D) DEPOSITS.—All amounts assessed
18 against insured depository institutions by the
19 Corporation shall be deposited in the Deposit
20 Insurance Fund.”

21 (4) SPECIAL RESERVE OF DEPOSITS.—Section
22 11(a)(5) of the Federal Deposit Insurance Act (12
23 U.S.C. 1821(a)(5)) is amended to read as follows:

24 “(5) SPECIAL RESERVE OF DEPOSIT INSUR-
25 ANCE FUND.—

1 “(A) ESTABLISHMENT.—

2 “ (i) IN GENERAL.—There is estab-
3 lished a Special Reserve of the Deposit In-
4 surance Fund, which shall be administered
5 by the Corporation and shall be invested in
6 accordance with section 13(a).

7 “ (ii) LIMITATION.—The Corporation
8 shall not provide any assessment credit, re-
9 fund, or other payment from any amount
10 in the Special Reserve.

11 “(B) EMERGENCY USE OF SPECIAL RE-
12 SERVE.—Notwithstanding subparagraph (A)(ii),
13 the Corporation may, in its sole discretion,
14 transfer amounts from the Special Reserve to
15 the Deposit Insurance Fund, for the purposes
16 set forth in paragraph (4), only if—

17 “(i) the reserve ratio of the Deposit
18 Insurance Fund is less than 50 percent of
19 the designated reserve ratio; and

20 “(ii) the Corporation expects the re-
21 serve ratio of the Deposit Insurance Fund
22 to remain at less than 50 percent of the
23 designated reserve ratio for each of the
24 next 4 calendar quarters.

1 “(C) EXCLUSION OF SPECIAL RESERVE IN
2 CALCULATING RESERVE RATIO.—Notwithstand-
3 ing any other provision of law, any amounts in
4 the Special Reserve shall be excluded in cal-
5 culating the reserve ratio of the Deposit Insur-
6 ance Fund under section 7.”.

7 (5) FEDERAL HOME LOAN BANK ACT.—Section
8 21B(f)(2)(C)(ii) of the Federal Home Loan Bank
9 Act (12 U.S.C. 1441b(f)(2)(C)(ii)) is amended—

10 (A) in subclause (I), by striking “to Sav-
11 ings Associations Insurance Fund members”
12 and inserting “to insured depository institu-
13 tions, and their successors, which were Savings
14 Association Insurance Fund members on Sep-
15 tember 1, 1995”; and

16 (B) in subclause (II), by striking “to Sav-
17 ings Associations Insurance Fund members”
18 and inserting “to insured depository institu-
19 tions, and their successors, which were Savings
20 Association Insurance Fund members on Sep-
21 tember 1, 1995”.

22 (6) REPEALS.—

23 (A) SECTION 3.—Section 3(y) of the Fed-
24 eral Deposit Insurance Act (12 U.S.C. 1813(y))
25 is amended to read as follows:

1 “(y) DEFINITIONS RELATING TO THE DEPOSIT IN-
2 SURANCE FUND.—The term—

3 “(1) DEPOSIT INSURANCE FUND.—The term
4 ‘Deposit Insurance Fund’ means the fund estab-
5 lished under section 11(a)(4).

6 “(2) RESERVE RATIO.—The term ‘reserve ratio’
7 means the ratio of the net worth of the Deposit In-
8 surance Fund to aggregate estimated insured depos-
9 its held in all insured depository institutions.

10 “(3) DESIGNATED RESERVE RATIO.—The des-
11 ignated reserve ratio of the Deposit Insurance Fund
12 for each year shall be—

13 “(A) 1.25 percent of estimated insured de-
14 posits; or

15 “(B) a higher percentage of estimated in-
16 sured deposits that the Board of Directors de-
17 termines to be justified for that year by cir-
18 cumstances raising a significant risk of sub-
19 stantial future losses to the fund.”.

20 (B) SECTION 7.—Section 7 of the Federal
21 Deposit Insurance Act (12 U.S.C. 1817) is
22 amended—

23 (i) by striking subsection (l);

1 (ii) by redesignating subsections (m)
2 and (n) as subsections (l) and (m), respec-
3 tively; and

4 (iii) in subsection (b)(2), by striking
5 subparagraphs (B) and (F), and by redesi-
6 gnating subparagraphs (C), (E), (G), and
7 (H) as subparagraphs (B) through (E), re-
8 spectively.

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

12 (i) by striking paragraphs (6) and (7);
13 and

14 (ii) by redesignating paragraph (8) as
15 paragraph (6).

16 (7) SECTION 5136 OF THE REVISED STAT-
17 UTES.—Paragraph Eleventh of section 5136 of the
18 Revised Statutes (12 U.S.C. 24) is amended in the
19 fifth sentence, by striking “affected deposit insur-
20 ance fund” and inserting “Deposit Insurance
21 Fund”.

22 (8) INVESTMENTS PROMOTING PUBLIC WEL-
23 FARE; LIMITATIONS ON AGGREGATE INVEST-
24 MENTS.—The 23d undesignated paragraph of sec-
25 tion 9 of the Federal Reserve Act (12 U.S.C. 338a)

1 is amended in the fourth sentence, by striking “af-
2 fected deposit insurance fund” and inserting “De-
3 posit Insurance Fund”.

4 (9) ADVANCES TO CRITICALLY
5 UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—
6 Section 10B(b)(3)(A)(ii) of the Federal Reserve Act
7 (12 U.S.C. 347b(b)(3)(A)(ii)) is amended by striking
8 “any deposit insurance fund in” and inserting “the
9 Deposit Insurance Fund of”.

10 (10) AMENDMENTS TO THE BALANCED BUDGET
11 AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—
12 Section 255(g)(1)(A) of the Balanced Budget and
13 Emergency Deficit Control Act of 1985 (2 U.S.C.
14 905(g)(1)(A)) is amended—

15 (A) by striking “Bank Insurance Fund”
16 and inserting “Deposit Insurance Fund”; and

17 (B) by striking “Federal Deposit Insur-
18 ance Corporation, Savings Association Insur-
19 ance Fund;”.

20 (11) FURTHER AMENDMENTS TO THE FEDERAL
21 HOME LOAN BANK ACT.—The Federal Home Loan
22 Bank Act (12 U.S.C. 1421 et seq.) is amended—

23 (A) in section 11(k) (12 U.S.C.
24 1431(k))—

1 (i) in the subsection heading, by strik-
2 ing, “SAIF” and inserting “THE DEPOSIT
3 INSURANCE FUND”; and

4 (ii) by striking “Savings Association
5 Insurance Fund” each place such term ap-
6 pears and inserting “Deposit Insurance
7 Fund”;

8 (B) in section 21A(b)(4)(B) (12 U.S.C.
9 1441a(b)(4)(B)), by striking “affected deposit
10 insurance fund” and inserting “Deposit Insur-
11 ance Fund”;

12 (C) in section 21A(b)(6)(B) (12 U.S.C.
13 1441a(b)(6)(B))—

14 (i) in the subparagraph heading, by
15 striking “SAIF-INSURED BANKS” and in-
16 serting “CHARTER CONVERSIONS”; and

17 (ii) by striking “Savings Association
18 Insurance Fund member” and inserting
19 “savings association”;

20 (D) in section 21A(b)(10)(A)(iv)(II) (12
21 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking
22 “Savings Association Insurance Fund” and in-
23 serting “Deposit Insurance Fund”;

24 (E) in section 21B(e) (12 U.S.C.
25 1441b(e))—

1 (i) in paragraph (5), by inserting “as
2 of the date of funding” after “Savings As-
3 sociation Insurance Fund members” each
4 place such term appears;

5 (ii) by striking paragraph (7); and

6 (iii) by redesignating paragraph (8) as
7 paragraph (7); and

8 (F) in section 21B(k) (12 U.S.C.
9 1441b(k))—

10 (i) by striking paragraph (8); and

11 (ii) by redesignating paragraphs (9)
12 and (10) as paragraphs (8) and (9), re-
13 spectively.

14 (12) AMENDMENTS TO THE HOME OWNERS’
15 LOAN ACT.—The Home Owners’ Loan Act (12
16 U.S.C. 1461 et seq.) is amended—

17 (A) in section 5 (12 U.S.C. 1464)—

18 (i) in subsection (c)(5)(A), by striking
19 “that is a member of the Bank Insurance
20 Fund”;

21 (ii) in subsection (c)(6), by striking
22 “As used in this subsection—” and insert-
23 ing “For purposes of this subsection, the
24 following definitions shall apply:”;

1 (iii) in subsection (o)(1), by striking
2 “that is a Bank Insurance Fund member”;

3 (iv) in subsection (o)(2)(A), by strik-
4 ing “a Bank Insurance Fund member until
5 such time as it changes its status to a Sav-
6 ings Association Insurance Fund member”
7 and inserting “insured by the Deposit In-
8 surance Fund”;

9 (v) in subsection (t)(5)(D)(iii)(II), by
10 striking “affected deposit insurance fund”
11 and inserting “Deposit Insurance Fund”;

12 (vi) in subsection (t)(7)(C)(i)(I), by
13 striking “affected deposit insurance fund”
14 and inserting “Deposit Insurance Fund”;
15 and

16 (vii) in subsection (v)(2)(A)(i), by
17 striking “, the Savings Association Insur-
18 ance Fund” and inserting “or the Deposit
19 Insurance Fund”; and

20 (B) in section 10 (12 U.S.C. 1467a)—

21 (i) in subsection (e)(1)(A)(iii)(VII), by
22 adding “or” at the end;

23 (ii) in subsection (e)(1)(A)(iv), by
24 adding “and” at the end;

1 (iii) in subsection (e)(1)(B), by strik-
2 ing “Savings Association Insurance Fund
3 or Bank Insurance Fund” and inserting
4 “Deposit Insurance Fund”;

5 (iv) in subsection (e)(2), by striking
6 “Savings Association Insurance Fund or
7 the Bank Insurance Fund” and inserting
8 “Deposit Insurance Fund”; and

9 (v) in subsection (m)(3), by striking
10 subparagraph (E), and by redesignating
11 subparagraphs (F), (G), and (H) as sub-
12 paragraphs (E), (F), and (G), respectively.

13 (13) AMENDMENTS TO THE NATIONAL HOUSING
14 ACT.—The National Housing Act (12 U.S.C. 1701
15 et seq.) is amended—

16 (A) in section 317(b)(1)(B) (12 U.S.C.
17 1723i(b)(1)(B)), by striking “Bank Insurance
18 Fund for banks or through the Savings Asso-
19 ciation Insurance Fund for savings associa-
20 tions” and inserting “Deposit Insurance Fund”;
21 and

22 (B) in section 526(b)(1)(B)(ii) (12 U.S.C.
23 1735f–14(b)(1)(B)(ii)), by striking “Bank In-
24 surance Fund for banks and through the Sav-
25 ings Association Insurance Fund for savings as-

1 sociations” and inserting “Deposit Insurance
2 Fund”.

3 (14) FURTHER AMENDMENTS TO THE FEDERAL
4 DEPOSIT INSURANCE ACT.—The Federal Deposit In-
5 surance Act (12 U.S.C. 1811 et seq.) is amended—

6 (A) in section 3(a)(1) (12 U.S.C.
7 1813(a)(1)), by striking subparagraph (B) and
8 inserting the following:

9 “(B) includes any former savings associa-
10 tion.”;

11 (B) in section 5(b)(5) (12 U.S.C.
12 1815(b)(5)), by striking “the Bank Insurance
13 Fund or the Savings Association Insurance
14 Fund;” and inserting “Deposit Insurance
15 Fund;”;

16 (C) in section 5(d) (12 U.S.C. 1815(d)),
17 by striking paragraphs (2) and (3);

18 (D) in section 5(d)(1) (12 U.S.C.
19 1815(d)(1))—

20 (i) in subparagraph (A), by striking
21 “reserve ratios in the Bank Insurance
22 Fund and the Savings Association Insur-
23 ance Fund” and inserting “the reserve
24 ratio of the Deposit Insurance Fund”;

1 (ii) by striking subparagraph (B) and
2 inserting the following:

3 “(2) FEE CREDITED TO THE DEPOSIT INSUR-
4 ANCE FUND.—The fee paid by the depository insti-
5 tution under paragraph (1) shall be credited to the
6 Deposit Insurance Fund.”;

7 (iii) by striking “(1) UNINSURED IN-
8 STITUTIONS.—”; and

9 (iv) by redesignating subparagraphs
10 (A) and (C) as paragraphs (1) and (3), re-
11 spectively, and moving the margins 2 ems
12 to the left;

13 (E) in section 5(e) (12 U.S.C. 1815(e))—

14 (i) in paragraph (5)(A), by striking
15 “Bank Insurance Fund or the Savings As-
16 sociation Insurance Fund” and inserting
17 “Deposit Insurance Fund”;

18 (ii) by striking paragraph (6); and

19 (iii) by redesignating paragraphs (7),
20 (8), and (9) as paragraphs (6), (7), and
21 (8), respectively;

22 (F) in section 6(5) (12 U.S.C. 1816(5)),
23 by striking “Bank Insurance Fund or the Sav-
24 ings Association Insurance Fund” and inserting
25 “Deposit Insurance Fund”;

1 (G) in section 7(b) (12 U.S.C. 1817(b))—

2 (i) in paragraph (1)(D), by striking
3 “each deposit insurance fund” and insert-
4 ing “the Deposit Insurance Fund”;

5 (ii) in clauses (i)(I) and (iv) of para-
6 graph (2)(A), by striking “each deposit in-
7 surance fund” each place such term ap-
8 pears and inserting “the Deposit Insurance
9 Fund”;

10 (iii) in paragraph (2)(A)(iii), by strik-
11 ing “a deposit insurance fund” and insert-
12 ing “the Deposit Insurance Fund”;

13 (iv) by striking clause (iv) of para-
14 graph (2)(A);

15 (v) in paragraph (2)(C) (as redesign-
16 ated by paragraph (6)(B) of this sub-
17 section)—

18 (I) by striking “any deposit in-
19 surance fund” and inserting “the De-
20 posit Insurance Fund”; and

21 (II) by striking “that fund” each
22 place such term appears and inserting
23 “the Deposit Insurance Fund”;

1 (vi) in paragraph (2)(D) (as redesignig-
2 nated by paragraph (6)(B) of this sub-
3 section)—

4 (I) in the subparagraph heading,
5 by striking “FUNDS ACHIEVE” and in-
6 serting “FUND ACHIEVES”; and

7 (II) by striking “a deposit insur-
8 ance fund” and inserting “the Deposit
9 Insurance Fund”;

10 (vii) in paragraph (3)—

11 (I) in the paragraph heading, by
12 striking “FUNDS” and inserting
13 “FUND”;

14 (II) by striking “that fund” each
15 place such term appears and inserting
16 the “the Deposit Insurance Fund”;

17 (III) in subparagraph (A), by
18 striking “Except as provided in para-
19 graph (2)(F), if” and inserting “If”;

20 (IV) in subparagraph (A) by
21 striking “any deposit insurance fund”
22 and inserting “the Deposit Insurance
23 Fund”; and

1 (V) by striking subparagraphs
2 (C) and (D) and inserting the follow-
3 ing:

4 “(C) AMENDING SCHEDULE.—The Cor-
5 poration may, by regulation, amend a schedule
6 promulgated under subparagraph (B).”; and

7 (viii) in paragraph (6)—

8 (I) by striking “any such assess-
9 ment” and inserting “any such assess-
10 ment is necessary”;

11 (II) by striking “(A) is nec-
12 essary—”;

13 (III) by striking subparagraph
14 (B);

15 (IV) by redesignating clauses (i),
16 (ii), and (iii) as subparagraphs (A),
17 (B), and (C), respectively, and moving
18 the margin 2 ems to the left; and

19 (V) in subparagraph (C) (as re-
20 designated), by striking “; and” and
21 inserting a period;

22 (H) in section 11(f)(1) (12 U.S.C.
23 1821(f)(1)), by striking “, except that—” and
24 all that follows through the end of the para-
25 graph and inserting a period;

1 (I) in section 11(i)(3) (12 U.S.C.
2 1821(i)(3))—

3 (i) by striking subparagraph (B);

4 (ii) by redesignating subparagraph
5 (C) as subparagraph (B); and

6 (iii) in subparagraph (B) (as redesignig-
7 nated), by striking “subparagraphs (A)
8 and (B)” and inserting “subparagraph
9 (A)”;

10 (J) in section 11A(a) (12 U.S.C.
11 1821a(a))—

12 (i) in paragraph (2), by striking “LI-
13 ABILITIES.—” and all that follows through
14 “Except” and inserting “LIABILITIES.—
15 Except”;

16 (ii) by striking paragraph (2)(B); and

17 (iii) in paragraph (3), by striking “the
18 Bank Insurance Fund, the Savings Asso-
19 ciation Insurance Fund,” and inserting
20 “the Deposit Insurance Fund,”;

21 (K) in section 11A(b) (12 U.S.C.
22 1821a(b)), by striking paragraph (4);

23 (L) in section 11a(f) (12 U.S.C. 1821a(f)),
24 by striking “Savings Association Insurance

1 Fund” and inserting “Deposit Insurance
2 Fund”;

3 (M) in section 13 (12 U.S.C. 1823)—

4 (i) in subsection (a)(1), by striking
5 “Bank Insurance Fund, the Savings Asso-
6 ciation Insurance Fund,” and inserting
7 “Deposit Insurance Fund, the Special Re-
8 serve of the Deposit Insurance Fund”;

9 (ii) in subsection (c)(4)(E)—

10 (I) in the subparagraph heading,
11 by striking “FUNDS” and inserting
12 “FUND”; and

13 (II) in clause (i), by striking
14 “any insurance fund” and inserting
15 “the Deposit Insurance Fund”;

16 (iii) in subsection (c)(4)(G)(ii)—

17 (I) by striking “appropriate in-
18 surance fund” and inserting “Deposit
19 Insurance Fund”;

20 (II) by striking “the members of
21 the insurance fund (of which such in-
22 stitution is a member)” and inserting
23 “insured depository institutions”;

1 (III) by striking “each mem-
2 ber’s” and inserting “each insured de-
3 pository institution’s”; and

4 (IV) by striking “the member’s”
5 each place such term appears and in-
6 serting “the institution’s”;

7 (iv) in subsection (c), by striking
8 paragraph (11);

9 (v) in subsection (h), by striking
10 “Bank Insurance Fund” and inserting
11 “Deposit Insurance Fund”;

12 (vi) in subsection (K)(4)(B)(i), by
13 striking “Savings Association Insurance
14 Fund” and inserting “Deposit Insurance
15 Fund”; and

16 (vii) in subsection (k)(5)(A), by strik-
17 ing “Savings Association Insurance Fund”
18 and inserting “Deposit Insurance Fund”;

19 (N) in section 14(a) (12 U.S.C. 1824(a))
20 in the fifth sentence—

21 (i) by striking “Bank Insurance Fund
22 or the Savings Association Insurance
23 Fund” and inserting “Deposit Insurance
24 Fund”; and

1 (ii) by striking “each such fund” and
2 inserting “the Deposit Insurance Fund”;

3 (O) in section 14(b) (12 U.S.C. 1824(b)),
4 by striking “Bank Insurance Fund or Savings
5 Association Insurance Fund” and inserting
6 “Deposit Insurance Fund”;

7 (P) in section 14(c) (12 U.S.C. 1824(c)),
8 by striking paragraph (3);

9 (Q) in section 14(d) (12 U.S.C.
10 1824(d))—

11 (i) by striking “BIF” each place such
12 term appears and inserting “DIF”; and

13 (ii) by striking “Bank Insurance
14 Fund” each place such term appears and
15 inserting “Deposit Insurance Fund”;

16 (R) in section 15(c)(5) (12 U.S.C.
17 1825(c)(5))—

18 (i) by striking “the Bank Insurance
19 Fund or Savings Association Insurance
20 Fund, respectively” each place such term
21 appears and inserting “the Deposit Insur-
22 ance Fund”; and

23 (ii) in subparagraph (B), by striking
24 “the Bank Insurance Fund or the Savings
25 Association Insurance Fund, respectively”

1 and inserting “the Deposit Insurance
2 Fund”;

3 (S) in section 17(a) (12 U.S.C. 1827(a))—

4 (i) in the subsection heading, by strik-
5 ing “BIF, SAIF,” and inserting “THE DE-
6 POSIT INSURANCE FUND”; and

7 (ii) in paragraph (1), by striking “the
8 Bank Insurance Fund, the Savings Asso-
9 ciation Insurance Fund” each place such
10 term appears and inserting “the Deposit
11 Insurance Fund”;

12 (T) in section 17(d) (12 U.S.C. 1827(d)),
13 by striking “the Bank Insurance Fund, the
14 Savings Association Insurance Fund,” each
15 place such term appears and inserting “the De-
16 posit Insurance Fund”;

17 (U) in section 18(m)(3) (12 U.S.C.
18 1828(m)(3))—

19 (i) by striking “Savings Association
20 Insurance Fund” each place such term ap-
21 pears and inserting “Deposit Insurance
22 Fund”; and

23 (ii) in subparagraph (C), by striking
24 “or the Bank Insurance Fund”;

1 (V) in section 18(p) (12 U.S.C. 1828(p)),
2 by striking “deposit insurance funds” and in-
3 serting “Deposit Insurance Fund”;

4 (W) in section 24 (12 U.S.C. 1831a) in
5 subsections (a)(1) and (d)(1)(A), by striking
6 “appropriate deposit insurance fund” each
7 place such term appears and inserting “Deposit
8 Insurance Fund”;

9 (X) in section 28 (12 U.S.C. 1831e), by
10 striking “affected deposit insurance fund” each
11 place such term appears and inserting “Deposit
12 Insurance Fund”;

13 (Y) by striking section 31 (12 U.S.C.
14 1831h);

15 (Z) in section 36(i)(3) (12 U.S.C.
16 1831m(i)(3)) by striking “affected deposit in-
17 surance fund” and inserting “Deposit Insur-
18 ance Fund”;

19 (AA) in section 38(a) (12 U.S.C.
20 1831o(a)) in the subsection heading, by striking
21 “FUNDS” and inserting “FUND”;

22 (BB) in section 38(k) (12 U.S.C.
23 1831o(k))—

1 (i) in paragraph (1), by striking “a
2 deposit insurance fund” and inserting “the
3 Deposit Insurance Fund”; and

4 (ii) in paragraph (2)(A)—

5 (I) by striking “A deposit insur-
6 ance fund” and inserting “The De-
7 posit Insurance Fund”; and

8 (II) by striking “the deposit in-
9 surance fund’s outlays” and inserting
10 “the outlays of the Deposit Insurance
11 Fund”; and

12 (CC) in section 38(o) (12 U.S.C.

13 1831o(o))—

14 (i) by striking “ASSOCIATIONS.—”
15 and all that follows through “Subsections
16 (e)(2)” and inserting “ASSOCIATIONS.—
17 Subsections (e)(2)”;

18 (ii) by redesignating subparagraphs
19 (A), (B), and (C) as paragraphs (1), (2),
20 and (3), respectively, and moving the mar-
21 gins 2 ems to the left; and

22 (iii) in paragraph (1) (as redesign-
23 dated), by redesignating clauses (i) and (ii)
24 as subparagraphs (A) and (B), respec-

1 tively, and moving the margins 2 ems to
2 the left.

3 (15) AMENDMENTS TO THE FINANCIAL INSTI-
4 TUTIONS REFORM, RECOVERY, AND ENFORCEMENT
5 ACT OF 1989.—The Financial Institutions Reform,
6 Recovery, and Enforcement Act (Public Law 101–
7 73; 103 Stat. 183) is amended—

8 (A) in section 951(b)(3)(B) (12 U.S.C.
9 1833a(b)(3)(B)), by striking “Bank Insurance
10 Fund, the Savings Association Insurance
11 Fund,” and inserting “Deposit Insurance
12 Fund”; and

13 (B) in section 1112(c)(1)(B) (12 U.S.C.
14 3341(c)(1)(B)), by striking “Bank Insurance
15 Fund, the Savings Association Insurance
16 Fund,” and inserting “Deposit Insurance
17 Fund”.

18 (16) AMENDMENT TO THE BANK ENTERPRISE
19 ACT OF 1991.—Section 232(a)(1) of the Bank Enter-
20 prise Act of 1991 (12 U.S.C. 1834(a)(1)) is amend-
21 ed by striking “section 7(b)(2)(H)” and inserting
22 “section 7(b)(2)(G)”.

23 (17) AMENDMENT TO THE BANK HOLDING
24 COMPANY ACT.—Section 2(j)(2) of the Bank Hold-
25 ing Company Act of 1956 (12 U.S.C. 1841(j)(2)) is

1 amended by striking “Savings Association Insurance
2 Fund” and inserting “Deposit Insurance Fund”.

3 **SEC. 2014. CREATION OF SAIF SPECIAL RESERVE.**

4 Section 11(a)(6) of the Federal Deposit Insurance
5 Act (12 U.S.C. 1821(a)(6)) is amended by adding at the
6 end the following new subparagraph:

7 “(L) ESTABLISHMENT OF SAIF SPECIAL
8 RESERVE.—

9 “(i) ESTABLISHMENT.—If, on Janu-
10 ary 1, 1998, the reserve ratio of the Sav-
11 ings Association Insurance Fund exceeds
12 the designated reserve ratio, there is estab-
13 lished a Special Reserve of the Savings As-
14 sociation Insurance Fund, which shall be
15 administered by the Corporation and shall
16 be invested in accordance with section
17 13(a).

18 “(ii) AMOUNTS IN SPECIAL RE-
19 SERVE.—If, on January 1, 1998, the re-
20 serve ratio of the Savings Association In-
21 surance Fund exceeds the designated re-
22 serve ratio, the amount by which the re-
23 serve ratio exceeds the designated reserve
24 ratio shall be placed in the Special Reserve

1 of the Savings Association Insurance Fund
2 established by clause (i).

3 “(iii) LIMITATION.—The Corporation
4 shall not provide any assessment credit, re-
5 fund, or other payment from any amount
6 in the Special Reserve of the Savings Asso-
7 ciation Insurance Fund.

8 “(iv) EMERGENCY USE OF SPECIAL
9 RESERVE.—Notwithstanding clause (iii),
10 the Corporation may, in its sole discretion,
11 transfer amounts from the Special Reserve
12 of the Savings Association Insurance Fund
13 to the Savings Association Insurance Fund
14 for the purposes set forth in paragraph
15 (4), only if—

16 “(I) the reserve ratio of the Sav-
17 ings Association Insurance Fund is
18 less than 50 percent of the designated
19 reserve ratio; and

20 “(II) the Corporation expects the
21 reserve ratio of the Savings Associa-
22 tion Insurance Fund to remain at less
23 than 50 percent of the designated re-
24 serve ratio for each of the next 4 cal-
25 endar quarters.

1 “(v) EXCLUSION OF SPECIAL RE-
2 SERVE IN CALCULATING RESERVE
3 RATIO.—Notwithstanding any other provi-
4 sion of law, any amounts in the Special
5 Reserve of the Savings Association Insur-
6 ance Fund shall be excluded in calculating
7 the reserve ratio of the Savings Association
8 Insurance Fund.”.

9 **SEC. 2015. REFUND OF AMOUNTS IN DEPOSIT INSURANCE**
10 **FUND IN EXCESS OF DESIGNATED RESERVE**
11 **AMOUNT.**

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

15 “(e) REFUNDS.—

16 “(1) OVERPAYMENTS.—In the case of any pay-
17 ment of an assessment by an insured depository in-
18 stitution in excess of the amount due to the Cor-
19 poration, the Corporation may—

20 “(A) refund the amount of the excess pay-
21 ment to the insured depository institution; or

22 “(B) credit such excess amount toward the
23 payment of subsequent semiannual assessments
24 until such credit is exhausted.

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

3 “(A) IN GENERAL.—Subject to subpara-
4 graphs (B) and (C), if, as of the end of any
5 semiannual assessment period, the amount of
6 the actual reserves in—

7 “(i) the Bank Insurance Fund (until
8 the merger of such fund into the Deposit
9 Insurance Fund pursuant to section 2013
10 of the Balanced Budget Act of 1995); or

11 “(ii) the Deposit Insurance Fund
12 (after the establishment of such fund),
13 exceeds the balance required to meet the des-
14 ignated reserve ratio applicable with respect to
15 such fund, such excess amount shall be re-
16 funded to insured depository institutions by the
17 Corporation on such basis as the Board of Di-
18 rectors determines to be appropriate, taking
19 into account the factors considered under the
20 risk-based assessment system.

21 “(B) REFUND NOT TO EXCEED PREVIOUS
22 SEMIANNUAL ASSESSMENT.—The amount of
23 any refund under this paragraph to any mem-
24 ber of a deposit insurance fund for any semi-
25 annual assessment period may not exceed the

1 total amount of assessments paid by such mem-
2 ber to the insurance fund with respect to such
3 period.

4 “(C) REFUND LIMITATION FOR CERTAIN
5 INSTITUTIONS.—No refund may be made under
6 this paragraph with respect to the amount of
7 any assessment paid for any semiannual assess-
8 ment period by any insured depository institu-
9 tions described in clause (v) of subsection
10 (b)(2)(A).”.

11 **SEC. 2016. ASSESSMENT RATES FOR SAIF MEMBERS MAY**
12 **NOT BE LESS THAN ASSESSMENT RATES FOR**
13 **BIF MEMBERS.**

14 Section 7(b)(2)(C) of the Federal Deposit Insurance
15 Act (12 U.S.C. 1817)(2)(E), as redesignated by section
16 2013(d)(6) of this Act) is amended—

17 (1) by striking “and” at the end of clause (i);

18 (2) by striking the period at the end of clause

19 (ii) and inserting “; and”; and

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

22 “(iii) notwithstanding any other provi-
23 sion of this subsection, during the period
24 beginning on the date of enactment of the
25 Balanced Budget Act of 1995, and ending

1 on January 1, 1998, the assessment rate
2 for a Savings Association Insurance Fund
3 member may not be less than the assess-
4 ment rate for a Bank Insurance Fund
5 member that poses a comparable risk to
6 the deposit insurance fund.”.

7 **SEC. 2017. ASSESSMENTS AUTHORIZED ONLY IF NEEDED**
8 **TO MAINTAIN THE RESERVE RATIO OF A DE-**
9 **POSIT INSURANCE FUND.**

10 (a) IN GENERAL.—Section 7(b)(2)(A)(i) of the Fed-
11 eral Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(i))
12 is amended in the matter preceding subclause (I) by in-
13 serting “when necessary, and only to the extent nec-
14 essary” after “insured depository institutions”.

15 (b) LIMITATION ON ASSESSMENT.—Section
16 7(b)(2)(A)(iii) of the Federal Deposit Insurance Act (12
17 U.S.C. 1817(b)(2)(A)(iii)) is amended to read as follows:

18 “(iii) LIMITATION ON ASSESSMENT.—
19 Except as provided in clause (v), the Board
20 of Directors shall not set semiannual as-
21 sessments with respect to a deposit insur-
22 ance fund in excess of the amount need-
23 ed—

1 “(I) to maintain the reserve ratio
2 of the fund at the designated reserve
3 ratio; or

4 “(II) if the reserve ratio is less
5 than the designated reserve ratio, to
6 increase the reserve ratio to the des-
7 ignated reserve ratio.”.

8 (c) EXCEPTION TO LIMITATION ON ASSESSMENTS.—
9 Section 7(b)(2)(A) of the Federal Deposit Insurance Act
10 (12 U.S.C. 1817(b)(2)(A)) is amended by adding at the
11 end of the following new clause:

12 “(v) EXCEPTION TO LIMITATION ON
13 ASSESSMENTS.—The Board of Directors
14 may set semiannual assessments in excess
15 of the amount permitted under clauses (i)
16 and (iii) with respect to insured depository
17 institutions that exhibit financial, oper-
18 ational, or compliance weaknesses ranging
19 from moderately severe to unsatisfactory,
20 or are not well capitalized, as that term is
21 defined in section 38.”.

1 **SEC. 2018. LIMITATION ON AUTHORITY OF OVERSIGHT**
2 **BOARD TO CONTINUE TO EMPLOY MORE**
3 **THAN 18 OFFICERS AND EMPLOYEES.**

4 (a) IN GENERAL.—Section 21A(a) of the Federal
5 Home Loan Bank Act (12 U.S.C. 1441a(a)) is amended
6 by adding at the end the following new paragraph:

7 “(17) PHASED-DOWN OPERATION OF OVER-
8 SIGHT BOARD FOLLOWING TERMINATION OF COR-
9 PORATION.—

10 “(A) TERMINATION OF AUTHORITY TO EM-
11 PLOY STAFF.—Except as provided in subpara-
12 graph (B), the authority of the Thrift Depositor
13 Protection Oversight Board under paragraph
14 (5) to establish officer and employee positions,
15 to compensate officers and employees of the
16 Board, and to provide other benefits for officers
17 and employees of the Board shall terminate as
18 of December 31, 1995.

19 “(B) LIMITED AUTHORITY FOR EMPLOY-
20 ING STAFF.—The Thrift Depositor Protection
21 Oversight Board may employ not more than 18
22 individuals, excluding any employee of any
23 other department or agency utilized by the
24 Board, to carry out the functions of the Board
25 during the period beginning on January 1,
26 1996 and ending on May 1, 1996, other than

1 employees whose employment is in the process
2 of being terminated in accordance with sub-
3 paragraph (C).

4 “(C) TERMINATION OF EMPLOYMENT OF
5 ADDITIONAL EMPLOYEES REQUIRED TO BE
6 COMMENCED.—The Thrift Depositor Protection
7 Oversight Board shall commence terminating,
8 not later than December 31, 1995, and in ac-
9 cordance with title 5, United States Code, and
10 applicable regulations of the Office of Personnel
11 Management, the employment of any employee
12 of the Board whose continued employment by
13 the Board after such date is inconsistent with
14 the requirement of subparagraph (B).”.

15 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
16 Section 21A(a)(5) of the Federal Home Loan Bank Act
17 (12 U.S.C. 1441a(a)(5)) is amended in subparagraphs
18 (B), (C), (D), and (E), by inserting “subject to paragraph
19 (17)”, after the closing parenthesis of the subparagraph
20 designation in each such subparagraph.

21 **SEC. 2019. DEFINITIONS.**

22 For purposes of this subtitle—

23 (1) the term “Bank Insurance Fund” means
24 the fund established pursuant to section
25 (11)(a)(5)(A) of the Federal Deposit Insurance Act,

1 as that section existed on the day before the date of
2 enactment of this Act;

3 (2) the terms “Bank Insurance Fund member”
4 and “Savings Association Insurance Fund member”
5 have the same meanings as in section 7(l) of the
6 Federal Deposit Insurance Act;

7 (3) the terms “bank”, “Board of Directors”,
8 “Corporation”, “insured depository institution”,
9 “Federal savings association”, “savings association”,
10 “State savings bank”, and “State depository institu-
11 tion” have the same meanings as in section 3 of the
12 Federal Deposit Insurance Act;

13 (4) the term “Deposit Insurance Fund” means
14 the fund established under section 11(a)(4) of the
15 Federal Deposit Insurance Act, as amended by sec-
16 tion 2013(d) of this Act;

17 (5) the term “depository institution holding
18 company” has the same meaning as in section 3 of
19 the Federal Deposit Insurance Act;

20 (6) the term “designated reserve ratio” has the
21 same meaning as in section 7(b)(2)(A)(iv) of the
22 Federal Deposit Insurance Act;

23 (7) the term “Savings Association Insurance
24 Fund” means the fund established pursuant to sec-
25 tion 11(a)(6)(A) of the Federal Deposit Insurance

1 Act, as that section existed on the day before the
2 date of enactment of this Act; and

3 (8) the term “SAIF-assessable deposit”
4 means—

5 (A) a deposit that is subject to assessment
6 for purposes of the Savings Association Insur-
7 ance Fund under the Federal Deposit Insur-
8 ance Act; and

9 (B) a deposit that section 5(d)(3) of the
10 Federal Deposit Insurance Act treats as in-
11 sured by the Savings Association Insurance
12 Fund.

13 **Subtitle B—Housing**

14 **SEC. 2051. ANNUAL ADJUSTMENT FACTORS FOR OPERAT-** 15 **ING COSTS ONLY; RESTRAINT ON RENT IN-** 16 **CREASES.**

17 (a) ANNUAL ADJUSTMENT FACTORS FOR OPERATING
18 COSTS ONLY.—Section 8(c)(2)(A) of the United States
19 Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is
20 amended—

21 (1) by striking “(2)(A)” and inserting
22 “(2)(A)(i)”;

23 (2) by striking the second sentence and all that
24 follows through the end of the subparagraph; and

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

3 “(ii) Each assistance contract under this section shall
4 provide that—

5 “(I) if the maximum monthly rent for a unit in
6 a new construction or substantial rehabilitation
7 project to be adjusted using an annual adjustment
8 factor exceeds 100 percent of the fair market rent
9 for an existing dwelling unit in the market area, the
10 Secretary shall adjust the rent using an operating
11 costs factor that increases the rent to reflect in-
12 creases in operating costs in the market area; and

13 “(II) if the owner of a unit in a project de-
14 scribed in subclause (I) demonstrates that the ad-
15 justed rent determined under subclause (I) would
16 not exceed the rent for an unassisted unit of similar
17 quality, type, and age in the same market area, as
18 determined by the Secretary, the Secretary shall use
19 the otherwise applicable annual adjustment factor.”.

20 (b) RESTRAINT ON SECTION 8 RENT INCREASES.—
21 Section 8(c)(2)(A) of the United States Housing Act of
22 1937 (42 U.S.C. 1437f(c)(2)(A)), as amended by sub-
23 section (a), is amended by adding at the end the following
24 new clause:

1 “(iii)(I) Subject to subclause (II), with respect to any
2 unit assisted under this section that it occupied by the
3 same family at the time of the most recent annual rental
4 adjustment, if the assistance contract provides for the ad-
5 justment of the maximum monthly rent by applying an
6 annual adjustment factor, and if the rent for the unit is
7 otherwise eligible for an adjustment based on the full
8 amount of the annual adjustment factor, 0.01 shall be
9 subtracted from the amount of the annual adjustment fac-
10 tor, except that the annual adjustment factor shall not be
11 reduced to less than 1.0.

12 “(II) With respect to any unit described in subclause
13 (I) that is assisted under the certificate program, the ad-
14 justed rent shall not exceed the rent for a comparable un-
15 assisted unit of similar quality, type, and age in the mar-
16 ket area in which the unit is located.”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall become effective on October 1, 1995.

19 **SEC. 2052. FORECLOSURE AVOIDANCE AND BORROWER AS-**
20 **SISTANCE.**

21 (a) FORECLOSURE AVOIDANCE.—Except as provided
22 in subsection (e), the last sentence of section 204(a) of
23 the National Housing Act (12 U.S.C. 1710(a)) is amended
24 by inserting before the period the following: “: *And pro-*
25 *vided further,* That the Secretary may pay insurance bene-

1 fits to the mortgagee to recompense the mortgagee for its
2 actions to provide an alternative to foreclosure of a mort-
3 gage that is in default, which actions may include such
4 actions as special forbearance, loan modification, and
5 deeds in lieu of foreclosure, all upon such terms and condi-
6 tions as the mortgagee shall determine in the mortgagee's
7 sole discretion within guidelines provided by the Secretary,
8 but which may not include assignment of a mortgage to
9 the Secretary: *And provided further*, That for purposes of
10 the preceding proviso, no action authorized by the Sec-
11 retary and no action taken, nor any failure to act, by the
12 Secretary or the mortgagee shall be subject to judicial re-
13 view".

14 (b) AUTHORITY TO ASSIST MORTGAGORS IN DE-
15 FAULT.—Except as provided in subsection (e), section 230
16 of the National Housing Act (12 U.S.C. 1715u) is amend-
17 ed to read as follows:

18 "AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT

19 "SEC. 230. (a) PAYMENT OF PARTIAL CLAIM.—The
20 Secretary may establish a program for payment of a par-
21 tial insurance claim to a mortgagee that agrees to apply
22 the claim amount to payment of a mortgage on a 1- to
23 4-family residence that is in default. Any such payment
24 under such program to the mortgagee shall be made in
25 the Secretary's sole discretion and on terms and conditions
26 acceptable to the Secretary, except that—

1 “(1) the amount of the payment shall be in an
2 amount determined by the Secretary, which shall not
3 exceed an amount equivalent to 12 monthly mort-
4 gage payments and any costs related to the default
5 that are approved by the Secretary; and

6 “(2) the mortgagor shall agree to repay the
7 amount of the insurance claim to the Secretary upon
8 terms and conditions acceptable to the Secretary.

9 The Secretary may pay the mortgagee, from the appro-
10 priate insurance fund, in connection with any activities
11 that the mortgagee is required to undertake concerning
12 repayment by the mortgagor of the amount owed to the
13 Secretary.

14 “(b) ASSIGNMENT.—

15 “(1) PROGRAM AUTHORITY.—The Secretary
16 may establish a program for assignment to the Sec-
17 retary, upon request of the mortgagee, of a mort-
18 gage on a 1- to 4-family residence insured under this
19 Act.

20 “(2) PROGRAM REQUIREMENTS.—The Sec-
21 retary may accept assignment of a mortgage under
22 a program under this subsection only if—

23 “(A) the mortgage was in default;

24 “(B) the mortgagee has modified the mort-
25 gage to cure the default and provide for mort-

1 gage payments within the reasonable ability of
2 the mortgagor to pay at interest rates not ex-
3 ceeding current market interest rates; and

4 “(C) the Secretary arranges for servicing
5 of the assigned mortgage by a mortgagee
6 (which may include the assigning mortgagee)
7 through procedures that the Secretary has de-
8 termined to be in the best interests of the ap-
9 propriate insurance fund.

10 “(3) PAYMENT OF INSURANCE BENEFITS.—

11 Upon accepting assignment of a mortgage under the
12 program under this subsection, the Secretary may
13 pay insurance benefits to the mortgagee from the
14 appropriate insurance fund in an amount that the
15 Secretary determines to be appropriate, but which
16 may not exceed the amount necessary to compensate
17 the mortgagee for the assignment and any losses
18 and expenses resulting from the mortgage modifica-
19 tion.

20 “(c) PROHIBITION OF JUDICIAL REVIEW.—No deci-
21 sion by the Secretary to exercise or forego exercising any
22 authority under this section shall be subject to judicial re-
23 view.

24 “(d) SAVINGS PROVISION.—Any mortgage for which
25 the mortgagor has applied to the Secretary, before the

1 date of the enactment of the Balanced Budget Act of
2 1995, for assignment pursuant to subsection (c) of this
3 section as in effect before such date of enactment shall
4 continue to be governed by the provisions of this section
5 in effect immediately before such date of enactment.

6 “(e) APPLICABILITY OF OTHER LAWS.—No provision
7 of this Act or any other law shall be construed to require
8 the Secretary to provide an alternative to foreclosure for
9 mortgagees with mortgages on 1- to 4-family residences
10 insured by the Secretary under this Act, or to accept as-
11 signments of such mortgages.”.

12 (c) APPLICABILITY OF AMENDMENTS.—Except as
13 provided in subsection (e), the amendments made by sub-
14 sections (a) and (b) shall apply only with respect to mort-
15 gages insured under the National Housing Act that are
16 originated on or after October 1, 1995.

17 (d) REGULATIONS.—Not later than the expiration of
18 the 60-day period beginning on the date of the enactment
19 of this Act, the Secretary of Housing and Urban Develop-
20 ment shall issue interim regulations to implement this sec-
21 tion and the amendments made by this section.

22 (e) EFFECTIVENESS AND APPLICABILITY.—If this
23 Act is enacted after the date of the enactment of the De-
24 partments of Veterans Affairs and Housing and Urban

1 Development, and Independent Agencies Appropriations
2 Act, 1996—

3 (1) subsections (a), (b), (c), and (d) of this sec-
4 tion shall not take effect; and

5 (2) subsection (c) of the section relating to fore-
6 closure avoidance and borrower assistance in title II
7 of the Departments of Veterans Affairs and Housing
8 and Urban Development, and Independent Agencies
9 Appropriations Act, 1996, is amended by striking
10 “only with respect to mortgages insured under the
11 National Housing Act that are originated before Oc-
12 tober 1, 1995” and inserting “to mortgages origi-
13 nated before, on, and after October 1, 1995”.

14 **TITLE II—COMMUNICATIONS**
15 **AND SPECTRUM ALLOCATION**
16 **PROVISIONS**

17 **SEC. 3001. SPECTRUM AUCTIONS.**

18 (a) EXTENSION AND EXPANSION OF AUCTION AU-
19 THORITY.—

20 (1) AMENDMENTS.—Section 309(j) of the Com-
21 munications Act of 1934 (47 U.S.C. 309(j)) is
22 amended—

23 (A) by striking paragraphs (1) and (2) and
24 inserting the following:

1 “(1) GENERAL AUTHORITY.—If, consistent with
2 the obligations described in paragraph (6)(E), mutu-
3 ally exclusive applications are accepted for any ini-
4 tial license or construction permit, then the Commis-
5 sion shall grant such license or permit to a qualified
6 applicant through a system of competitive bidding
7 that meets the requirements of this subsection.

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

12 “(A) that, as the result of the Commission
13 carrying out the obligations described in para-
14 graph (6)(E), are not mutually exclusive;

15 “(B) for public safety radio services, in-
16 cluding non-Government uses the sole or prin-
17 cipal purpose of which is to protect the safety
18 of life, health, and property and which are not
19 made commercially available to the public; or

20 “(C) for initial licenses or construction
21 permits for new terrestrial digital television
22 services assigned by the Commission to existing
23 terrestrial broadcast licensees to replace their
24 current television licenses, unless—

1 “(i) the Commission, not later than
2 180 days after the date of enactment of
3 the Balanced Budget Act of 1995, after
4 notice and public comment, submits to
5 Congress a report on the use of the au-
6 thority provided in this subsection for the
7 assignment of initial licenses or construc-
8 tion permits for use of the electromagnetic
9 spectrum allocated but not assigned as of
10 the date of enactment of that Act for tele-
11 vision broadcast services; and

12 “(ii) the Congress amends this sub-
13 section to authorize the use of the author-
14 ity provided by this subsection for such li-
15 censes or permits.

16 Except as provided in this subparagraph, the
17 Commission may not assign initial licenses or
18 construction permits under this title to terres-
19 trial commercial television broadcast licensees
20 to replace their existing broadcast licenses be-
21 fore November 15, 1996.”; and

22 (B) by striking “1998” in paragraph (11)
23 and inserting “2002”.

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

1 (3) EFFECTIVE DATE.—The amendment made
2 by paragraph (1)(A) shall not apply with respect to
3 any license or permit for a terrestrial radio or tele-
4 vision broadcast station for which the Federal Com-
5 munications Commission has accepted mutually ex-
6 clusive applications on or before the date of enact-
7 ment of this Act.

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

10 (1) IN GENERAL.—The Federal Communica-
11 tions Commission shall complete all actions nec-
12 essary to permit the assignment by September 30,
13 2002, by competitive bidding pursuant to service
14 309(i) of the Communications Act of 1934 (47
15 U.S.C. 309(j) of licenses for the use of bands of fre-
16 quencies that—

17 (A) individually span not less than 25
18 megahertz, unless a combination of smaller
19 bands can, notwithstanding the provisions of
20 paragraph (7) of such section, reasonably be ex-
21 pected to produce greater receipts;

22 (B) in the aggregate span not less than
23 100 megahertz;

24 (C) are located below 3 gigahertz; and

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

3 (i) been designated by Commission
4 regulation for assignment pursuant to such
5 section;

6 (ii) been identified by the Secretary of
7 Commerce pursuant to section 113 of the
8 National Telecommunications and Infor-
9 mation Administration Organization Act;
10 or

11 (iii) been reserved for Federal Govern-
12 ment use pursuant to section 305 of the
13 Communications Act of 1934 (47 U.S.C.
14 305).

15 The Commission shall conduct the competitive
16 bidding for not less than one-half of such aggre-
17 gate spectrum by September 30, 2000.

18 (2) CRITERIA FOR REASSIGNMENT.—In making
19 available bands of frequencies for competitive bid-
20 ding pursuant to paragraph (1), the Commission
21 shall—

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

24 (B) take into account the cost to incum-
25 bent licensees of relocating existing uses to

1 other bands of frequencies or other means of
2 communication;

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

5 (D) comply with the requirements of inter-
6 national agreements concerning spectrum allo-
7 cations; and

8 (E) take into account the costs to satellite
9 service providers that could result from multiple
10 auctions of like spectrum internationally for
11 global satellite systems.

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

14 (A) the Commission is not able to provide
15 for the effective relocation of incumbent licens-
16 ees to bands of frequencies that are available to
17 the Commission for assignment; and

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

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

22 (ii) allocated for Federal Government
23 use, but that could be reallocated pursuant
24 to part B of the National Telecommuni-
25 cations and Information Administration

1 Organization Act (as amended by this sec-
2 tion).

3 (c) IDENTIFICATION AND REALLOCATION OF FRE-
4 QUENCIES.—The National Telecommunications and Infor-
5 mation Administration Organization Act (47 U.S.C. 901
6 et seq.) is amended—

7 (1) in section 113, by adding at the end the fol-
8 lowing new subsections:

9 “(f) ADDITIONAL REALLOCATION REPORT.—If the
10 Secretary receives a notice from the Commission pursuant
11 to section 3001(b)(3) of the Balanced Budget Act of 1995,
12 the Secretary shall prepare and submit to the President
13 and the Congress a report recommending for reallocation
14 for use other than by Federal Government stations under
15 section 305 of the 1934 Act (47 U.S.C. 305), bands of
16 frequencies that are suitable for the uses identified in the
17 Commission’s notice.

18 “(g) RELOCATION OF FEDERAL GOVERNMENT STA-
19 TIONS.—

20 “(1) IN GENERAL.—In order to expedite the ef-
21 ficient use of the electromagnetic spectrum and not-
22 withstanding section 3302(b) of title 31, United
23 States Code, any Federal entity which operates a
24 Federal Government station may accept payment in
25 advance or in-kind reimbursement of costs, or a

1 combination of payment in advance and in-kind re-
2 imbursement, from any person to defray entirely the
3 expenses of relocating the Federal entity's oper-
4 ations from one or more radio spectrum frequencies
5 to another frequency or frequencies, including, with-
6 out limitation, the costs of any modification, replace-
7 ment, ore reissuance of equipment, facilities, operat-
8 ing manuals, regulations, or other expenses incurred
9 by that entity. Any such payment shall be deposited
10 in the account of such Federal entity in the Treas-
11 ury of the United States. Funds deposited according
12 to this paragraph shall be available, without appro-
13 priation or fiscal year limitation, only for the oper-
14 ations of the Federal entity for which such funds
15 were deposited under this paragraph.

16 “(2) PROCESS FOR RELOCATION.—Any person
17 seeking to relocate a Federal Government station
18 that has been assigned a frequency within a band al-
19 located for mixed Federal and non-Federal use may
20 submit a petition for such relocation to NTIA. The
21 NTIA shall limit or terminate the Federal Govern-
22 ment station's operating license when the following
23 requirements are met:

24 “(A) the person seeking relocation of the
25 Federal Government station has guaranteed to

1 defray entirely, through payment in advance,
2 in-kind reimbursement of costs, or a combina-
3 tion thereof, all relocation costs incurred by the
4 Federal entity, including all engineering, equip-
5 ment, site acquisition and construction, and
6 regulatory fee costs;

7 “(B) the person seeking relocation com-
8 pletes all activities necessary for implementing
9 the relocation, including construction of replace-
10 ment facilities (if necessary and appropriate)
11 and identifying and obtaining on the Federal
12 entity’s behalf new frequencies for use by the
13 relocated Federal Government station (where
14 such station is not relocating to spectrum re-
15 served exclusively for Federal use);

16 “(C) any necessary replacement facilities,
17 equipment modifications, or other changes have
18 been implemented and tested to ensure that the
19 Federal Government station is able to success-
20 fully accomplish its purposes; and

21 “(D) NTIA has determined that the pro-
22 posed use of the spectrum frequency band to
23 which the Federal entity will relocate its oper-
24 ations is—

1 “(i) consistent with obligations under-
2 taken by the United States in international
3 agreements and with United States na-
4 tional security and public safety interests;
5 and

6 “(ii) suitable for the technical charac-
7 teristics of the band and consistent with
8 other uses of the band.

9 In exercising its authority under subparagraph
10 (d)(i), NTIA shall consult with the Secretary of
11 Defense, the Secretary of State, or other appro-
12 priate officers of the Federal Government.

13 “(3) RIGHT TO RECLAIM.—If within one year
14 after the relocation the Federal Government station
15 demonstrates to the Commission that the new facili-
16 ties or spectrum are not comparable to the facilities
17 or spectrum from which the Federal Government
18 station was relocated, the person seeking such relo-
19 cation must take reasonable steps to remedy any de-
20 fects or pay the Federal entity for the costs of re-
21 turning the Federal Government station to the spec-
22 trum from which such station was relocated.

23 “(h) FEDERAL ACTION TO EXPEDITE SPECTRUM
24 TRANSFER.—Any Federal Government station which op-
25 erates on electromagnetic spectrum that has been identi-

1 fied for reallocation for mixed Federal and non-Federal
2 use in any reallocation report under subsection (a) shall,
3 to the maximum extent practicable through the use of the
4 authority granted under subsection (g) and any other ap-
5 plicable provision of law, take action to relocate its spec-
6 trum use to other frequencies that are reserved for Fed-
7 eral use or to consolidate its spectrum use with other Fed-
8 eral Government stations in a manner that maximizes the
9 spectrum available for non-Federal use. Subsection (c)(4)
10 of this section shall not apply to the extent that a non-
11 Federal user seeks to relocate or relocates a Federal power
12 agency under subsection (g).

13 “(i) DEFINITION.—For purposes of this section, the
14 term ‘Federal entity’ means any department, agency, or
15 other instrumentality of the Federal Government that uti-
16 lizes a Government station license obtained under section
17 305 of the 1934 Act (47 U.S.C. 305).”; and

18 (2) in section 114(a)(1), by striking “(a) or
19 (d)(1)” and inserting “(a), (d)(1), or (f)”.

20 (d) IDENTIFICATION AND REALLOCATION OF
21 AUCTIONABLE FREQUENCIES.—The National Tele-
22 communications and Information Administration Organi-
23 zation Act (47 U.S.C. 901 et seq.) is amended—

24 (1) in section 113(b)—

1 (A) by striking the heading of paragraph
2 (1) and inserting “INITIAL REALLOCATION RE-
3 PORT.—”;

4 (B) by inserting “in the first report re-
5 quired by subsection (a)” after “recommend for
6 reallocation” in paragraph (1);

7 (C) by inserting “or (3)” after “paragraph
8 (1)” each place it appears in paragraph (2);
9 and

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

12 “(3) SECOND REALLOCATION REPORT.—In ac-
13 cordance with the provisions of this section, the Sec-
14 retary shall recommend for reallocation in the sec-
15 ond report required by subsection (a), for use other
16 than by Federal Government stations under section
17 305 of the 1934 Act (47 U.S.C. 305), a single fre-
18 quency band that spans not less than an additional
19 20 megahertz, that is located below 3 gigahertz, and
20 that meets the criteria specified in paragraphs (1)
21 through (5) of subsection (a).”; and

22 (2) in section 115—

23 (A) in subsection (b), by striking “the re-
24 port required by section 113(a)” and inserting

1 “the initial reallocation report required by sec-
2 tion 113(a)”; and

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

5 “(c) ALLOCATION AND ASSIGNMENT OF FRE-
6 QUENCIES IDENTIFIED IN THE SECOND REALLOCATION
7 REPORT.—With respect to the frequencies made available
8 for reallocation pursuant to section 113(b)(3), the Com-
9 mission shall, not later than 1 year after receipt of the
10 second reallocation report required by such section, pre-
11 pare, submit to the President and the Congress, and im-
12 plement, a plan for the allocation and assignment under
13 the 1934 Act of such frequencies. Such plan shall propose
14 the immediate allocation and assignment of all such fre-
15 quencies in accordance with section 309(j) of the 1934 Act
16 (47 U.S.C. 309(j)).”

17 **SEC. 3002. AUCTION OF RECAPTURED ANALOG LICENSES.**

18 (a) ANALOG SPECTRUM REVERSION.—

19 (1) LIMITATIONS ON TERMS OF ANALOG TELE-
20 VISION LICENSES (“REVERSION DATE”).—No analog
21 television license may be renewed for a period that
22 extends beyond the earlier of December 31, 2005 or
23 one year after the date the Commission finds, based
24 on annual surveys conducted pursuant to paragraph
25 (2), that at least 95% of households in the United

1 States have the capability to receive and display tele-
2 vision signals, other than television signals transmit-
3 ted pursuant to an analog television license. Follow-
4 ing such date, only advanced television licenses shall
5 be issued.

6 (2) ANNUAL SURVEY.—The Department of
7 Commerce shall, each calendar year from 1998 to
8 2005, conduct a survey to estimate the percentage
9 of households in the United States that have the ca-
10 pability to receive and display television signals other
11 than signals transmitted pursuant to an analog tele-
12 vision license.

13 (3) SPECTRUM REVERSION.—(A) The Commis-
14 sion shall ensure that, as analog television licenses
15 expire pursuant to paragraph (a)(1), spectrum pre-
16 viously used for the broadcast of analog television is
17 reclaimed and organized in such manner as to maxi-
18 mize the deployment of new and existing services.

19 (B) Licensees for new services shall be selected
20 by competitive bidding. The FCC shall complete the
21 competitive bidding procedure by March 1, 2002.

22 (4) MINIMUM SERVICE OBLIGATION.—(A) The
23 Commission, by regulation, shall establish proce-
24 dures to ensure that, within the year prior to the re-
25 version date defined in paragraph (1), the advanced

1 television licensees shall provide each household
2 without the capability to receive and display tele-
3 vision signals other than television signals transmit-
4 ted pursuant to an analog television license, if such
5 household requests, with the capability to receive
6 and display advanced television service.

7 (B) Each advanced television service licensee
8 shall provide, each day for the duration of its li-
9 cense, at least one non-subscription television service
10 that meets or exceeds minimum technical and other
11 standards established by the Commission as well as
12 any other regulations pursuant to the Communica-
13 tions Act of 1934, as amended, and the Children's
14 Television Act of 1990. In setting these minimum
15 technical standards, the Commission shall, to the ex-
16 tent technically feasible, ensure that picture and
17 audio quality are at least as good as provided to re-
18 cipients under current Commission rules for Na-
19 tional Television Systems Committee (NTSC) sig-
20 nals and shall adopt such technical and other re-
21 quirements as may be necessary or appropriate to
22 assure the quality of the signal used to provide ad-
23 vanced television services, including regulations that
24 set the minimum number of hours per day that such
25 signal must be transmitted. The Commission shall

1 revoke the license of any advanced television licensee
2 who fails to meet this condition of the license. The
3 Commission shall promulgate regulations to assure
4 the dissemination of converter boxes or devices nec-
5 essary to ensure access to digital TV to all house-
6 holds that desire this access at a reasonable cost.
7 The Commission in these regulations shall—

8 (A) ensure that consumers receive only one
9 such rebate per household; and

10 (B) implement a mechanism by which re-
11 sponsibility for cost sharing can be equitably al-
12 located. To the extent possible, the digital con-
13 verter boxes distributed in accordance with this
14 section shall utilize an affordable technology to
15 process digital signals for reception on analog
16 television sets.

17 (5) PUBLIC INTEREST OBLIGATION.—Nothing
18 in this section shall be construed as relieving an ad-
19 vanced television licensee from its obligation to serve
20 the public interest, convenience, and necessity.

21 (b) DEFINITIONS.—As used in this section—

22 (1) the term “advanced television services”
23 means television services provided using digital or
24 other advanced technology to enhance audio quality
25 and video resolution, as further defined in the Opin-

1 ion, Report, and Order of the Commission entitled
 2 “Advanced Television Systems and Their Impact
 3 Upon the Existing Television Service,” MM Docket
 4 No. 87–268; and

5 (2) the term “analog television licenses” means
 6 licenses issued pursuant to CFR 73.682 et seq. and
 7 in effect November 13, 1995.

8 **TITLE III—MEDICAID**

9 **SEC. 11300. TABLE OF CONTENTS OF SUBTITLE.**

10 The table of contents of this subtitle is as follows:

TITLE III—MEDICAID

Sec. 11300. Table of contents of subtitle.

PART 1—FEDERAL PAYMENTS

Sec. 11301. Limitations on average per beneficiary rate of growth in Federal financial participation.

Sec. 11302. Reduction of disproportionate share payments.

Sec. 11303. Medicaid eligibility quality control (MEQC) requirements.

PART 2—ELIGIBILITY

Sec. 11311. Extension of coverage to additional individuals, subject to poverty-related or caseload limits.

Sec. 11312. Elimination of authority for new eligibility expansion demonstrations.

Sec. 11313. Upper income limit on “less restrictive” eligibility methodologies.

PART 3—MANAGED CARE

Sec. 11321. Primary care case management services as State option without need for waiver.

Sec. 11322. State options to restrict choice of providers.

Sec. 11323. Elimination of restrictions on risk contracts.

Sec. 11324. 6-month guaranteed eligibility for all individuals enrolled in managed care.

Sec. 11325. Requirements to ensure quality of and access to care under managed care plans.

PART 4—BENEFITS

Sec. 11331. Home- and community-based services as State option without need for waiver.

Sec. 11332. Elimination of requirement to pay for private insurance.

Sec. 11333. Benefits for individuals covered during transition to work.

PART 5—PROVIDER PARTICIPATION AND PAYMENT RATES

- Sec. 11341. Methods for establishing provider payment rates.
 Sec. 11343. Elimination of obstetrical and pediatric payment rate requirements.

PART 6—STATE PLAN ADMINISTRATION

- Sec. 11351. MMIS requirements.
 Sec. 11352. Elimination of personnel requirements.
 Sec. 11353. Elimination of requirements for cooperative agreements with health agencies.
 Sec. 11355. State review of mentally ill or retarded nursing facility residents upon change in physical or mental condition.
 Sec. 11356. Nurse aide training in Medicare and Medicaid nursing facilities subject to extended survey and under certain other conditions.
 Sec. 11357. Combined State plan submission.
 Sec. 11358. Public Process for developing State plan amendments.

PART 7—EFFECTIVE DATE

- Sec. 11361. Effective date.

1 **PART 1—FEDERAL PAYMENTS**
 2 **SEC. 11301. LIMITATIONS ON AVERAGE PER BENEFICIARY**
 3 **RATE OF GROWTH IN FEDERAL FINANCIAL**
 4 **PARTICIPATION.**

5 (a) IN GENERAL.—Title XIX of the Social Security
 6 Act is amended—

7 (1) by redesignating section 1931 as section
 8 1932, and

9 (2) by inserting after section 1930 the following
 10 new section:

11 “LIMITATION ON FEDERAL FINANCIAL PARTICIPATION
 12 BASED ON AVERAGE PER BENEFICIARY EXPENDITURES

13 “SEC. 1931. (a) AGGREGATE LIMIT.—

14 “(1) IN GENERAL.—Subject to the succeeding
 15 provisions of this section, the total amount of pay-
 16 ments in grant awards to a State under section

1 1903(a) for the 4 quarters in each of fiscal years
2 1997 through 2002 shall not exceed the sum of the
3 limits, specified under paragraph (2), for each group
4 of medicaid enrollees (as defined in subsection
5 (b)(1)) for the State for the fiscal year. Such pay-
6 ment limit shall be based on the total net matchable
7 medicaid expenditures for the State for the fiscal
8 year as defined and specified under subsection
9 (c)(4).

10 “(2) GROUP LIMITS.—The limit under this
11 paragraph for a group of medicaid enrollees for a
12 State for a fiscal year is the product of the following
13 factors:

14 “(A) The average per enrollee matchable
15 expenditure limit for the group for the State for
16 the fiscal year (determined under subsection
17 (c)(1)).

18 “(B) The number of full-time equivalent
19 individuals in the group in the State in the fis-
20 cal year (determined under subsection (d)).

21 “(C) The Federal medical assistance per-
22 centage for the State for the fiscal year (as de-
23 fined in section 1905(b)).

24 “(3) Exception for portion of medical assistance
25 provided under approved waivers.—

1 “(A) IN GENERAL.—In the case of a State
2 which provides medical assistance under its
3 State plan under this title pursuant to a waiver
4 granted under section 1115 (as of [date of in-
5 troduction of proposal]) on a Statewide basis
6 (or under such a waiver that covers a substate
7 area with a population of at least 9 million), the
8 Secretary shall provide for an adjustment in the
9 application of this section so that—

10 “(i) the limitation on total payments
11 under paragraph (1) does not apply to
12 Federal financial participation attributable
13 to the medical assistance (and related ad-
14 ministrative expenditures) provided under
15 such a waiver; and

16 “(ii) the average per enrollee match-
17 able expenditure limit established under
18 subsection (c) and applicable to a group of
19 medicaid enrollees is equal to such limit
20 multiplied by the nonwaiver proportion (as
21 defined in subparagraph (B)) for that
22 group.

23 “(B) NONWAIVER PROPORTION.—In sub-
24 paragraph (A)(ii), the ‘nonwaiver proportion’

1 for a group of medicaid enrollees for a State for
2 a fiscal year is the ratio of—

3 “(i) the amount of the Federal finan-
4 cial participation that the Secretary esti-
5 mates would have been expended (in the
6 absence of this section) for medical assist-
7 ance (and related administrative expendi-
8 tures) for the group for the State for the
9 fiscal year for items and services not cov-
10 ered under the waiver, to

11 “(ii) the total amount of the Federal
12 financial participation that the Secretary
13 estimates would have been expended (in
14 the absence of this section) for medical as-
15 sistance (and related administrative ex-
16 penditures) for the group for the State for
17 the fiscal year (whether or not covered
18 under the waiver).

19 “(4) NO APPLICATION TO VACCINE PROGRAM.—
20 Nothing in this section shall be construed as apply-
21 ing any limitation to payments for the purchase and
22 delivery of qualified pediatric vaccines under section
23 1928.

24 “(b) DEFINITIONS RELATING TO GROUPS OF MEDIC-
25 AID ENROLLEES.—In this section:

1 “(1) IN GENERAL.—Each of the following shall
2 be considered a separate ‘group of medicaid enroll-
3 ees’:

4 “(A) Nondisabled medicaid children.

5 “(B) Nondisabled medicaid adults.

6 “(C) Elderly medicaid beneficiaries.

7 “(D) Disabled medicaid beneficiaries.

8 “(2) NONDISABLED MEDICAID CHILDREN.—

9 The term ‘nondisabled medicaid child’ means a med-
10 icaid enrollee who—

11 “(A) is under 21 years of age,

12 “(B) is not the custodial parent of a child,

13 and

14 “(C) is not a disabled medicaid beneficiary.

15 “(3) NONDISABLED MEDICAID ADULTS.—The

16 term ‘nondisabled medicaid adult’ means a medicaid
17 enrollee who—

18 “(A) is under 65 years of age,

19 “(B) is not a disabled medicaid bene-

20 ficiary, and

21 “(C)(i) is at least 21 years of age or (ii)

22 is the custodial parent of a child.

23 “(4) ELDERLY MEDICAID BENEFICIARY.—The

24 term ‘elderly medicaid beneficiary’ means a medicaid

25 enrollee who is at least 65 years of age.

1 “(5) DISABLED MEDICAID BENEFICIARIES.—
2 The term ‘disabled medicaid beneficiary’ means a
3 medicaid enrollee who—

4 “(A) is under 65 years of age, and

5 “(B) has been determined to meet the
6 standards for being blind or disabled under the
7 supplemental income security program under
8 title XVI.

9 “(6) MEDICAID ENROLLEE.—The term ‘medic-
10 aid enrollee’ means, with respect to a State medical
11 assistance program under this title, an individual
12 who is enrolled with such program, but does not in-
13 clude an individual who is eligible only for medicare
14 cost-sharing benefits under the program as—

15 “(A) a qualified medicare beneficiary (as
16 defined in section 1905(p)(1)),

17 “(B) a qualified disabled and working indi-
18 vidual (as defined in section 1905(s)), or

19 “(C) an individual described in section
20 1902(a)(10)(E)(iii).

21 “(c) AVERAGE PER ENROLLEE MATCHABLE EX-
22 PENDITURE LIMIT; TOTAL NET MATCHABLE MEDICAID
23 EXPENDITURES DEFINED.—

24 “(1) IN GENERAL.—For purposes of this sec-
25 tion, the average ‘per enrollee matchable expenditure

1 limit', for a group of medicaid enrollees for a
2 State—

3 “(A) for fiscal year 1997 is equal to the
4 average base per enrollee amount (as defined
5 under paragraph (2)(A)) for the group for the
6 State multiplied by the allowable growth multi-
7 plier (under paragraph (3)) for each of fiscal
8 years 1996 and 1997; and

9 “(B) for a succeeding fiscal year is equal
10 to the per enrollee matchable expenditure limit
11 under this paragraph for the preceding fiscal
12 year multiplied by the allowable growth multi-
13 plier for that succeeding fiscal year.

14 Before the beginning of each of fiscal years 1997
15 through 2002, the Secretary shall determine and
16 publish each State's average per enrollee matchable
17 expenditure limit under this paragraph for each
18 group of medicaid enrollees.

19 “(2) BASE PER ENROLLEE AMOUNT.—

20 “(A) IN GENERAL.—In this section, the
21 ‘base average per enrollee amount’, for a group
22 of medicaid enrollees for a State, is equal to—

23 “(i) the sum of (i) the base medical
24 assistance amount (determined under sub-
25 paragraph (C)) for the group and State,

1 and (ii) the base administrative cost
2 amount (determined under subparagraph
3 (D)) for group and the State; divided by

4 “(ii) the number of full-year equiva-
5 lent medicaid enrollees in the group in the
6 State in fiscal year 1995 (as determined
7 pursuant to subsection (d)).

8 “(B) DETERMINATION OF NET MATCH-
9 ABLE MEDICAID EXPENDITURES FOR FISCAL
10 YEAR 1995.—In order to determine base average
11 per enrollee amounts for a State, the Secretary
12 shall—

13 “(i) determine the amount of the total
14 net matchable medicaid expenditures (as
15 defined in paragraph (4)) for the State for
16 fiscal year 1995, and

17 “(ii) separately identify—

18 “(I) the portion of such amount
19 attributable to medical assistance, and

20 “(II) the portion of such amount
21 attributable to administrative costs.

22 The Secretary shall base the determination
23 under clause (i) on the expenditures reported by
24 the State on line 11 of HCFA Form 64 for the

1 4 quarters of fiscal year 1995, subject to the
2 adjustments described in paragraph (4)(B)).

3 “(C) BASE MEDICAL ASSISTANCE AMOUNT
4 FOR EACH GROUP.—For each State for each
5 group of medicaid enrollees, the Secretary shall
6 determine a ‘base medical assistance amount’
7 equal to the amount, of the portion of the total
8 net matchable medicaid expenditures for fiscal
9 year 1995 for the State attributed to medical
10 assistance under subparagraph (B)(ii)(I), that
11 the Secretary finds is attributable to items and
12 services furnished to individuals in such group
13 for the State .

14 “(D) BASE ADMINISTRATIVE COST
15 AMOUNT FOR EACH GROUP.—For each State
16 for each group of medicaid enrollees, the Sec-
17 retary shall determine a ‘base administrative
18 cost amount’ equal to the amount that bears
19 the same ratio to the portion of the total net
20 matchable medicaid expenditures for fiscal year
21 1995 for the State attributed to administrative
22 costs under subparagraph (B)(ii)(II) as the
23 base medical assistance amount for the group
24 (as determined under subparagraph (C) for the
25 State) bears to the sum of the base medical as-

1 sistance amounts for all the groups for the
2 State.

3 “(3) ALLOWABLE GROWTH MULTIPLIER.—In
4 this subsection, the ‘allowable growth multiplier’
5 for—

6 “(A) fiscal year 1996 is 6.5 percent.

7 “(B) fiscal year 1997 is 6.5 percent.

8 “(C) fiscal year 1998 is 6.5 percent.

9 “(D) fiscal year 1999 is 6.0 percent.

10 “(E) fiscal year 2000 is 5.5 percent.

11 “(F) fiscal year 2001 is 5.0 percent.

12 “(G) fiscal year 2002 is 4.5 percent.

13 “(4) EQUITY ADJUSTOR IN ALLOWABLE
14 GROWTH MULTIPLIER FOR STATES WITH LOW PER
15 CAPITA EXPENDITURES.—

16 “(A) FISCAL YEAR 1997.—If the [per bene-
17 ficiary base amount described in paragraph ()
18) for the base fiscal year] for a State for a
19 [group of medicare enrollees]—

20 “(i) does not exceed 80 percent of the
21 national, weighted average of such [per
22 beneficiary base amounts] for such group
23 for all States for the year, then, the deter-
24 mining the per beneficiary limit for such
25 State and group for fiscal year 1997, the

1 allowable growth multiplier for each of fis-
2 cal years 1996 and 1997 shall be increased
3 by 2.0 percentage points;

4 “(ii) exceeds 80 percent, but does not
5 exceed 90 percent, of such national,
6 weighted average, then, in determining the
7 per beneficiary limit for such State and
8 group for fiscal year 1997, the allowable
9 growth multiplier for each of fiscal years

10 “(4) TOTAL NET MATCHABLE MEDICAID EX-
11 PENDITURES.—

12 “(A) IN GENERAL.—In this section, the
13 term ‘total net matchable medicaid expendi-
14 tures’ means, for a State for a fiscal year, the
15 total net expenditures for the State under this
16 title for the 4 quarters of the fiscal year for
17 which payments may be made under section
18 1903, reduced by the amount of such expendi-
19 tures that the Secretary determines is attrib-
20 utable to expenditures described in subsection
21 (e).

22 “(B) USE OF FORMS AND ADJUSTMENT.—
23 The total net matchable medicaid expenditures
24 for a State for a fiscal year shall be determined
25 by the Secretary based on reports submitted by

1 the State under section 1903 for quarters in
2 the fiscal year and as adjusted by the Secretary
3 by January 31 of the succeeding fiscal year to
4 take into account disallowances and similar ad-
5 justments for expenditures not described in sub-
6 section (e).

7 “(d) DETERMINATION OF NUMBER OF FULL-YEAR
8 EQUIVALENT INDIVIDUALS.—

9 “(1) IN GENERAL.—For purposes of this sec-
10 tion, the number of full-year equivalent individuals
11 in each group of medicaid enrollees for a State for
12 a fiscal year shall be determined, subject to para-
13 graphs (2) and (3), based on reports submitted by
14 the State of the Secretary.

15 “(2) PART-YEAR ENROLLEES.—In the case of
16 individuals who were not a medicaid enrollee for the
17 entire fiscal year (or are within a group of medicaid
18 enrollees for only part of a fiscal year), the number
19 shall take into account only the portion of the year
20 in which they were such enrollees or within such
21 group.

22 “(3) SECRETARIAL OVERSIGHT.—In order to
23 ensure the accuracy of the numbers reported by
24 States under this subsection, the Secretary is au-
25 thorized—

1 “(A) to require documentation, whether on
2 a sample or other basis,

3 “(B) to audit such reports (or to require
4 the performance of independent audits), and

5 “(C) to revise the numbers so reported.

6 “(e) EXPENDITURES NOT SUBJECT TO (OR COUNT-
7 ED IN) LIMITATION.—For purposes of this section, the fol-
8 lowing expenditures (for which payments may be made to
9 a State under section 1903(a)) shall not be counted in
10 computing base medical assistance amounts or base ad-
11 ministrative cost amounts under subsection (e)(2) and
12 Federal financial participation with respect to such ex-
13 penditures shall not be subject to the limit established
14 under subsection (a)(1):

15 “(1) DISPROPORTIONATE SHARE PAYMENT AD-
16 JUSTMENTS.—Expenditures attributable to payment
17 adjustments made under section 1923.

18 “(2) MEDICARE COST-SHARING.—Expenditures
19 for medical assistance for medicare cost-sharing, as
20 defined in section 1905(p)(3).

21 “(3) INDIAN HEALTH PROGRAMS.—Expendi-
22 tures for medical assistance for services provided
23 by—

24 “(A) the Indian Health Service,

1 “(B) an Indian health program operated
2 by an Indian tribe or tribal organization pursu-
3 ant to a contract, grant, cooperative agreement,
4 or compact with the Indian Health Service pur-
5 suant to the Indian Self-Determination Act (25
6 U.S.C. 450 et seq.), and

7 “(C) an urban Indian health program op-
8 erated by an urban Indian organization pursu-
9 ant to a grant or contract with the Indian
10 Health Service pursuant to title V of the Indian
11 Health Care Improvement Act (25 U.S.C. 1601
12 et seq.).

13 “(4) INFORMATION SYSTEMS.—Expenditures
14 described in subparagraph (A)(i) and (B) of section
15 1903(a)(2).

16 “(5) NURSING FACILITY PREADMISSION
17 SCREENING, RESIDENT REVIEW, AND SURVEY AND
18 CERTIFICATION ACTIVITIES.—Expenditures de-
19 scribed in subparagraphs (C) and (D) of section
20 1903(a)(2).

21 “(6) SAVE.—Expenditures attributable to im-
22 plementation of the immigration status verification
23 system (described in section 1137(d)) pursuant to
24 section 1903(a)(4).

1 “(7) FRAUD AND ABUSE ACTIVITIES.—Expendi-
2 tures for activities of State medicaid fraud control
3 units pursuant to section 1903(a)(6).”.

4 (b) ENFORCEMENT-RELATED PROVISIONS.—

5 (1) ASSURING ACTUAL PAYMENTS TO STATES
6 CONSISTENT WITH LIMITATION.—Section 1903(d) of
7 such Act (42 U.S.C. 1396(d)) is amended—

8 (A) in paragraph (2)(A), by striking “The
9 Secretary” and inserting “Subject to paragraph
10 (7), the Secretary”, and

11 (B) by adding at the end the following new
12 paragraph:

13 “(7)(A) The Secretary shall take such steps as are
14 necessary to assure that payments under this subsection
15 for quarters in a fiscal year (and for the entire fiscal year)
16 are consistent with the limitation established under section
17 1931 for the fiscal year. Such steps may include limiting
18 such payments for one or more quarters in a fiscal year
19 based on—

20 “(i) an appropriate proportion of the limitation
21 under section 1931(a) for the fiscal year involved,
22 and

23 “(ii) numbers of individuals within each group
24 of medicaid enrollees, as reported under subpara-
25 graph (B) for a recent previous quarter.

1 “(B) Each State shall include, in its report filed
2 under paragraph (1)(A) for a calendar quarter—

3 “(i) the actual number of individuals within
4 each group of medicaid enrollees described in section
5 1931(b)(1) for the second previous calendar quarter
6 and (based on the data available) for the previous
7 calendar quarter, and

8 “(ii) an estimate of such numbers for the cal-
9 endar quarter involved.

10 as well as expenditures (other than expenditures described
11 in section 1931(e)) attributable to each such group for
12 such periods.

13 “(C) In order to implement section 1931 and this
14 subsection, the Secretary shall—

15 “(i) change HCFA Form 37 to require States
16 to separate out spending projections by groups of
17 medicaid enrollees, and

18 “(ii) change HCFA Form 64 to include enroll-
19 ment data and to permit the attribution of expendi-
20 tures to such groups.

21 The Secretary shall provide for the auditing of information
22 reported under clause (ii).

23 “(D) The Secretary shall take such actions as may
24 be necessary to assure the accuracy of the base per en-
25 rollee amounts determined under section 1931(c)(2).”.

1 (2) UPPER INCOME LIMIT ON “LESS RESTRICTIVE”
2 ELIGIBILITY METHODOLOGIES.—Section
3 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2)) is
4 amended—

5 (A) in subparagraph (A), by inserting
6 “(except as provided in subparagraph (C))”
7 after “no more restrictive”, and

8 (B) by adding at the end the following new
9 subparagraph:

10 “(C) The methodology described in subparagraph (A)
11 shall not result in an income eligibility limit (based on
12 gross income) that is greater than the greater of—

13 “(i) 150 percent of the poverty line (as defined
14 in section 673(2) of the Community Services Block
15 Grant Act (42 U.S.C. 9902(2)), including any revision
16 required by such section), or

17 “(ii) the income eligibility limit applicable under
18 the State plan in effect in fiscal year 1995 (taking
19 into account any such limit applicable under a waiver
20 under section 1115).”.

21 (c) APPLICATION OF ENHANCED MATCHING RATE
22 FOR DEVELOPMENT OF INFORMATION SYSTEMS.—Sec-
23 tion 1903(a)(3)(A)(i) of such Act (42 U.S.C.
24 1396b(a)(3)(A)(i)) is amended by inserting before the
25 comma at the end the following: “and including informa-

1 tion systems necessary to assure compliance with report-
2 ing requirements identified as necessary to carry out sec-
3 tion _____ of the [Omnibus Budget Reconciliation Act
4 of 1995]”.

5 (d) CONFORMING AMENDMENT.—Section 1903(a) of
6 such Act (42 U.S.C. 1396b(a)), in the matter preceding
7 paragraph (1), is amended by inserting “or section 1931”
8 after “except as otherwise provided in this section”.

9 (e) CONFORMING AMENDMENTS.—

10 (1) Section 1903(a) is amended in the matter
11 preceding paragraph (1) by inserting “or section
12 1931” after “except as otherwise provided in the
13 section”.

14 (2) Section 1903 is amended by adding after
15 subsection (w) the following new subsections:

16 “(x) Notwithstanding any other provision of this Act,
17 no State shall be entitled to payment under this title—

18 “(1) with respect to expenditures after Septem-
19 ber 30, 1996, that exceed the limitation on Federal
20 financial participation specified in section 1931; or

21 “(2) with respect to an expenditure made or
22 other obligation incurred by a State before October
23 1, 1996, unless the State has submitted to the Sec-
24 retary, not later than June 30, 1997, a claim for

1 Federal financial participation in such expenditure
2 or obligation.”.

3 **TITLE IV—MEDICARE SAVINGS**

4 (a) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-
5 cept as otherwise specifically provided, whenever in this
6 title an amendment is expressed in terms of an amend-
7 ment to or repeal of a section or other provision, the ref-
8 erence is considered to be made to that section or other
9 provision of the Social Security Act.

10 **PART 1—PROVISIONS RELATING TO PART A**

11 **SEC. 11101. UPDATES FOR PPS HOSPITALS.**

12 (a) UPDATE FACTORS.—Section 1886(b)(3)(B)(i)
13 (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended by striking
14 subclauses (XII) and (XIII) and inserting the following:

15 “(XII) for each of the fiscal years 1997 through
16 2000, the market basket percentage increase minus
17 1.0 percentage points for hospitals in all areas,

18 “(XIII) for fiscal years 2001 and 2002, the
19 market basket percentage increase minus 1.5 per-
20 centage points for hospitals in all areas, and

21 “(XIV) for fiscal year 2003 and each subse-
22 quent fiscal year, the market basket percentage in-
23 crease for hospitals in all areas.”.

24 (b) ADJUSTMENTS FOR CASE MIX WHEN
25 RECALIBRATING DRGS.—

1 (1) IN GENERAL.—Section 1886(d)(3) (42
2 U.S.C. 1395ww(d)(3)) is amended by adding at the
3 end the following:

4 “(F) ADJUSTING FOR ESTIMATED CHANGE IN
5 CASE MIX.—

6 “(i) IN GENERAL.—Effective for dis-
7 charges occurring in a fiscal year in which the
8 Secretary implements significant changes (as
9 defined by the Secretary) in the diagnosis-relat-
10 ed group classification system and thereafter,
11 the Secretary may (subject to clause (ii)) adjust
12 the standardized amounts to take into account
13 estimated case mix increase not attributable to
14 real case mix increase anticipated to occur dur-
15 ing the fiscal year to which the standardized
16 amounts apply.

17 “(ii) REFINEMENT.—With regard to the
18 adjustment described in clause (i), if the Sec-
19 retary determines, based on data taken from
20 the fiscal year to which the adjustment applied,
21 that the amount of the adjustment varied from
22 the actual amount of case mix increase not at-
23 tributable to real case mix increase by more
24 than 0.25 percentage points, the Secretary shall

1 make a prospective adjustment to the standard-
2 ized amounts to correct for the variance.”.

3 (2) PROPAC RECOMMENDATIONS.—Section
4 1886(e)(2)(A) (42 U.S.C. 1395ww(e)(2)(A)) is
5 amended by adding at the end the following: “With
6 respect to subsection (d) hospitals, the Commission’s
7 recommendation regarding the appropriate percent-
8 age change shall take into account the anticipated
9 difference during the fiscal year between the change
10 in the average weighting factor and the change in
11 real case mix.”.

12 **SEC. 11102. MAINTAINING SAVINGS FROM TEMPORARY RE-**
13 **DUCTION IN PPS CAPITAL RATES.**

14 Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A))
15 is amended by adding at the end the following: “In addi-
16 tion to the reduction described in the preceding sentence,
17 for discharges occurring after September 30, 1995, the
18 Secretary shall reduce by 15.7 percent the unadjusted
19 standard Federal capital payment rate (as described in
20 section 412.308(e) of volume 42 of the Code of Federal
21 Regulations), as in effect on September 30, 1995) and
22 shall reduce by 15.7 percent the unadjusted hospital-spe-
23 cific rate (as described in section 412.328(e)(1) of volume
24 42 of the Code of Federal Regulations), as in effect on
25 September 30, 1995).”.

1 **SEC. 11103. REDUCTIONS IN DISPROPORTIONATE SHARE**
2 **PAYMENT ADJUSTMENTS.**

3 (a) IN GENERAL.—Section 1886(d)(5)(F) (42 U.S.C.
4 1395ww(d)(5)(F)) is amended—

5 (1) in clause (ii), by striking “The amount”
6 and inserting “Subject to clause (ix), the amount”,
7 and

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

9 “(ix) FISCAL YEAR 1999 AND LATER.—For
10 discharges occurring on or after October 1,
11 1998, the payment amount otherwise deter-
12 mined under clause (ii) shall be reduced by 10
13 percent.”.

14 (b) CONFORMING AMENDMENT RELATING TO DE-
15 TERMINATION OF STANDARDIZED AMOUNTS.—Section
16 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)) is
17 amended inserting the following before the period: “, and
18 the Secretary shall not take into account any reductions
19 in the amount of such additional payments resulting from
20 the amendments made by section 11103(a) of the Bal-
21 anced Budget Act of 1995 for Economic Growth and Fair-
22 ness”.

23 **SEC. 11104. REDUCTION IN ADJUSTMENT FOR INDIRECT**
24 **MEDICAL EDUCATION.**

25 (a) IN GENERAL.—Section 1886(d)(5)(B)(ii) (42
26 U.S.C. 1395ww(d)(5)(B)(ii)) is amended by striking all

1 after “occurring” and inserting the following: “the indi-
2 rect teaching adjustment factor for discharges occurring—

3 “(I) on or after January 1, 1996, and be-
4 fore October 1, 1996, is equal to $1.77 \times$
5 $((1+r)^n - 1)$,

6 “(II) during fiscal years 1997 through
7 1999, is equal to $1.67 \times ((1+r)^n - 1)$,
8 power) – 1),

9 “(III) during the fiscal year 2000, is equal
10 to $1.55 \times ((1+r)^n - 1)$, and

11 “(IV) during the fiscal years beginning
12 with 2001, is equal to $1.47 \times ((1+r)^n - 1)$,
13 nth power) – 1),

14 where ‘r’ is the ratio of the hospital’s full-time equiv-
15 alent interns and residents to beds in ‘n’ equals
16 .405.”.

17 (b) CONFORMING AMENDMENT RELATING TO DE-
18 TERMINATION OF STANDARDIZED AMOUNTS.—Section
19 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is
20 amended by adding at the end the following: “, except that
21 the Secretary shall not take into account any reductions
22 in the amount of additional payments under subsection
23 (d)(5)(B)(ii) resulting from the amendments made by sec-
24 tion 11104(a) of the Balanced Budget Act of 1995 for
25 Economic Growth and Fairness,”.

1 (c) ALTERNATIVE TO RESTANDARDIZATION OF
 2 COSTS.—Section 1886(d)(3)(A) (42 U.S.C.
 3 1395ww(d)(3)(A)) is amended by adding at the end the
 4 following:

5 “(vi) ALTERNATIVE TO
 6 RESTANDARDIZATION OF COSTS.—Notwith-
 7 standing clauses (i) through (v), if changes
 8 in the amount of payment under sub-
 9 sections (d)(3)(E), (d)(5)(B), or (d)(5)(F)
 10 would otherwise require the Secretary to
 11 restandardize hospital costs under sub-
 12 section (d)(2)(C), the Secretary may com-
 13 pute payments amounts under the sub-
 14 paragraph in a manner that assures the
 15 aggregate payments under this subsection
 16 in a fiscal year not greater or less than
 17 those that would have been made in the
 18 year if the Secretary had restandardized
 19 hospital costs under subsection (d)(2)(C).”.

20 (d) EFFECTIVE DATE.—The amendments made by
 21 the previous subsections apply to discharges occurring
 22 after 1995.

23 **SEC. 11105. REVISIONS IN DETERMINATION OF AMOUNT OF**
 24 **PAYMENT FOR MEDICAL EDUCATION.**

25 (a) INDIRECT MEDICAL EDUCATION.—

1 (1) IN GENERAL.—Section 1886(d)(5)(B) (42
2 U.S.C. 1395ww(d)(5)(B)) is amended—

3 (A) in clause (ii) (as amended by section
4 111104(a) of the Act), by inserting before the
5 period ”, subject to clause (vii)”, and

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

7 “(v) LIMITATIONS ON NUMBERS OF INTERNS
8 AND RESIDENTS.—In determining such adjustment
9 with respect to a hospital for discharges occurring
10 on or after October 1, 1995—

11 “(I) except as provided in clause (vi), the
12 total number of interns and residents may not
13 exceed the number of interns and residents with
14 respect to the hospital’s cost reporting period
15 ending on or before December 31, 1995, and

16 “(II) except as provided in subclause (vi),
17 the number of interns and residents who are
18 not who are not primary care residents as de-
19 fined in section 1886 (h)(5)(H) or residents in
20 obstetrics and gynecology, may not exceed the
21 number of such residents as of such cost report-
22 ing period.

23 “(vi) ADJUSTMENTS TO LIMITS.—The Secretary
24 shall adjust the number of interns and residents in
25 clause (v)—

1 “(I) by applying a weighting factor of 0.50
2 with respect to each intern or resident who was
3 not in an initial residency period as defined in
4 Section 1886(h)(5)(F),

5 “(II) by including any interns and resi-
6 dents that qualify under clause (iv), and

7 “(III) as appropriate, where a hospital has
8 a significant increase in the number of primary
9 care or obstetrics and gynecology interns and
10 residents after June 30, 1995.

11 “(vii) LIMITATION ON RESIDENT-TO-BED
12 RATIO.—For purposes of clause (ii), ‘r’ may not ex-
13 ceed the ratio of the number of interns and residents
14 as determined under clause (v) with respect to the
15 hospital for its most recent cost reporting period
16 ending on or before December 31, 1995, to the hos-
17 pital’s available beds (as defined by the Secretary)
18 during such cost reporting period.”.

19 (2) PAYMENT FOR INTERNS AND RESIDENTS
20 PROVIDING OFF-SITE SERVICES.—Section
21 1886(d)(5)(B)(iv) (U.S.C. 42 1395ww(d)(5)(B)(iv)
22 is amended to read as follows:

23 “(iv) OFF-SITE SERVICES.—All the
24 time spent by an intern or resident in pa-
25 tient care activities under an approved

1 medical residency training program shall
2 be counted towards the determination of
3 full-time equivalency at an entity in a non-
4 hospital setting, if the hospital incurs all,
5 or substantially all, of the costs for the
6 training program in that setting.”.

7 (b) DIRECT MEDICAL EDUCATION.—

8 (1) LIMITATION OF NUMBER OF RESIDENTS.—
9 Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is
10 amended by adding at the end the following:

11 “(F) LIMITATION OF NUMBER OF RESI-
12 DENTS FOR CERTAIN FISCAL YEARS.—Such
13 rules shall provide that for purposes of a cost
14 reporting period beginning on or after October
15 1, 1995—

16 “(i) the total number of full-time
17 equivalent residents (as determined under
18 this paragraph) with respect to an ap-
19 proved medical residency training program
20 may not exceed the number of full-time
21 equivalent residents with respect to the
22 ending on or before December 31, 1995,
23 and

24 “(ii) the number of a hospital’s full-
25 time-equivalent residents as determined

1 under this paragraph who are not primary
2 care residents (as defined in paragraph
3 (5)(H)) or residents in obstetrics and gyn-
4 ecology may not exceed the number of such
5 residents as of such cost reporting period.

6 “(G) ADJUSTMENTS TO LIMITATIONS.—
7 The Secretary may adjust the limitations speci-
8 fied in subparagraph (F) if a hospital has a sig-
9 nificant increase in the number of primary care
10 or obstetrics and gynecology interns or resi-
11 dents after June 30, 1995.”.

12 (2) CONTINUATION OF FREEZE ON UPDATES TO
13 FTE RESIDENT AMOUNTS.—Section
14 1886(h)(2)(D)(ii) (42 U.S.C. 1395ww(h)(2)(D)(ii))
15 is amended by striking “fiscal year 1994 or fiscal
16 year 1995” and inserting “fiscal years 1994 through
17 2000”.

18 (3) PERMITTING PAYMENT TO NON-HOSPITAL
19 PROVIDERS.—Section 1886 (42 U.S.C. 1395ww) is
20 amended by adding at the end the following:

21 “(j) PAYMENT TO NON-HOSPITAL PROVIDERS.—Be-
22 ginning with cost reporting periods beginning on or after
23 July 1, 1996, the Secretary may make payments (in such
24 amounts and in such form, and from each of the trust
25 funds under this title, as the Secretary considers appro-

1 priate) to Federally Qualified Health Centers (as defined
2 in section 1861(aa)(4)) and Rural Health Clinics (as de-
3 fined in section 1861(aa)(2)) and eligible organizations
4 with contracts under part C for the direct costs of medical
5 education, if such costs are incurred in the operation of
6 an approved medical residence training program described
7 in subsection (h). The Secretary may designate additional
8 entities as eligible organizations for such payments as the
9 Secretary determines to be appropriate.”.

10 (c) APPLICATION TO COST CONTRACTS.—Section
11 1886(j) of the Social Security Act (42 U.S.C. 1395ww(j))
12 (as added by subsection (b)(3) of this section) applies to
13 contracts under section 1876(h) of that Act (42 U.S.C.
14 1395mm).

15 (d) EFFECTIVE DATE.—The amendments made by
16 the previous subsections apply to hospital cost reporting
17 periods beginning on or after October 1, 1995.

18 (e) COMMISSION ON MEDICAL EDUCATION AND
19 WORKFORCE PRIORITIES.—

20 (1) IN GENERAL.—There is established within
21 the Department of Health and Human Services a
22 Commission to be known as the National Commis-
23 sion on Medical Education and Workforce Priorities
24 (hereafter in this subsection referred to as the
25 “Commission”).

1 (2) DUTIES.—The Commission shall have the
2 following responsibilities:

3 (A) To develop and recommend to the Sec-
4 retary specific policies to address the preserva-
5 tion of the research and educational capacity of
6 the Nation’s academic health centers and the
7 supply, composition, and support of the future
8 health care workforce. The Commission shall
9 examine—

10 (i) the financing of graduate medical
11 education,

12 (ii) issues relating to children’s and
13 specialty hospitals,

14 (iii) policies regarding international
15 medical school graduates, and

16 (iv) the relationship of graduate medi-
17 cal education funding and service-gen-
18 erated income.

19 (B) To make recommendations concerning
20 the most effective allocation of training re-
21 sources to ensure that the numbers and com-
22 petencies of health care professionals are re-
23 sponsive to the Nation’s needs.

24 (3) COMPOSITION.—

1 (A) QUALIFICATIONS.—The Commission
2 shall consist of 15 members appointed by the
3 Secretary, and shall to the extent feasible in-
4 clude—

5 (i) individuals nationally recognized
6 for expertise in health economics, medical
7 education financing, medical practice, is-
8 sues relating to the composition of the
9 health care workforce, research on and de-
10 velopment of technological and scientific
11 advances in health care, and other related
12 fields; and

13 (ii) health care professionals including
14 physicians (both faculty and non-faculty),
15 consumers, a dean and a chief executive of-
16 ficer or an academic health center or a
17 teaching hospital, and representatives from
18 health insurance organizations, managed
19 care organizations, and medical workforce
20 accrediting organizations.

21 (B) NATIONAL REPRESENTATION.—To the
22 extent feasible, the membership of the Commis-
23 sion—

24 (i) shall represent the various geo-
25 graphic regions of the United States,

1 (ii) shall reflect the racial, ethnic, and
2 gender composition of the United States;
3 and

4 (iii) shall be broadly representative of
5 medical schools, academic health centers,
6 teaching hospitals, and schools involved in
7 the training of non-physician providers of
8 health services.

9 (4) TERMS OF OFFICE.—Members of the Com-
10 mission shall first be appointed no later than July
11 1, 1996, for a term of two and one half years.

12 (5) EX OFFICIO MEMBERS.—In addition to the
13 members appointed pursuant to paragraph (3), the
14 Commission shall include—

15 (A) the Secretary of Health and Human
16 Services, the Secretary of Veterans Affairs, and
17 the Secretary of Defense (or a designee of each
18 such official); and

19 (B) such additional individuals as may be
20 designated by the Secretary from among Fed-
21 eral officers or employees.

22 (6) CHAIR.—The Secretary shall designate an
23 individual from among the members appointed pur-
24 suant to paragraph (3)(A) to serve as the chair of
25 the Commission.

1 (7) QUORUM.—Nine members of the Commis-
2 sion shall constitute a quorum, but a lesser number
3 may hold hearings.

4 (8) VACANCIES.—Any vacancy in the Commis-
5 sion shall not affect its power to function.

6 (9) COMPENSATION.—Each member of the
7 Commission who is not otherwise employed by the
8 United States Government shall receive compensa-
9 tion at a rate equal to the daily rate prescribed for
10 GS-18 under the General Schedule under section
11 5332 of title 5, United States Code, for each day,
12 including travel time, such member is engaged in the
13 actual performance of duties as a member of the
14 Commission. A member of the Commission who is
15 an officer or employee of the United States Govern-
16 ment shall serve without additional compensation.
17 All members of the Commission shall be reimbursed
18 for travel, subsistence, and other necessary expenses
19 incurred by them in the performance of their duties.

20 (10) CERTAIN AUTHORITIES AND DUTIES.—In
21 order to carry out the provisions of this subsection,
22 the Commission is authorized to—

23 (A) collect such information, hold such
24 hearings, and sit and act at such times and
25 places, either as a whole or by subcommittee,

1 and request the attendance and testimony of
2 such witnesses and the production of such docu-
3 ments as the Commission may consider advis-
4 able; and

5 (B) request the cooperation and assistance
6 of Federal departments, agencies, and instru-
7 mentalities, and such departments, agencies,
8 and instrumentalities are authorized to provide
9 such cooperation and assistance.

10 (11) REPORTS.—The Commission shall submit
11 to the Secretary a preliminary report not later than
12 July 1, 1997, and a final report not later than July
13 1, 1998, making recommendations on the matters
14 specified in paragraph (2).

15 (12) TERMINATION.—The Commission shall
16 terminate as of December 31, 1998.

17 (13) AUTHORIZATION OF APPROPRIATIONS.—
18 There is authorized to be appropriated to the Sec-
19 retary of Health and Human Services for use in car-
20 rying out this subsection not more than \$250,000
21 for each of fiscal years 1996, 1997, 1998. Funds ap-
22 propriated for fiscal year 1998 shall remain available
23 until expended.

1 **SEC. 11106. ELIMINATION OF IME AND DSH PAYMENTS AT-**
2 **TRIBUTABLE TO OUTLIER PAYMENTS.**

3 (a) **INDIRECT MEDICAL EDUCATION.**—Section
4 1886(d)(5)(B)(i)(I) (42 U.S.C. 1395ww(d)(5)(B)(i)(I)) is
5 amended by inserting “, for cases qualifying for additional
6 payment under subparagraph (A)(i),” before “the amount
7 paid to the hospital under subparagraph (A)”.

8 (b) **DISPROPORTIONATE SHARE ADJUSTMENTS.**—
9 Section 1886(d)(5)(F)(ii)(I) (42 U.S.C.
10 1395ww(d)(5)(F)(ii)(I)) is amended by inserting “, for
11 cases qualifying for additional payment under subpara-
12 graph (A)(i),” before “the amount paid to the hospital
13 under subparagraph (A)”.

14 (c) **COST OUTLIER PAYMENTS.**—Section
15 1886(d)(5)(A)(ii) (42 U.S.C. 1395ww(d)(5)(A)(ii)) is
16 amended by striking “exceed the applicable DRG prospec-
17 tive payment rate” and inserting “exceed the sum of the
18 applicable DRG prospective payment rate plus any
19 amounts payable under paragraphs (d)(5)(B) and
20 (d)(5)(F)”.

21 (d) **EFFECTIVE DATE.**—The amendments made by
22 the previous subsections apply to discharges occurring on
23 or after October 1, 1995.

24 **SEC. 11107. TREATMENT OF TRANSFER CASES.**

25 Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)(I))
26 of the Act is amended by adding at the end the following:

1 “(iii) CERTAIN TRANSFERS.—Effective for discharges
 2 occurring on or after October 1, 1995, transfer cases (as
 3 otherwise defined by the Secretary) shall also include cases
 4 in which a patient is transferred from a subsection (d)
 5 hospital to a hospital or hospital unit that is not a sub-
 6 section (d) hospital (under section 1886(d)(1)(B) and im-
 7 plementing regulations) or to a skilled nursing facility for
 8 the purpose of receiving extended care services.”.

9 **SEC. 11108. MORATORIUM ON NEW LONG TERM CARE HOS-**
 10 **PITAL EXCLUSIONS.**

11 Section 1886(d)(1)(B)(iv) (42 U.S.C.
 12 1395ww(d)(1)(B)(iv)) is amended by inserting “(and had
 13 such an average on the date of enactment of the Balanced
 14 Budget Act of 1995 for Economic Growth and Fairness)”
 15 before the comma.

16 **SEC. 11109. PAYMENTS TO HOSPITALS EXCLUDED FROM**
 17 **PPS.**

18 (a) REDUCTIONS IN UPDATES.—Section
 19 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(4)(B)(ii)) is
 20 amended—

21 (1) in subclause (V)

22 (A) by striking “through 1997” and insert-
 23 ing “through 1995”, and

24 (B) by striking “and”,

1 (2) by renumbering subclause (VI) as (VIII),
2 and

3 (3) by inserting after subclause (V) the follow-
4 ing:

5 “(VI) fiscal years 1996 through 2000, the mar-
6 ket basket percentage increase minus 1.0 percentage
7 point,

8 “(VII) fiscal years 2001 and 2002, the market
9 basket percentage increase minus 1.5 percentage
10 points, and”.

11 (b) REBASING FOR PPS-EXEMPT HOSPITALS.—Sec-
12 tion 1886(b)(3)(A) (42 U.S.C. 1395ww(b)(3)(A)) is
13 amended to read as follows:

14 “(3)(A) TARGET AMOUNT.—

15 “(i) CALCULATION OF TARGET AMOUNT.—Sub-
16 ject to clauses (ii) and (iii), and except as provided
17 in subparagraphs (C), (D), and (E), for purposes of
18 this subsection, the term ‘target amount’ means—

19 “(I) with respect to the first 12-month cost
20 reporting period in which this subparagraph is
21 applied to the hospital, the average allowable
22 operating costs of inpatient hospital services (as
23 defined in subsection (a)(4)) recognized under
24 this title for such hospital for the hospital’s two
25 most recent 12-month cost reporting periods be-

1 ginning on or after October 1, 1990, subject to
2 the floor and ceiling for target amounts as spec-
3 ified in clause (ii), and increased by the applica-
4 ble percentage increases under subparagraph
5 (B)(ii) for the hospital's succeeding cost report-
6 ing periods beginning before fiscal year 1996,
7 or

8 “(II) with respect to a later cost reporting
9 period, the target amount for the preceding cost
10 reporting period, increased by the applicable
11 percentage increase under subparagraph (B)(ii).

12 “(ii) FLOOR AND CEILING.—Subject to clause
13 (iii), the target amount determined under this sub-
14 paragraph for a hospital or unit shall not be less
15 than 70 percent nor more than 150 percent of the
16 national mean (adjusted by an appropriate wage
17 index) of the operating costs of inpatient hospital
18 services determined under this paragraph for hos-
19 pitals (and units thereof as applicable) of each type
20 of hospital described in subsection (d)(1)(B) for the
21 cost reporting periods noted in clause (i)(I) and up-
22 dated by the applicable percentage increase under
23 subparagraph (B)(ii).

1 “(iii) NEW HOSPITALS.—In the case of a hos-
2 pital that does not have a cost reporting period be-
3 ginning before October 1, 1990—

4 “(I) with respect to cost reporting periods
5 beginning during the hospital’s first two fiscal
6 years of operation, the amount of payment
7 made under this title with respect to operating
8 costs of inpatient hospital services (as defined
9 in subsection (a)(4)) shall be the reasonable
10 costs for providing such services, except that
11 such amount may not exceed 150 percent of the
12 national mean as determined and updated in
13 clause (ii),

14 “(II) with respect to a later cost reporting
15 period, clauses (i) and (ii) shall apply to such
16 hospital except that the target amount for the
17 hospital shall be the average allowable operating
18 costs of inpatient hospital services (as defined
19 in subsection (a)(4)) recognized under this title
20 for the hospital’s first two 12-month cost re-
21 porting periods beginning at least one year
22 after the hospital accepts its first patient.”.

23 (c) EXCEPTIONS AND ADJUSTMENTS.—Section
24 1886(b)((4)(A)(i) (42 U.S.C. 1395ww(b)(4)(A)(i)) is

1 amended by inserting the following after the first sen-
2 tence: * * *.

3 **SEC. 11110. REDUCTIONS TO CAPITAL PAYMENTS FOR PPS-**
4 **EXEMPT HOSPITALS.**

5 Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is
6 amended by adding at the end the following new subpara-
7 graph:

8 “(T) REDUCTIONS FOR PPS-EXEMPT HOS-
9 PITALS.—Such regulations shall provide that, in de-
10 termining the amount of the payments that may be
11 made under this title with respect to the capital-re-
12 lated costs of inpatient hospital services furnished by
13 a hospital that is not a subsection (d) hospital (as
14 defined in section 1886(d)(1)(B)) or a subsection (d)
15 Puerto Rico hospital (as defined in section
16 1886(d)(9)(A)), the Secretary shall reduce the
17 amounts of such payments otherwise established
18 under this title by 15 percent for payment attrib-
19 utable to portions of cost reporting periods occurring
20 during each of the fiscal years 1996 through 2005.”.

1 **SEC. 11111. MAINTAINING SAVINGS RESULTING FROM TEM-**
2 **PORARY FREEZE ON PAYMENT INCREASES**
3 **FOR SKILLED NURSING FACILITIES.**

4 (a) BASING UPDATES TO PER DIEM COST LIMITS
5 EFFECTIVE FOR FISCAL YEAR 1996 ON LIMITS FOR FIS-
6 CAL YEAR 1993.—

7 (1) IN GENERAL.—The last sentence of section
8 1888(a) (42 U.S.C. 1395yy(a)) is amended by add-
9 ing at the end the following: “, except that the limits
10 effective October 1, 1995 shall be based on the lim-
11 its effective on October 1, 1992 and shall not take
12 into account any changes in the routine service costs
13 of skilled nursing facilities occurring during cost re-
14 porting periods which began during fiscal year 1994
15 or fiscal year 1995.”.

16 (2) NO EXCEPTIONS PERMITTED BASED ON
17 AMENDMENT.—The Secretary of Health and Human
18 Services shall not consider the amendment made by
19 paragraph (1) in making any adjustments pursuant
20 to section 1888(c) of the Social Security Act.

21 (b) PAYMENTS DETERMINED ON PROSPECTIVE
22 BASIS.—Prospective payments made to skilled nursing fa-
23 cilities under section 1888(d) of the Social Security Act
24 for cost reporting periods beginning on or after October
25 1, 1995, shall be based on the rates effective for cost re-
26 porting periods beginning October 1, 1992, and before Oc-

1 tober 1, 1993, and shall not take into account any changes
2 in the costs of services occurring during cost reporting pe-
3 riods which began during fiscal year 1994 or fiscal year
4 1995.

5 **SEC. 11112. INTERIM PROSPECTIVE PAYMENT FOR SKILLED**
6 **NURSING FACILITIES.**

7 (a) IN GENERAL.—Section 1888 (42 U.S.C. 1395yy)
8 is amended by adding at the end the following:

9 “(e) PAYMENT ON AN INTERIM PROSPECTIVE
10 BASIS.—The Secretary shall, for cost reporting periods
11 beginning on or after October 1, 1996, provide for pay-
12 ment for routine service costs (excluding capital-related
13 costs) of extended care services in accordance with a pro-
14 spective payment system established by the Secretary in
15 the amounts provided in subsection (f), subject to the ex-
16 ceptions and limitations in subsections (g) and (h).

17 “(f) DETERMINATION OF PAYMENT AMOUNTS.—

18 “(1) PER DIEM BASIS.—The amount of pay-
19 ment under subsection (e) shall be determined on a
20 per diem basis.

21 “(2) USE OF BASE YEAR COSTS UPDATED BY
22 MARKET BASKET.—The Secretary shall compute the
23 routine service costs per diem in a base year (deter-
24 mined by the Secretary) for each skilled nursing fa-
25 cility, and shall update the per diem rate on the

1 basis of a market basket, excluding increases in rou-
2 tine service costs associated with fiscal year 1994
3 and fiscal year 1995, and other factors as the Sec-
4 retary determines appropriate.

5 “(3) LIMITATION ON BASE YEAR COSTS.—The
6 base year routine service costs used to determine the
7 per diem rate applicable to a skilled nursing facility
8 may not exceed the following limits:

9 “(A) RURAL AREAS.—With respect to
10 skilled nursing facilities located in rural areas,
11 the limit shall be equal to 112 percent of the
12 mean per diem routine service costs in a base
13 year (determined by the Secretary) for free-
14 standing skilled nursing facilities located in
15 rural areas within the same region.

16 “(B) URBAN AREAS.—With respect to
17 skilled nursing facilities located in urban areas,
18 the limit shall be equal to 112 percent of the
19 mean per diem routine service costs in a base
20 year (determined by the Secretary) for free-
21 standing skilled nursing facilities located in
22 urban areas within the same region.

23 “(C) DEFINITIONS.—For purposes of this
24 subsection, urban and rural areas shall be de-
25 termined in the same manner as for purposes of

1 subsection (a), and the term “region” shall
2 have the same meaning as under section
3 1886(d)(2)(D).

4 “(D) WAGE ADJUSTMENTS.—In establish-
5 ing limits under this subsection, the Secretary
6 may make appropriate adjustments to the
7 labor-related portion of the costs based upon on
8 a wage index and other factors as the Secretary
9 determines appropriate.

10 “(4) NEW SKILLED NURSING FACILITIES.—
11 Skilled nursing facilities entering the Medicare pro-
12 gram subsequent to the base period, determined in
13 subsection (f)(1), shall receive a routine payment
14 rate equal to the mean per diem routine costs of
15 skilled nursing facilities in the urban or rural area
16 in which they are located by region. The Secretary
17 shall compute these payment rates using per diem
18 costs in a base year (determined by the Secretary)
19 and shall update the rates on the basis of a market
20 basket and other factors as the Secretary determines
21 appropriate.

22 “(5) LOW MEDICARE VOLUME FACILITIES.—Ef-
23 fective for cost reporting periods beginning on or
24 after October 1, 1996, low Medicare volume skilled
25 nursing facilities, as described in subsection (d),

1 shall receive payment for routine service costs as
2 otherwise set forth in subsections (e) through (j), ex-
3 cept that they may elect to receive payment on the
4 basis of the rates described in subsection (f)(4).

5 “(6) CASE MIX ADJUSTMENTS.—The Secretary
6 may make prospective adjustments to the routine
7 payment rates to account for changes in facility pa-
8 tient mix (case mix) as the Secretary determines ap-
9 propriate. Such adjustments shall be made in a
10 manner which does not increase expenditures for the
11 routine costs of skilled nursing facility services be-
12 yond what would otherwise occur.

13 “(g) HOLD HARMLESS PAYMENTS.—

14 “(1) IN GENERAL.—Subject to paragraphs (2)
15 and (3), a facility’s per diem payment rate based on
16 the application of subsections (e) and (f) is the
17 greater of—

18 “(A) its per diem payment amount in the
19 base year, and

20 “(B) its base year cost per diem up to the
21 regional limit plus any exception amounts that
22 may have been granted in the base year (ad-
23 justed by the market basket).

24 “(2) LIMIT.—The payment rate determined
25 under paragraph (1) shall not exceed the facility’s

1 cost per diem incurred in the base year adjusted by
2 the market basket.

3 “(3) NEW ENTITY EXCEPTION.—Subparagraph
4 (1)(A) does not apply if the per diem payment
5 amount in the base year was determined on the
6 basis of an exemption under subsection (f)(4).

7 “(h) UPPER LIMITS ON REASONABLE COSTS.—The
8 Secretary, in making determinations on the reasonable
9 costs (both capital and operating) of ancillary services pro-
10 vided by skilled nursing facilities under part A, shall uti-
11 lize as an upper limit, the carrier fee schedules applicable
12 to such services as specified in sections 1834 and 1848.
13 This subsection shall not have the effect of mitigating
14 other limits on the reasonable costs of ancillary services
15 currently in effect under Part A such as those specified
16 in section 1861(v)(5)(A).

17 “(i) ELIMINATION OF EXCEPTIONS AND EXEMP-
18 TIONS.—Exceptions, as described in subsection (c), and
19 exemptions, as described in the applicable regulations, are
20 eliminated for cost reporting periods beginning on or after
21 October 1, 1996.”.

22 (b) CONSOLIDATED BILLING AND UNIFORM COD-
23 ING.—

24 (1) IN GENERAL.—Section 1862(a) (42 U.S.C.
25 1395y(a)) is amended—

1 (A) by striking “or” at the end of para-
2 graph (14),

3 (B) by striking the period at the end of
4 paragraph (15) and adding a semicolon, and

5 (C) by inserting after paragraph (15) the
6 following:

7 “(16) which are other than physicians’ services,
8 services described by sections 1861(s)(2)(K)(i)
9 through (iii), certified nurse-midwife services, quali-
10 fied psychologist services, and services of a certified
11 registered nurse anesthetist, and which are fur-
12 nished to an individual who is a resident of a skilled
13 nursing facility by an entity other than the skilled
14 nursing facility, unless the services are furnished
15 under arrangements (as defined in section
16 1861(w)(1)) with the entity made by the skilled
17 nursing facility; or

18 “(17) which are on a claim submitted by a
19 skilled nursing facility under this title, unless the
20 claim uses the HCFA common procedure coding sys-
21 tem.”.

22 (2) CONFORMING AMENDMENT.—Section
23 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is
24 amended—

1 (A) by striking “(i)” and inserting “(I)”
2 and striking “(ii)” and inserting “(II)”,

3 (B) by striking “(H)” and inserting
4 “(H)(i)”, and

5 (C) by adding at the end the following:

6 “(ii) in the case of skilled nursing facilities which pro-
7 vide services for which payment may be made under this
8 title, to have all items and services (other than physicians’
9 services, and other than services described by section
10 1861(s)(2)(K)(i) through (iii), certified nurse-midwife
11 services, qualified psychologist services, and services of a
12 certified registered nurse anesthetist)—

13 “(I) that are furnished to an individual who is
14 a resident of the skilled nursing facility, and

15 “(II) for which the individual is entitled to have
16 payment made under this title, furnished by the
17 skilled nursing facility or otherwise under arrange-
18 ments (as defined in section 1861(w)(1)) made by
19 the skilled nursing facility,”.

20 (3) EFFECTIVE DATE.—the amendments made
21 by the preceding paragraphs are effective for serv-
22 ices furnished on or after October 1, 1996.

1 **SEC. 11113. FULL PROSPECTIVE PAYMENT SYSTEM FOR**
2 **SKILLED NURSING FACILITIES.**

3 (a) IN GENERAL.—Section 1888 (42 U.S.C. 1395yy)
4 is amended by striking subsections (e) through (i) (as
5 added by section 11112(a) of this Act) and adding the
6 following:

7 “(e) FULL PROSPECTIVE PAYMENT SYSTEM.—

8 “(1) IN GENERAL.—The Secretary shall provide
9 for payment for all costs of extended care services
10 (including routine service costs, ancillary costs, and
11 capital related costs) in accordance with a prospec-
12 tive payment system established by the Secretary.

13 “(2) BUDGET SAVINGS.—Prior to implementing
14 the prospective payment system described in para-
15 graph (1) in a budget neutral fashion, the Secretary
16 shall reduce, by 7 percent, the per diem rates for
17 routine costs, and the reasonable costs for ancillary
18 services and capital for skilled nursing facilities as
19 such rates and costs are in effect on September 30,
20 1998.”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 the preceding subsection apply to cost reporting periods
23 beginning on or after October 1, 1998.

1 **SEC. 11114. SALARY EQUIVALENCY GUIDELINES FOR THER-**
2 **APY SERVICES.**

3 Section 1861(v)(5) (42 U.S.C. 1395x(v)(5)) is
4 amended—

5 (1) by redesignating subparagraph (B) as sub-
6 paragraph (D),

7 (2) in subparagraph (D), as redesignated, by
8 adding “(B), or (C),” after “subparagraph (A),”

9 (3) by inserting the following after subpara-
10 graph (A):

11 “(B) SALARY EQUIVALENCY GUIDELINES FOR
12 THERAPY SERVICES.—

13 “(i) IN GENERAL.—Effective for services fur-
14 nished on or after January 1, 1996, the Secretary
15 shall establish guidelines relating to occupational
16 therapy services and speech-language pathology serv-
17 ices, and revise guidelines established under the sub-
18 paragraph (A) relating to respiratory therapy serv-
19 ices and physical therapy services using the meth-
20 odology described in clause (ii).

21 “(ii) CALCULATION OF AMOUNTS.—The guide-
22 lines for each therapy shall be equal to the sum of:

23 “(I) the sum of an hourly salary rate, plus
24 fringe benefits, plus a rental expense factor (in
25 the same base year), and

1 “(II) an overhead factor (excluding rental
2 expenses) equal to 28 percent of the amount de-
3 termined in subclause (I),
4 adjusted by geographical area using the methodology
5 contained in the final regulation of the Secretary of
6 Health and Human Services published on page
7 44928 of volume 48 of the Federal Register on Sep-
8 tember 30, 1983, updated annually from the base
9 year to the current year by an inflation factor.

10 “(iii) DATA.—The data used in establishing the
11 guidelines under clause (ii) shall be—

12 “(I) in the case of hourly salary rates, for
13 each therapy, the 75th percentile of salaries
14 paid to therapists working full-time in an em-
15 ployment relationship in the area, from the
16 most recent available Bureau of Labor Statis-
17 tics (BLS) hospital salary data for each, in-
18 creased by 10 percent,

19 “(II) in the case of fringe benefits, for
20 each therapy, an aggregate factor derived from
21 hospital cost reports ending in fiscal year 1991
22 for BLS survey areas used in subclause (I),

23 “(III) in the case of the rental expense fac-
24 tor, for each therapy, an amount derived from
25 local area rental income data compiled by the

1 Building Owners and Managers Association
2 International for 1991, for BLS survey areas
3 used in subclause (I),

4 “(IV) in the case of the inflation factor,
5 for each therapy, an amount equal to the aver-
6 age of Employment Cost Indices for wages and
7 benefits of Civilian Hospital, Professional Tech-
8 nical and Clerical Workers, and Private Execu-
9 tives, Administrators and Managers, and the
10 Consumer Price Indices-Urban for Housing and
11 all items less food and energy, weighted by the
12 relative proportion that each component rep-
13 resents of the guidelines amounts.

14 “(C) USE OF ADDITIONAL DATA.—Nothing in sub-
15 paragraph (B) shall preclude the Secretary from updating
16 the guidelines using such data sources and methodology
17 as the Secretary determine to be appropriate, except that
18 any changes to the data sources will be made through rule-
19 making in a manner that does not increase aggregate
20 spending for such services beyond what would otherwise
21 occur.”, and

22 (4) by adding at the end the following:

23 “(E) NO EXCEPTION FOR PREVIOUS CONTRACTS.—
24 In applying limitations under section 1861(v)(5), the Sec-
25 retary shall not recognize an exception for a provider that

1 entered into a written binding contract or contingency
 2 contract with a therapist, provider or other organization
 3 prior to the date the initial guidelines are published.”.

4 **SEC. 11115. REMOVAL OF GRADUATE MEDICAL EDUCATION,**
 5 **INDIRECT MEDICAL EDUCATION, AND DIS-**
 6 **PROPORTIONATE SHARE HOSPITAL PAY-**
 7 **MENTS FROM THE CALCULATION OF THE AD-**
 8 **JUSTED AVERAGE PER CAPITA COST.**

9 (a) EXCLUSION OF GRADUATE MEDICAL EDU-
 10 CATION, INDIRECT MEDICAL EDUCATION, AND DIS-
 11 PROPORTIONATE SHARE HOSPITAL PAYMENTS FROM THE
 12 CALCULATION OF THE ADJUSTED AVERAGE PER CAPITA
 13 COST.—Section 1851H(2) (as added by subtitle B of this
 14 title) is amended by adding at the end the following:
 15 “Starting in calendar year 1998, the AAPCC shall not in-
 16 clude estimated amounts that would have been paid for
 17 indirect medical education costs under section
 18 1886(d)(5)(B), disproportionate share payment adjust-
 19 ments under section 1886(d)(5)(F), and direct graduate
 20 medical education costs under section 1886(h).”.

21 (b) PAYMENTS FOR GRADUATE EDUCATION PRO-
 22 GRAMS.—Section 1851F (as added by subtitle B of this
 23 title) is amended by adding at the end the following:

24 “(k) PAYMENTS FOR GRADUATE MEDICAL EDU-
 25 CATION PROGRAMS.—

1 “(1) ADDITIONAL PAYMENTS.—

2 “(A) ADDITIONAL PAYMENT TO BE
3 MADE.—Starting in calendar year 1998, each
4 contract with an eligible organization under this
5 section shall provide for an additional payment
6 for Medicare’s share of allowable direct grad-
7 uate medical education costs incurred by such
8 organization for an approved medical residency
9 program.

10 “(B) LIMITATION FOR RISK CONTRACTS.—
11 The sum of such payments to all eligible orga-
12 nizations having a risk contract under this sec-
13 tion shall not exceed 75 percent of the amount
14 that would otherwise have been payable to the
15 organization if the estimated amounts for direct
16 graduate medical education costs under section
17 1886(h) had been included in the AAPCC.

18 “(2) ALLOWABLE COSTS.—If the eligible orga-
19 nization has an approved program, the Secretary
20 shall determine the allowable costs as follows:

21 “(A) RISK CONTRACTS.—In the case of an
22 eligible organization having a risk contract
23 under this section, and that incurs all or sub-
24 stantially all of the costs of the approved medi-
25 cal residency program, the allowable costs for

1 such program shall equal the national average
2 per resident amount times the number of full-
3 time-equivalent residents in the program.

4 “(B) OTHER CONTRACTS.—In the case of
5 other eligible organizations, the allowable costs
6 shall equal the lesser of—

7 “(i) the direct graduate medical edu-
8 cation costs incurred by the organization,
9 and

10 “(ii) the national average per resident
11 amount times the number of full-time-
12 equivalent residents in the program.

13 “(3) COSTS UNDER CONTRACTS WITH HOS-
14 PITALS.—If the eligible organization has a written
15 agreement with a hospital or other entity that has
16 an approved medical residency program, the allow-
17 able costs shall include such payments specified in
18 the agreement for direct graduate medical education
19 costs incurred for resident time spent in patient care
20 related activities. Allowable costs under this para-
21 graph shall not exceed 75 percent of the amount
22 that would have been included in the AAPCC to ac-
23 count direct graduate medical education costs (if
24 such costs had not been removed by the last sen-
25 tence of section 1851H(2).

1 “(4) DEFINITIONS.—As used in this sub-
2 section—

3 “(A) the terms ‘approved medical residency
4 program’, ‘direct graduate medical education
5 costs’, and ‘full-time-equivalent residents’ have
6 the same meanings as under section 1886(h),

7 “(B) the term ‘Medicare’s share’ means
8 the amount determined by multiplying the eligi-
9 ble organization’s allowable costs for an ap-
10 proved medical residency program by the ratio
11 of the number of individuals enrolled with the
12 organization under this section to the total
13 number of individuals enrolled with the organi-
14 zation,

15 “(C) the term ‘national average per resi-
16 dent amount’ means an amount estimated by
17 the Secretary to equal the weighted average
18 amount that would be paid per full-time-equiva-
19 lent resident under section 1886(h) for the cal-
20 endar year (determined separately for primary
21 care residency programs (including obstetrics
22 and gynecology residency programs) and for
23 other residency programs).”.

24 (c) ADDITIONAL PAYMENTS TO HOSPITALS FOR
25 MANAGED CARE ENROLLEES.—Section 1886(d) (42

1 U.S.C. 1395ww(d)) is amended by adding at the end the
2 following:

3 “(11) ADDITIONAL PAYMENTS TO HOSPITALS FOR
4 MANAGED CARE ENROLLEES.—

5 “(A) IN GENERAL.—For portions of cost re-
6 porting periods occurring on or after January 1,
7 1998, the Secretary shall provide for an additional
8 payment amount for subsection (d) hospitals for
9 services furnished to individuals who are enrolled in
10 an organization having a contract with an eligible
11 organization under part C and who are entitled to
12 part A.

13 “(B) AMOUNT OF PAYMENT.—Subject to sub-
14 paragraph (F), the amount of such payment shall be
15 determined by multiplying (i) the sum of the
16 amounts determined under subparagraphs (C) and
17 (D), by (ii) the product of the number of discharges
18 determined under subparagraph (E) and the esti-
19 mated average per discharge amount that would oth-
20 erwise have been paid under section 1886(d)(1)(A)
21 if the individuals had not been enrolled in an organi-
22 zation having a contract with an eligible organiza-
23 tion under part C.

24 “(C) INDIRECT TEACHING ADJUSTMENT FAC-
25 TOR.—The Secretary shall determine an indirect

1 teaching adjustment factor equal to $1.11 \times (((1+r) \text{ to}$
2 $\text{the } n\text{th power}) - 1)$, where ‘r’ and ‘n’ have the same
3 meaning as in section 1886(d)(5)(B).

4 “(D) DISPROPORTIONATE SHARE ADJUST-
5 MENT.—The Secretary shall determine a dispropor-
6 tionate share adjustment factor equal to the dis-
7 proportionate share adjustment percentage applica-
8 ble to the hospital under section 1886(d)(5)(F).

9 “(E) DETERMINATION OF NUMBER OF DIS-
10 CHARGES.—The Secretary shall determine the num-
11 ber of discharges as equal to the lesser of—

12 “(i) the number of discharges during the
13 current cost reporting period attributable to in-
14 dividuals who are enrolled in an organization
15 having a risk contract and who are entitled to
16 part A of this title, and

17 “(ii) the number of discharges paid under
18 section 1886(d) during the hospital’s cost re-
19 porting period beginning in fiscal year 1992
20 minus the number of discharges paid under sec-
21 tion 1886(d) during the hospital’s current cost
22 reporting period.

23 “(F) ADJUSTMENT FOR SAVINGS.—At the be-
24 ginning of each calendar year, the Secretary shall
25 make an adjustment in the amounts otherwise pay-

1 able under this paragraph so that the estimated pay-
2 ments under this paragraph for the discharges oc-
3 curring in that calendar year, together with the esti-
4 mated amounts payable under section 1851F for
5 that calendar year, equal 75 percent of the amounts
6 the Secretary estimates would otherwise have been
7 payable under section 1851F during that calendar
8 year if the adjusted average per capita cost deter-
9 mined under section 1851F included estimated
10 amounts for indirect medical education costs, dis-
11 proportionate share payment adjustments, and di-
12 rect graduate medical education costs.”.

13 (d) USE OF INTERIM FINAL REGULATIONS.—The
14 Secretary of Health and Human Services may issue regu-
15 lations on an interim final basis to implement this title
16 and the amendments made by this title.

17 **SEC. 11116. SOLE COMMUNITY HOSPITALS.**

18 (a) REBASING THE TARGET AMOUNT.—Section
19 1886(b)(3)(C) (42 U.S.C. 13955ww (b)(3)(C)) is amend-
20 ed—

21 (1) by striking “or” at the end of clause (iii),

22 (2) in clause (iv)—

23 (A) by striking “and each subsequent fiscal
24 year”, and

1 (B) by striking the period at the end and
2 adding a comma,

3 (3) by inserting after clause (iv) the following:

4 “(v) with respect to discharges occurring in fis-
5 cal year 1996, the average of—

6 “(I) the allowable operating costs of inpa-
7 tient hospital services (as defined in subsection
8 (a)(4)) recognized under this title for the hos-
9 pital’s cost reporting period (if any) beginning
10 during fiscal year 1992 increased (in a
11 compounded manner) by the applicable percent-
12 age increases applied to such hospital under
13 this paragraph for cost reporting periods begin-
14 ning in fiscal year 1993 and for discharges oc-
15 ccurring in fiscal years 1994, 1995, and 1996,
16 and

17 “(II) the allowable operating costs of inpa-
18 tient hospital services (as defined in subsection
19 (a)(4)) recognized under this title for the hos-
20 pital’s cost reporting period (if any) beginning
21 during fiscal year 1993 increased (in a
22 compounded manner) by the applicable percent-
23 age increase applied to such hospital under this
24 paragraph for discharges occurring in fiscal
25 years 1994, 1995, and 1996, or

1 “(vi) With respect to discharges occurring in
2 fiscal year 1997 and each subsequent fiscal year, the
3 target amount for the preceding year (determined
4 without application of clause (viii)) increased by the
5 applicable percentage increase under subparagraph
6 (B)(iv).”, and

7 (4) by adding at the end the following:

8 “Notwithstanding clauses (v) and (vi), the target amount
9 with respect to discharges occurring in fiscal year 1996
10 and each subsequent fiscal year shall be the higher of the
11 amount determined under clause (v) or (vi) (as applicable)
12 and the target amount with respect to discharges occur-
13 ring in fiscal year 1995 (as determined under clause (iv))
14 increased by the applicable percentage increase under sub-
15 paragraph (B)(iv) for discharges occurring in fiscal year
16 1996. The Secretary may substitute more recent cost re-
17 porting periods for those specified in subclause (v) but no
18 more often than every four fiscal years.”.

19 (b) ELIMINATING THE VOLUME ADJUSTMENT.—Sec-
20 tion 1886(d)(5)(D)(ii) (42 U.S.C. 1395ww(d)(5)(D)(ii)) is
21 amended by striking “In” and inserting “For cost report-
22 ing periods beginning before October 1, 1995, in”.

1 **SEC. 11117. RURAL PRIMARY CARE HOSPITAL PROGRAM.**

2 (a) IN GENERAL.—The heading to section 1820 (42
3 U.S.C. 1395i–4)) is amended to read “RURAL PRIMARY
4 CARE HOSPITAL PROGRAM”.

5 (b) EXPANSION OF PROGRAM TO ALL STATES.—Sec-
6 tion 1820(a)(1) (42 U.S.C. 1395i–4(a)(1)) is amended by
7 striking “not more than 7” after “shall make grants to”.

8 (c) MORATORIUM ON NEW ESSENTIAL ACCESS COM-
9 MUNITY HOSPITAL DESIGNATIONS.—Section 1820 (42
10 U.S.C. 1395i–4)) is amended—

11 (1) in subsections (a)(3) and (b)(1)(C), by
12 striking “essential access community hospitals or”
13 after “as”,

14 (2) in subsection (c)(1)(B), by striking “an es-
15 sential access community hospital” after “is des-
16 igned as”,

17 (3) in subsection (d)(1), by striking “essential
18 access community hospitals or” after “facilities in
19 the State as”,

20 (4) in subsection (d)(2), by striking “or an es-
21 sential access community hospital” after “rural pri-
22 mary care hospital”,

23 (5) by striking subsection (e),

24 (6) in subsection (g)(1), by amending subpara-
25 graph (A) to read as follows:

1 “(A) at least one hospital that is not a
2 rural primary care hospital. and”,

3 (7) in subsection (i)—

4 (A) in the heading, by striking “HOS-
5 PITALS OR” and “BY SECRETARY”,

6 (B) by striking paragraphs (1) and (2)(C),

7 (C) in paragraph (2)(A)(ii), by striking
8 “subparagraph (B)” and inserting “paragraph
9 (2)”,

10 (D) by redesignating paragraph (2) as (1),

11 (E) by striking the subparagraph designa-
12 tion “(B)” and inserting “(2) FACILITIES
13 DESIGNATED BY THE SEC- RETARY.—”,

14 (F) by striking the heading to paragraph
15 (1) (as redesignated by subparagraph (D) of
16 this paragraph) and the subparagraph designa-
17 tion “(A)” and inserting “FACILITIES DES-
18 IGNATED BY THE STATE.—”, and

19 (G) by redesignating clauses (i) through
20 (iii) of paragraph (1) (as redesignated by sub-
21 paragraph (D) of this paragraph) as subpara-
22 graphs (A) through (C), and

23 (8) in paragraphs (1) and (2) of subsection (j),
24 by striking “an essential access community hospital
25 or” each time it appears.

1 (d) CONTINUING PARTICIPATION OF RURAL PRI-
2 MARY CARE HOSPITALS.—Section 1820(h)(1)(A) (42
3 U.S.C. 1395i–4(h)(1)(A)) (as redesignated by subsection
4 (c)(7) of this section) is amended by inserting before the
5 semicolon the following: “(or in a State which the Sec-
6 retary finds would receive a grant under such subsection
7 during a fiscal year if funds were appropriated for grants
8 under such subsection for the fiscal year)”.

9 (e) DESIGNATION OF NONPROFIT OR PUBLIC HOS-
10 PITALS.—Section 1820(f)(1)(A) (42 U.S.C. 1395i–
11 4(f)(1)(A)) is amended by inserting “is a nonprofit or pub-
12 lic hospital, and is” after “(A)”.

13 (f) ESTABLISHING A MINIMUM SEPARATION DIS-
14 TANCE BETWEEN FACILITIES.—Section 1820(f)(1) (42
15 U.S.C. 1395i–4(f)(1)) is amended—

16 (1) by striking “and” at the end of subpara-
17 graph (G),

18 (2) by striking the period at the end of sub-
19 paragraph (H) and adding a semicolon, and

20 (3) by adding at the end the following:

21 “(I) is located at least a 35-mile drive from
22 any rural primary care hospital or hospital, or
23 is certified by the State as being a necessary
24 provider of health care services to residents in

1 the area, because of local geography or service
2 patterns.”.

3 (g) REMOVAL OF REQUIREMENT FOR PRIOR COMPLI-
4 ANCE WITH HOSPITAL STANDARDS.—Section
5 1820(f)(1)(B) (42 U.S.C. 1395i–4(f)(1)(B)) is amended
6 by striking “and had not been found, on the basis of a
7 survey under section 1864, to be in violation of any re-
8 quirement to participate as a hospital under this title”.

9 (h) LIMITATION ON NUMBER OF INPATIENT BEDS.—
10 The matter in section 1820(f)(1)(F) (42 U.S.C. 1395i–
11 4(f)(1)(F)) preceding clause (i) is amended by striking
12 “6” and inserting “15”.

13 (i) LIMITATION ON LENGTH OF INPATIENT STAYS.—
14 Section 1820(f) (42 U.S.C. 1395i–4(f)) is amended—

15 (1) in the matter in paragraph (1)(F) preceding
16 clause (i), by striking “subject to paragraph (4),”,

17 (2) in paragraph (1)(F)(i), by striking “72
18 hours” and inserting “96 hours”, and

19 (3) by striking paragraph (4).

20 (j) CONFORMING CHANGE.—Section 1814(a)(8) (42
21 U.S.C. 1395f(a)(8)) is amended by striking “within 72
22 hours” and inserting “within 96 hours”.

23 (k) PERMITTING RURAL PRIMARY CARE HOSPITALS
24 TO MAINTAIN SWING BEDS.—Section 1820(f)(3) (42
25 U.S.C. 1395i–4(f)(3)) is amended—

1 (1) in the first sentence, by striking everything
2 after “are used for the furnishing of extended care
3 services” up to the period, and

4 (2) by amending the second sentence to read as
5 follows: “Nothing in this subsection shall be con-
6 strued to prohibit a rural primary care hospital from
7 entering into an agreement under section 1883
8 under which its facilities are used for the furnishing
9 of extended care services.”.

10 (l) CONFORMING CHANGE.—Section 1883 (42 U.S.C.
11 1395tt) is amended by striking “hospital” each place it
12 appears and inserting “hospital or rural primary care hos-
13 pital”.

14 (m) CHANGE IN PAYMENT METHODOLOGY.—Section
15 1814(l)(1) (42 U.S.C. 1395f(l)(1)) is amended by striking
16 “services—” and all that follows and inserting “services
17 is the reasonable cost of the rural primary care hospital
18 in providing such services, as determined under section
19 1861(v).”.

20 (n) ELIMINATION OF DEADLINE FOR DEVELOPMENT
21 OF PROSPECTIVE PAYMENT SYSTEM.—Section 1814(l)
22 (42 U.S.C. 1395f(l)(1)) is amended—

23 (1) by striking paragraph (2), and

24 (2) by striking “(l)(1)” and inserting “(l)”.

1 (o) NO CHANGE IN PAYMENT TO EXISTING ESSEN-
2 TIAL ACCESS COMMUNITY HOSPITALS.—Clauses (iii)(III)
3 and (v) of Section 1886(d)(5)(D) (42 U.S.C.
4 1395ww(d)(5)(D)) are each amended by—

5 (1) inserting “was” after “is located in a rural
6 area and”, and

7 (2) inserting “as in effect on the day before ef-
8 fective date of the Balanced Budget Act of 1995 for
9 Economic Growth and Fairness” after “section
10 1820(I)(1)”.

11 (p) CONFORMING AMENDMENT.—Section 1820(e)(3)
12 (42 U.S.C. 1395i–4(e)(3)) is amended by striking
13 “(i)(2)(C)” and inserting “(i)(2)”;

14 (q) TECHNICAL AMENDMENT.—Section
15 1820(f)(1)(A) (42 U.S.C. 1395i–4(f)(1)(A)) is amended
16 by striking “section 1866(d)(2)(D)” and inserting “sec-
17 tion 1886(d)(2)(D)”.

18 **SEC. 11118. RESPITE BENEFIT.**

19 (a) ENTITLEMENT.—Section 1832(a)(2) (42 U.S.C.
20 1395k(a)(2)) is amended by—

21 (1) striking “and” at the end of subparagraph
22 (I),

23 (2) striking the period at the end of subpara-
24 graph (J) and inserting “; and”, and

1 (3) inserting at the end the following new sub-
2 paragraph:

3 “(K) respite services for no more than 32
4 hours each year”.

5 (b) CONDITIONS AND LIMITATIONS ON PAYMENT.—

6 (1) PAYMENT RATE.—Section 1833(a)(2) (42
7 U.S.C. 13951(a)(2)) is amended by—

8 (A) adding a new subparagraph (G) to
9 read as follows:

10 “(G)(i) with respect to respite services,
11 payment shall be made at a rate equal to \$7.50
12 per hour for 1996 and at a rate to be deter-
13 mined by the Secretary in subsequent years;
14 and

15 “(ii) notwithstanding any provisions of sec-
16 tion 1861(v), in the case of respite services fur-
17 nished by a home health agency (or other orga-
18 nization designated by the Secretary pursuant
19 to regulations), payment to the agency or other
20 organization for respite services may not exceed
21 110 percent of the hourly respite allowance
22 times the number of hours of respite for which
23 the agency authorizes payment.”

1 (2) CONDITIONS OF PAYMENT.—Section
2 1835(a)(2) (42 U.S.C. 1395n-(a)(2)) is amended
3 by—

4 (A) striking “and” at the end of subpara-
5 graph (E),

6 (B) striking the period at the end of sub-
7 paragraph (F) and inserting “; and”, and

8 (C) inserting at the end the following new
9 subparagraph:

10 “(G) In the case of respite services, that
11 the individual for whom payment is claimed is
12 severely impaired due to irreversible dementia
13 (the individual has scored three or more errors
14 on the Short Portable Mental Status Question-
15 naire) and either needs assistance in at least
16 one out of five activities of daily living (bathing,
17 dressing, transferring, toileting, and eating) or
18 in at least one out of four instrumental activi-
19 ties of daily living (meal preparation, medica-
20 tion management, money management, and
21 telephoning), or needs constant supervision be-
22 cause of one or more behavioral problems.”

23 (3) FAMILY DESIGNATION OF RESPITE SERV-
24 ICES PROVIDER AND CARE GIVER.—Section

1 1835(a)(2) (42 U.S.C. 1295n(a)(2)) is amended
2 by—

3 (A) by adding at the end the following new
4 sentences: “In the case of respite services which
5 are the subject of the certification described in
6 subparagraph (G), the entity or individual pro-
7 viding the care for which respite is sought shall
8 designate a respite services caregiver either
9 through a home health agency or (if the Sec-
10 retary designates other organizations to provide
11 or arrange for such services) other organization.
12 The agency or organization shall determine the
13 amount of respite entitlement remaining in the
14 calendar year and inform the entity or individ-
15 ual of the extent to which respite services may
16 be authorized. When services have been pro-
17 vided, the entity or individual shall inform the
18 agency or organization, which shall then make
19 payment to the caregiver. Where additional pay-
20 ment is made on behalf of the beneficiary, the
21 agency or organization shall assure the entity
22 or individual is informed of the limits applicable
23 to such amount. No payment may be made
24 under this title for respite services if the charge
25 to the patient per hour for care by respite aides

1 exceeds by more than two dollars the hourly
2 rates established under this title.”

3 (c) DEFINITIONS.—Section 1861 (42 U.S.C. 1395x)
4 is amended—

5 (1) in subsection (m)—

6 (A) by striking “and” at the end of para-
7 graph (6);

8 (B) by adding “and” at the end of para-
9 graph (7); and

10 (C) by inserting after paragraph (7) the
11 following:

12 “(8) respite services as described in subsection
13 (oo);”,

14 (2) in subsection (o)—

15 (A) by striking “and” at the end of para-
16 graph (6);

17 (B) by adding “and” at the end of para-
18 graph (7); and

19 (C) by inserting after paragraph (7) the
20 following:

21 “(8) agrees to provide or arrange for respite
22 services as described in subsection (oo);”, and

23 (3) by adding at the end the following:

24 “(oo) RESPITE SERVICES; RESPITE AIDES; RESPITE
25 PROVIDERS.—

1 “(1) RESPITE SERVICES.—The term ‘respite
2 services’ means temporary care provided to individ-
3 uals who meet the requirements of section
4 1835(a)(2) for the purposes of ensuring periodic
5 time-off for co-resident primary informal caregivers.
6 Although respite providers may provide assistance
7 with personal care and/or household maintenance ac-
8 tivities, their primary function is to provide protec-
9 tive supervision for persons with Alzheimer’s and re-
10 lated dementias whose memory, orientation, judg-
11 ment, and reasoning abilities have become so im-
12 paired that, for safety’s sake , they require the con-
13 stant attention or close physical proximity of another
14 person at all or almost all hours of the day or night.

15 “(2) RESPITE AIDES.—The term ‘respite aides’
16 means individuals who have been designated by the
17 Secretary as qualified to act as caregivers for pur-
18 poses of providing the services described in para-
19 graph (1). Respite aides may be nurse aides as iden-
20 tified in section 1819, home health aides as identi-
21 fied in section 1891, or other individuals licensed by
22 the State or recognized by the Secretary as having
23 the skills necessary to provide such services.

24 “(3) RESPITE PROVIDERS.—The term ‘respite
25 providers’ means organizations identified by the Sec-

1 retary in regulations as qualified to provide or ar-
2 range for respite services under this title. The Sec-
3 retary may establish by regulation any requirements
4 for respite providers as the Secretary determines ap-
5 propriate.”.

6 (d) PAYMENT FROM SUPPLEMENTARY MEDICAL IN-
7 SURANCE TRUST FUND FOR RESPITE SERVICES FUR-
8 NISHED TO INDIVIDUALS WITH ONLY HOSPITAL INSUR-
9 ANCE COVERAGE.—(Section 1812(a) (42 U.S.C. 1395(a))
10 is amended by—

11 (1) striking “and” and the end of paragraph
12 (3),

13 (2) striking the period at the end of paragraph
14 (4), and inserting “; and”, and

15 (3) inserting at the end the following new para-
16 graph:

17 “(5) respite services, described in section
18 1832(a)(2)(K), except that such services shall be
19 furnished under the Supplementary Medical Insur-
20 ance Program.”

21 (e) EXCLUSION OF ADDITIONAL PART B COSTS
22 FROM DETERMINATION OF PART B MONTHLY PRE-
23 MIUM.—Section 1839(a)(5) (42 U.S.C. 1395r(a)), as
24 added by section 11147(f) of this Act, is further amended
25 by—

1 (1) inserting “AND RESPITE BENEFIT” after
2 “HOME HEALTH”, and

3 (2) inserting before the period the following:
4 “and for respite services as described in section
5 1832(a)(2)(K).”

6 (f) SUNSET.—The amendments made by this shall be
7 effective for services furnished through fiscal year 2005.

8 **PART 2—PROVISIONS RELATING TO PART B**

9 **SEC. 11121. PAYMENTS FOR PHYSICIANS’ SERVICES.**

10 (a) ESTABLISHING UPDATE TO CONVERSION FACTOR
11 TO MATCH SPENDING UNDER SUSTAINABLE GROWTH
12 RATE.—

13 (1) UPDATE.—

14 (A) IN GENERAL.—Section 1848(d)(3) (42
15 U.S.C. 1395w-4(d)(3)) is amended to read as
16 follows:

17 “(3) UPDATE.—

18 “(A) IN GENERAL.—Unless Congress oth-
19 erwise provides, subject to subparagraph (E),
20 for purposes of this section the update for a
21 year (beginning with 1997) is equal to the
22 product of—

23 “(i) 1 plus the Secretary’s estimate of
24 the percentage increase in the MEI (de-

1 scribed in section 1842(i)(3)) for the year
2 (divided by 100), and

3 “(ii) 1 plus the Secretary’s estimate of
4 the update adjustment factor for the year
5 (divided by 100),

6 minus 2 and multiplied by 100.

7 “(B) UPDATE ADJUSTMENT FACTOR.—The
8 ‘update adjustment factor’ for a year is equal to
9 the quotient of—

10 “(i) the difference between (I) the
11 sum of the allowed expenditures for physi-
12 cians’ services furnished during each of the
13 years 1995 through the year involved and
14 (II) the sum of the amount of actual ex-
15 penditures for physicians’ services fur-
16 nished during each of the years 1995
17 through the previous year, divided by

18 “(ii) the Secretary’s estimate of al-
19 lowed expenditures for physicians’ services
20 furnished during the year.

21 “(C) DETERMINATION OF ALLOWED EX-
22 PENDITURES.—For purposes of subparagraph
23 (B), allowed expenditures for physicians’ serv-
24 ices shall be determined as follows (as esti-
25 mated by the Secretary):

1 “(i) 1995.—In the case of allowed ex-
2 penditures for 1995, such expenditures
3 shall be equal to actual expenditures for
4 services furnished during the 12-month pe-
5 riod ending with June 30, 1995.

6 “(ii) 1996 AND LATER YEARS.—In the
7 case of allowed expenditures for 1996 and
8 each subsequent year, such expenditures
9 shall be equal to allowed expenditures for
10 the previous year, increased by the sustain-
11 able growth rate under subsection (f) for
12 the fiscal year which begins during the
13 year.

14 “(D) DETERMINATION OF ACTUAL EX-
15 PENDITURES.—For purposes of subparagraph
16 (B), the amount of actual expenditures for phy-
17 sicians’ services furnished during a year shall
18 be equal to the amount of expenditures for such
19 services during the 12-month period ending
20 with June of the previous year.

21 “(E) RESTRICTION ON VARIATION FROM
22 MEDICARE ECONOMIC INDEX.—Notwithstanding
23 the amount of the update adjustment factor de-
24 termined under subparagraph (B), the update

1 in the conversion factor under this paragraph
2 for a year may not be—

3 “(i) greater than 103 percent of 1
4 plus the Secretary’s estimate of the per-
5 centage increase in the MEI (described in
6 section 1842(i)(3)) for the year (divided by
7 100), minus 1 and multiplied by 100, or

8 “(ii) less than 93 percent of 1 plus
9 the Secretary’s estimate of the percentage
10 increase in the MEI (described in section
11 1842(i)(3)) for the year (divided by 100),
12 minus 1 and multiplied by 100.”.

13 (B) EFFECTIVE DATE.—The amendments
14 made by subparagraph (A) apply to physicians’
15 services furnished on or after January 1, 1997.

16 (2) CONFORMING AMENDMENTS.—

17 (A) SECTION 1848(d)(2).—Section
18 1848(d)(2)(A) (42 U.S.C. 1395w-4(d)(2)(A)) is
19 amended—

20 (i) in the matter preceding clause

21 (i)—

22 (I) by striking “(or updates) in
23 the conversion factor (or factors)”
24 and inserting “in the conversion fac-
25 tor”,

1 (II) by striking “(beginning with
2 1991)” and inserting “(beginning
3 with 1996)”, and

4 (III) by striking the second sen-
5 tence,

6 (ii) by amending clause (ii) to read as
7 follows:

8 “(ii) such factors as enter into the
9 calculation of the update adjustment factor
10 as described in paragraph (3)(B); and ”,

11 (iii) by amending clause (iii) to read
12 as follows:

13 “(iii) access to services.”,

14 (iv) by striking clauses (iv), (v), and
15 (vi), and

16 (v) by striking the last sentence.

17 (B) SECTION 1848(d)(2)(b).—Section
18 1848(d)(2)(B) (42 U.S.C. 1395w-4(d)(2)(B))
19 is amended—

20 (i) by striking “and” at the end of
21 clause (iii),

22 (ii) by striking the period at the end
23 of clause (iv) and adding “; and”, and

24 (iii) by adding at the end the follow-
25 ing new clause:

1 “(v) changes in volume or intensity of
2 services.”.

3 (C) REDESIGNATION OF SUBPARA-
4 GRAPH.—Section 1848(d)(2) (42 U.S.C.
5 1395w-4(d)(2)) is further amended—

6 (i) by striking subparagraphs (C),
7 (D), and (E),

8 (ii) by redesignating striking subpara-
9 graph (F) as subparagraph (C), and

10 (iii) in subparagraph (C), as redesign-
11 ated, by striking “(or updates) in the con-
12 version factor (or factors)” and inserting
13 “in the conversion factor”.

14 (b) REPLACEMENT OF VOLUME PERFORMANCE
15 STANDARD WITH SUSTAINABLE GROWTH RATE.—

16 (1) IN GENERAL.—Section 1848(f) (42 U.S.C.
17 1395w-4(f)) is amended by striking paragraphs (2)
18 through (5) and inserting the following:

19 “(2) SPECIFICATION OF GROWTH RATE.—

20 “(A) FISCAL YEAR 1996.—The sustainable
21 growth rate for all physicians’ services for fiscal
22 year 1996 shall be equal to the product of—

23 “(i) 1 plus the Secretary’s estimate of
24 the percentage increase in the MEI (de-

1 scribed in section 1842(i)(3)) for 1996 (di-
2 vided by 100),

3 “(ii) 1 plus the Secretary’s estimate of
4 the percentage change (divided by 100) in
5 the average number of individuals enrolled
6 under this part (other than private plan
7 enrollees) from fiscal year 1995 to fiscal
8 year 1996,

9 “(iii) 1 plus the Secretary’s estimate
10 of the projected percentage growth in real
11 gross domestic product per capita (divided
12 by 100) from fiscal year 1995 to fiscal
13 year 1996, plus 1 percentage point, and

14 “(iv) 1 plus the Secretary’s estimate
15 of the percentage change (divided by 100)
16 in expenditures for all physicians’ services
17 in fiscal year 1996 (compared with fiscal
18 year 1995) which will result from changes
19 in law (including the Balanced Budget Act
20 of 1995 for Economic Growth and Fair-
21 ness), determined without taking into ac-
22 count estimated changes in expenditures
23 due to changes in the volume and intensity
24 of physicians’ services or change in expend-
25 itures resulting from changes in the update

1 to the conversion factor under subsection
2 (d),
3 minus 1 and multiplied by 100.

4 “(B) SUBSEQUENT YEARS.—The sustain-
5 able growth rate for all physicians’ services for
6 fiscal year 1997 and each subsequent year shall
7 be equal to the product of—

8 “(i) 1 plus the Secretary’s estimate of
9 the percentage increase in the MEI for the
10 fiscal year involved (described in section
11 1842(i)(3)) (divided by 100),

12 “(ii) 1 plus the Secretary’s estimate of
13 the percentage change (divided by 100) in
14 the average number of individuals enrolled
15 under this part (other than private plan
16 enrollees) from the previous fiscal year to
17 the fiscal year involved,

18 “(iii) 1 plus the Secretary’s estimate
19 of the projected percentage growth in real
20 gross domestic product per capita (divided
21 by 100) from the previous fiscal year to
22 the fiscal year involved, plus 1 percentage
23 point, and

24 “(iv) 1 plus the Secretary’s estimate
25 of the percentage change (divided by 100)

1 in expenditures for all physicians' services
2 in the fiscal year (compared with the pre-
3 vious fiscal year) which will result from
4 changes in law, determined without taking
5 into account estimated changes in expendi-
6 tures due to changes in the volume and in-
7 tensity of physicians' services or change in
8 expenditures resulting from changes in the
9 update to the conversion factor under sub-
10 section (d), minus 1 and multiplied by 100.

11 “(3) DEFINITIONS.—In this subsection:

12 “(A) SERVICES INCLUDED IN PHYSICIANS’
13 SERVICES.—The term ‘physicians’ services’ in-
14 cludes other items and services (such as clinical
15 diagnostic laboratory test and radiology serv-
16 ices), specified by the Secretary, that are com-
17 monly performed or furnished by a physician or
18 in a physician’s office, but does not include
19 services furnished to an eligible organization en-
20 rollee.

21 “(B) ELIGIBLE ORGANIZATION EN-
22 ROLLEE.—The term ‘eligible organization en-
23 rollee’ means, with respect to a fiscal year, an
24 individual enrolled under this part who has
25 elected to receive benefits under this title

1 through an eligible organization with a contract
2 under part C (and, through 2000, enrollment
3 with an organization with a contract under sec-
4 tion 1876(h).”.

5 (2) CONFORMING AMENDMENTS.—Section
6 1848(f) (42 U.S.C. 1395w-4(f)) is amended—

7 (A) in the heading, by striking “VOLUME
8 PERFORMANCE STANDARD RATES OF IN-
9 CREASE” and inserting “SUSTAINABLE GROWTH
10 RATE”,

11 (B) in paragraph (1)—

12 (i) in the heading, by striking “VOL-
13 UME PERFORMANCE STANDARD RATES OF
14 INCREASE” and inserting “SUSTAINABLE
15 GROWTH RATE”,

16 (ii) in subparagraph (A), in the mat-
17 ter preceding clause (i), by striking “per-
18 formance standard rates of increase” and
19 inserting “sustainable growth rate”, and

20 (iii) in subparagraph (A), by striking
21 “HMO enrollees” each place it appears
22 and inserting “eligible organization enroll-
23 ees”,

1 (C) in subparagraph (B), by striking “per-
2 formance standard rates of increase” and in-
3 serting “sustainable growth rate”, and

4 (D) in subparagraph (C)—

5 (i) in the heading, by striking “PER-
6 FORMANCE STANDARD RATES OF IN-
7 CREASE” and inserting “SUSTAINABLE
8 GROWTH RATE”,

9 (ii) in the first sentence, by striking
10 “with 1991), the performance standard
11 rates of increase” and all that follows
12 through the first period and inserting
13 “with 1997), the sustainable growth rate
14 for the fiscal year beginning in that year.”,
15 and

16 (iii) in the second sentence, by strik-
17 ing “January 1, 1990, the performance
18 standard rate of increase under subpara-
19 graph (D) for fiscal year 1990” and insert-
20 ing “January 1, 1997, the sustainable
21 growth rate for fiscal year 1997”.

22 (c) ESTABLISHMENT OF SINGLE CONVERSION FAC-
23 TOR FOR 1996.—

24 (1) IN GENERAL.—Section 1848(d)(1) (42
25 U.S.C. 1395w-4(d)(1)) is amended—

1 (A) by redesignating subparagraph (C) as
2 subparagraph (D), and

3 (B) by inserting after subparagraph (B)
4 the following:

5 “(C) SPECIAL RULE FOR 1996.—For
6 1996, the conversion factor under this sub-
7 section shall be \$35.42 for all physicians’
8 services, except that, for surgical services
9 (as defined in subsection (j)(i), the conver-
10 sion factor for 1996 shall be \$38.10.”.

11 (2) CONFORMING AMENDMENTS.—Section 1848
12 (42 U.S.C. 1395w-4) is amended—

13 (A) by striking “(or factors)” each place it
14 appears in subsection (d)(1)(A) and
15 (d)(1)(D)(ii) (as redesignated by paragraph
16 (1)(a),

17 (B) in subsection (d)(1)(A), by striking “or
18 updates”,

19 (C) in subsection (d)(1)(D)(ii) (as redesign-
20 ated by paragraph (1)(A)), by striking “(or
21 updates)”, and

22 (D) in subsection (i)(1)(C), by striking
23 “conversion factors” and inserting “the conver-
24 sion factor”.

1 **SEC. 11122. PRACTICE EXPENSE RELATIVE VALUE UNITS.**

2 (a) EXTENSION TO 1997.—Section 1848(c)(2)(E)(i)
3 (42 U.S.C. 1395w-4(c)(2)(E)(i)) is amended—

4 (1) by striking “and” at the end of subclause
5 (II),

6 (2) by striking the period at the end of
7 subclause (III) and inserting “, and”, and

8 (3) by inserting at the end the following:

9 “(IV) 1997, by an additional 25 percent of
10 such excess.”

11 (b) CHANGE IN FLOOR ON REDUCTIONS AND SERV-
12 ICES COVERED.—Clauses (ii) and (iii)(II) of Section
13 1848(c)(2)(E) (42 U.S.C. 1395w-4(c)(2)(E)) are each
14 amended by inserting “(or 115 percent in the case of
15 1997)” after “128 percent”.

16 **SEC. 11123. SINGLE FEE FOR SURGERY.**

17 (a) IN GENERAL.—Section 1848(a) (42 U.S.C.
18 1395w-4(a)) is amended by adding at the end the follow-
19 ing:

20 “(5) SINGLE FEE FOR SURGERY.—

21 “(A) GENERAL RULE.—Payment under
22 this part for surgical services (as defined by the
23 Secretary under subsection (j)(1)), when a sep-
24 arate payment is also made for the services of
25 a physician or physician assistant acting as an
26 assistant at surgery, may not (except as pro-

1 vided in subparagraph (B)), when added to the
 2 separate payment made for the services of that
 3 other practitioner, exceed the amount that
 4 would be paid for the surgical services if a sepa-
 5 rate payment were not made for the services of
 6 that practitioner.

7 “(B) EXCEPTIONS.—The Secretary may
 8 specify surgery procedures or situations to
 9 which subparagraph (A) shall not apply.”

10 (b) CONFORMING AMENDMENT.—Section
 11 1848(g)(2)(D) (42 U.S.C. 1395w-4(g)(2)(D)) is amended
 12 by inserting “(or the lower amount under subsection
 13 (a)(5))” after “subsection (a)”.

14 (c) EFFECTIVE DATE.—The amendments made by
 15 the preceding subsections apply to services furnished on
 16 or after January 1, 1996.

17 **SEC. 11124. INCENTIVES TO CONTROL HIGH VOLUME FOR**
 18 **IN-HOSPITAL PHYSICIANS’ SERVICES.**

19 (a) IN GENERAL.—

20 (1) LIMITATIONS DESCRIBED.—Part B of title
 21 XVIII is amended by adding at the end the follow-
 22 ing:

23 **“SEC. 1849. INCENTIVES TO CONTROL HIGH VOLUME FOR**
 24 **IN-HOSPITAL PHYSICIANS’ SERVICES.**

25 “(a) SERVICES SUBJECT TO REDUCTION.—

1 “(1) DETERMINATION OF HOSPITAL-SPECIFIC
2 PER ADMISSION RELATIVE VALUE.—Not later than
3 October 1 of each year (beginning with 1998), the
4 Secretary shall determine for each hospital—

5 “(A) the hospital-specific per admission
6 relative value under subsection (b)(2) for the
7 following year, and

8 “(B) whether such hospital-specific relative
9 value is projected to exceed the allowable aver-
10 age per admission relative value applicable to
11 the hospital for the following year under sub-
12 section (b)(1).

13 “(2) REDUCTION FOR SERVICES AT HOSPITALS
14 EXCEEDING ALLOWABLE AVERAGE PER ADMISSION
15 RELATIVE VALUE.—If the Secretary determines
16 (under paragraph (1)) that a medical staff’s hos-
17 pital-specific per admission relative value for a year
18 (beginning with 1999) is projected to exceed the al-
19 lowable average per admission relative value applica-
20 ble to the medical staff for the year, the Secretary
21 shall reduce (in accordance with subsection (c)) the
22 amount of payment otherwise determined under this
23 part for each physician’s service furnished during
24 the year to an inpatient of the hospital by an indi-

1 vidual who is a member of the hospital’s medical
2 staff.

3 “(3) TIMING OF DETERMINATION; NOTICE TO
4 MEDICAL STAFFS AND CARRIERS.—Not later than
5 October 1 of each year (beginning with 1998), the
6 Secretary shall notify the medical executive commit-
7 tee of each hospital (as set forth in the Standards
8 of the Joint Commission on the Accreditation of
9 Health Organizations) of the determinations made
10 with respect to the medical staff under paragraph
11 (1).

12 “(b) DETERMINATION OF ALLOWABLE AVERAGE PER
13 ADMISSION RELATIVE VALUE AND HOSPITAL—SPECIFIC
14 PER ADMISSION RELATIVE VALUES.—

15 “(1) ALLOWABLE AVERAGE PER ADMISSION
16 RELATIVE VALUE.—

17 “(A) URBAN HOSPITALS.—In the case of a
18 hospital located in an urban area, the allowable
19 average per admission relative value established
20 under this subsection for 1999 and 2000 is
21 equal to 125 percent and for years after 2000
22 is 120 percent of the median of 1997 hospital-
23 specific per admission relative values deter-
24 mined under paragraph (2) for all hospital
25 medical staffs.

1 “(B) RURAL HOSPITALS.—In the case of a
2 hospital located in a rural area, the allowable
3 average per admission relative value established
4 under this subsection for 1999 and each suc-
5 ceeding year, is equal to 140 percent of the me-
6 dian of the 1997 hospital-specific per admission
7 relative values determined under paragraph (2)
8 for all hospital medical staffs.

9 “(2) HOSPITAL-SPECIFIC PER ADMISSION REL-
10 ATIVE VALUE.—

11 “(A) IN GENERAL.—The hospital-specific
12 per admission relative value projected for a hos-
13 pital (other than a teaching hospital) for a cal-
14 endar year, shall be equal to the average per
15 admission relative value (as determined under
16 section 1848(c)(2)) for physicians’ services fur-
17 nished to inpatients of the hospital by the hos-
18 pital’s medical staff (excluding interns and resi-
19 dents) during the second year preceding such
20 calendar year, adjusted for variations in case-
21 mix and disproportionate share status among
22 hospitals (as determined by the Secretary under
23 subparagraph (C)).

24 “(B) SPECIAL RULE FOR TEACHING HOS-
25 PITALS.—The hospital-specific relative value

1 projected for a teaching hospital in a calendar
2 year shall be equal to the sum of—

3 “(i) the average per admission relative
4 value (as determined under section
5 1848(c)(2)) for physicians’ services fur-
6 nished to inpatients of the hospital by the
7 hospital’s medical staff (excluding interns
8 and residents) during the second year pre-
9 ceding such calendar year, and

10 “(ii) the equivalent per admission rel-
11 ative value (as determined under section
12 1848(c)(2)) for physicians’ services fur-
13 nished to inpatients of the hospital by in-
14 terns and residents of the hospital during
15 the second year preceding such calendar
16 year, adjusted for variations in case-mix,
17 disproportionate share status, and teaching
18 status among hospitals (as determined by
19 the Secretary under subparagraph (C)).
20 The Secretary shall determine such equiva-
21 lent relative value unit per admission for
22 interns and residents based on the best
23 available data and may make such adjust-
24 ment in the aggregate.

1 “(C) ADJUSTMENT FOR TEACHING AND
2 DISPROPORTIONATE SHARE HOSPITALS.—The
3 Secretary shall adjust the allowable per admis-
4 sion relative values otherwise determined under
5 this paragraph to take into account the needs
6 of teaching hospitals and hospitals receiving ad-
7 ditional payments under subparagraphs (F) and
8 (G) of section 1886(d)(5). The adjustment for
9 teaching status or disproportionate share shall
10 not be less than zero.

11 “(c) AMOUNT OF REDUCTION.—The amount of pay-
12 ment otherwise made under this part for a physician’s
13 service that is subject to a reduction under subsection (a)
14 during a year shall be reduced 15 percent, in the case of
15 a service furnished by a member of the medical staff of
16 the hospital for which the Secretary determines under sub-
17 section (a)(1) that the hospital medical staff’s projected
18 relative value per admission exceeds the allowable average
19 per admission relative value.

20 “(d) RECONCILIATION OF REDUCTIONS BASED ON
21 HOSPITAL-SPECIFIC RELATIVE VALUE PER ADMISSION
22 WITH ACTUAL RELATIVE VALUES.—

23 “(1) DETERMINATION OF ACTUAL AVERAGE
24 PER ADMISSION RELATIVE VALUE.—Not later than
25 October 1 of each year (beginning with 2000), the

1 Secretary shall determine the actual average per ad-
2 mission relative value (as determined pursuant to
3 section 1848(c)(2)) for the physicians' services fur-
4 nished by members of a hospitals medical staff to in-
5 patients of the hospital during the previous year, on
6 the basis of claims for payment for such services
7 that are submitted to the Secretary not later than
8 90 days after the last day of such previous year. The
9 actual average per admission relative value shall be
10 adjusted by the appropriate case-mix, disproportion-
11 ate share factor, and teaching factor for the hospital
12 medical staff (as determined by the Secretary under
13 subsection (b)(2)(C)). Notwithstanding any other
14 provision of this title, no payment may be made
15 under this part for any physician's service furnished
16 by a member of a hospital's medical staff to an inpa-
17 tient of the hospital during a year unless such claim
18 is submitted to the Secretary for payment for such
19 service not later than 90 days after the last day of
20 the year.

21 “(2) RECONCILIATION WITH REDUCTIONS
22 TAKEN.—In the case of a hospital for which the pay-
23 ment amounts for physicians' services furnished by
24 members of the hospital's medical staff to inpatients

1 of the hospital were reduced under this section for
2 a year—

3 “(A) if the actual average per admission
4 relative value for such hospital’s medical staff
5 during the year (as determined by the Secretary
6 under paragraph (1)) did not exceed the allow-
7 able average per admission relative value appli-
8 cable to the hospital’s medical staff under sub-
9 section (b)(1) for the year, the Secretary shall
10 reimburse the fiduciary agent for the medical
11 staff by the amount by which payments for
12 such services were reduced for the year under
13 subsection (c), including interest at an appro-
14 priate rate determined by the Secretary;

15 “(B) if the actual average per admission
16 relative value for such hospital’s medical staff
17 during the year exceeded the allowable average
18 per admission relative value applicable to the
19 hospital’s medical staff under subsection (a)(1)
20 for the year, the Secretary shall reimburse the
21 fiduciary agent for the medical staff the amount
22 withheld under subsection (c) multiplied by the
23 ‘final ratio’, including interest at an appropriate
24 rate determined by the Secretary. The final
25 ratio described in the previous sentence shall be

1 determined by dividing the difference between
2 the initial ratio and 0.85, by 0.15, where the
3 initial ratio is determined by dividing the medi-
4 cal staff's allowable average per admission rel-
5 ative value for a year (as determined under sub-
6 section (a)(1)) by the medical staff's actual hos-
7 pital-specific per admission relative value for
8 such year, but in no case shall the initial ratio
9 be less than 0.85.

10 “(3) MEDICAL EXECUTIVE COMMITTEE OF A
11 HOSPITAL.—Each medical executive committee of a
12 hospital whose medical staff is projected to exceed
13 the allowable relative value per admission for a year,
14 shall have one year from the date of notification that
15 such medical staff is projected to exceed the allow-
16 able relative value per admission to designate a fidu-
17 ciary agent for the medical staff to receive and dis-
18 burse any appropriate withhold amount made by the
19 carrier.

20 “(4) ALTERNATIVE REIMBURSEMENT TO MEM-
21 BERS OF STAFF.—At the request of a fiduciary
22 agent for the medical staff, if the fiduciary agent for
23 the medical staff is owed the reimbursement de-
24 scribed in paragraph (2)(B) for excess reductions in
25 payments during a year, the Secretary shall make

1 such reimbursement to the members of the hospital's
2 medical staff, on a pro-rata basis according to the
3 proportion of expenditures for physicians' services
4 furnished to inpatients of the hospital during the
5 year that were furnished by each member of the
6 medical staff.

7 “(e) DEFINITIONS.—In this section, the following
8 definitions apply:

9 “(1) MEDICAL STAFF.—An individual furnish-
10 ing a physician's service is considered to be on the
11 medical staff of a hospital—

12 “(A) if (in accordance with requirements
13 for hospitals established by the Joint Commis-
14 sion on Accreditation of Health Organiza-
15 tions)—

16 “(i) the individual is subject to by-
17 laws, rules, and regulations established by
18 the hospital to provide a framework for the
19 self-governance of medical staff activities,

20 “(ii) subject to such bylaws, rules, and
21 regulations, the individual has clinical
22 privileges granted by the hospital's govern-
23 ing body, and

24 “(iii) under such clinical privileges,
25 the individual may provide physicians'

1 services independently within the scope of
2 the individual's clinical privileges, or

3 “(B) if such physician provides at least one
4 service to a medicare beneficiary in such hos-
5 pital.

6 “(2) RURAL AREA; URBAN AREA.—The terms
7 ‘rural area’ and ‘urban area’ have the meaning given
8 such terms under section 1886(d)(2)(D).

9 “(3) TEACHING HOSPITAL.—The term ‘hos-
10 pital’ means a hospital which has a teaching pro-
11 gram approved as specified in section 1861(b)(6).

12 “(4) HOSPITAL.—The term ‘hospital’ means a
13 subsection (d) hospital as defined in section 1886(d).

14 “(5) PHYSICIANS’ SERVICES.—The term ‘physi-
15 cians’ services’ means those services described in
16 section 1848(j)(3).

17 (2) CONFORMING AMENDMENTS.—

18 (A) SECTION 1833 (a).—Section
19 1833(a)(1)(N) (42 U.S.C. 13951(a)(1)(N)) is
20 amended by inserting “(subject to reduction
21 under section 1849)” after “1848(a)(1)”.

22 (B) SECTION 1848 (a).—Section
23 1848(a)(1)(B) (42 U.S.C. 1395w-4(a)(1)(B)) is
24 amended by striking “this subsection,” and in-
25 serting “this subsection and section 1849,”.

1 (b) REQUIRING PHYSICIANS TO IDENTIFY HOSPITAL
2 AT WHICH SERVICE FURNISHED.—Section
3 1848(g)(4)(A)(i) (42 U.S.C. 1395w-4(g)(4)(A)(i)) is
4 amended by striking “beneficiary,” and inserting “bene-
5 ficiary (and, in the case of a service furnished to an inpa-
6 tient of a hospital, report the hospital identification num-
7 ber on such claim form),”.

8 (c) EFFECTIVE DATES.—

9 (1) SUBSECTION (a).—The amendments made
10 by subsection (a) apply to services furnished on or
11 after January 1, 1999.

12 (2) SUBSECTION (b).—The amendments made
13 by subsection (b) apply to services furnished on or
14 after January 1, 1998.

15 **SEC. 11125. AMBULATORY SURGICAL CENTER SERVICE UP-**
16 **DATES.**

17 Section 1833(i)(2)(C) (42 U.S.C. 13951(i)(2)(C)) is
18 amended—

19 (1) by striking “1996” and inserting “2003”,
20 and

21 (2) by inserting after the subparagraph des-
22 ignation “(C)” the following: “Notwithstanding the
23 second sentence of subparagraph (A) or the second
24 sentence of subparagraph (B), with respect to fiscal
25 years 1996 through 2002, the Secretary shall in-

1 crease amounts for facility services by the percent-
2 age increase in the consumer price index for all
3 urban consumers (U.S. city average) as estimated by
4 the Secretary for the 12-month period ending with
5 the midpoint of the year involved, reduced by two
6 percentage points.”

7 **SEC. 11126. OXYGEN AND OXYGEN EQUIPMENT.**

8 (a) IN GENERAL.—Section 1834(a)(9)(C) (42 U.S.C.
9 1395m(a)(9)(C)) is amended—

10 (1) by striking “and” at the end of clause (iii),

11 (2) in clause (iv)—

12 (A) by striking “a subsequent year” and
13 inserting “1993, 1994, and 1995”, and

14 (B) by striking the period at the end and
15 adding “; and”, and

16 (3) by adding at the end the following:

17 “(v) in each of year beginning with
18 1996 is the national limited monthly pay-
19 ment rate computed under subparagraph
20 (B) for the item for the year reduced by
21 the applicable percentage described in sub-
22 paragraph (D) (but in no case may the
23 amount determined under this clause be
24 less than 70 percent of such national lim-
25 ited payment rate).”.

1 (b) APPLICABLE PERCENTAGE DESCRIBED.—Section
 2 1834(a)(9) (42 U.S.C. 1395m(a)(9)) is amended by add-
 3 ing at the end the following:

4 “(D) APPLICABLE PERCENTAGE DE-
 5 SCRIBED.—In clause (v) of subparagraph (C),
 6 the ‘applicable percentage’ with respect to a
 7 year described in that clause is—

8 “(i) for 1996, 20 percent,

9 “(ii) for 1997, 21 $\frac{2}{3}$ percent,

10 “(iii) for 1998, 23 $\frac{1}{3}$ percent,

11 “(iv) for 1999, 25 percent,

12 “(v) for 2000, 26 $\frac{2}{3}$ percent,

13 “(vi) for 2001, 28 $\frac{1}{3}$ percent, and

14 “(vii) for 2002 and thereafter, 30 per-
 15 cent.”.

16 **SEC. 11127. PAYMENT LIMITS FOR HMOS AND CMPS WITH**
 17 **RISK CONTRACTS.**

18 (a) IN GENERAL.—Section 1851F(e)(2)(C) (as added
 19 by subtitle B of this title) is amended—

20 (1) by inserting “, subject to adjustment to
 21 take into account the provisions of the succeeding
 22 clauses” before the period,

23 (2) by striking “The annual” and inserting “(i)

24 IN GENERAL.—The annual”, and

1 (3) by adding at the end the following new
2 clauses:

3 “(ii) CEILING.—The portion of the annual per
4 capita rate of payment for each such class attrib-
5 utable to payments made from the Federal Supple-
6 mentary Medical Insurance Trust Fund may not ex-
7 ceed 95 percent of the following amount (unless the
8 portion of the annual per capita rate of payment for
9 each such class attributable to payments made from
10 the Federal Hospital Insurance Trust Fund is less
11 than 95 percent of the weighted national average of
12 all adjusted average per capita costs determined
13 under paragraph (4) for that class that are attrib-
14 utable to payments made from the Federal Hospital
15 Insurance Trust Fund):

16 “(I) 1996.—For 1996, 150 percent of the
17 weighted national average of all adjusted aver-
18 age per capita costs determined under para-
19 graph (4) for that class that are attributable to
20 payments made from such Trust Fund, plus 80
21 percent of the amount by which (if any) the ad-
22 justed average per capita cost for that class ex-
23 ceeds 150 percent of that weighted national av-
24 erage.

1 “(II) 1997.—For 1997, 150 percent of the
2 weighted national average of all adjusted aver-
3 age per capita costs determined under para-
4 graph (4) for that class that are attributable to
5 payments made from such Trust Fund, plus 60
6 percent of the amount by which (if any) the ad-
7 justed average per capita cost for that class ex-
8 ceeds 150 percent of that weighted national av-
9 erage.

10 “(III) 1998.—For 1998, 150 percent of
11 the weighted national average of all adjusted
12 average per capita costs determined under para-
13 graph (4) for that class that are attributable to
14 payments made from such Trust Fund, plus 40
15 percent of the amount by which (if any) the ad-
16 justed average per capita cost for that class ex-
17 ceeds 150 percent of that weighted national av-
18 erage.

19 “(IV) 1999.—For 1999, 150 percent of
20 the weighted national average of all adjusted
21 average per capita costs determined under para-
22 graph (4) for that class that are attributable to
23 payments made from such Trust Fund, plus 20
24 percent of the amount by which (if any) the ad-
25 justed average per capita cost for that class ex-

1 ceeds 150 percent of that weighted national av-
2 erage.

3 “(V) 2000 AND LATER YEARS.—For 2000
4 and each succeeding year (subject to the estab-
5 lishment by the Secretary of alternative limits
6 under clause (vi)), 150 percent of the weighted
7 national average of all adjusted average per
8 capita costs determined under paragraph (4)
9 for that class that are attributable to payments
10 made from such Trust Fund.

11 “(iii) FLOOR.—For 1996 and succeeding years,
12 the portion of the annual per capita rate of payment
13 for each such class attributable to payments made
14 from the Federal Supplementary Medical Insurance
15 Trust Fund may not be less than 80 percent of 95
16 percent of the weighted national average of all ad-
17 justed average per capita costs determined under
18 paragraph (4) for that class that are attributable to
19 payments made from such Trust Fund, unless the
20 portion of the annual per capita rate of payment for
21 each such class attributable to payments made from
22 the Federal Hospital Insurance Trust Fund is great-
23 er than 95 percent of the weighted national average
24 of all adjusted average per capita costs determined
25 under paragraph (4) for that class that are attrib-

1 utable to payments made from the Federal Hospital
2 Insurance Trust Fund.

3 “(iv) FUTURE REVISIONS.—For 2001 and suc-
4 ceeding years, the Secretary may revise any of the
5 percentages otherwise applicable during a year under
6 the preceding clauses (other than clause (i)), but
7 only if the aggregate payments made under this title
8 to eligible organizations under risk-sharing contracts
9 during the year is not greater than the aggregate
10 payments that would have been made under this title
11 to such organizations during the year if the Sec-
12 retary had not revised the percentages.

13 “(v) DISREGARD OF ESRD COSTS.—For pur-
14 poses of clauses (ii) and (iii), in determining the
15 weighted average of all adjusted average per capita
16 costs determined under paragraph (4) for a class,
17 the Secretary shall not take into account any costs
18 associated with individuals entitled to benefits under
19 this title under section 226A.”.

20 (b) CONFORMING AMENDMENT.—Section 1851F(e)
21 (as added by subtitle B of this title)) is amended by insert-
22 ing “, adjusted to take into account the limitations im-
23 posed by clauses (ii) through (iv) of paragraph (2)(C)”
24 before the period.

1 **SEC. 11128. WAIVE COST-SHARING FOR MAMMOGRAPHY.—**

2 (a) **DIAGNOSTIC MAMMOGRAPHY.**—Section 1861(s)
3 (42 U.S.C. 1395x(s)) is amended—

4 (1) in paragraph (3), by striking “including di-
5 agnostic mammography if conducted by a facility
6 that has a certificate (or provisional certificate) is-
7 sued under section 354 of the Public Health Service
8 Act”,

9 (2) by striking “and” at the end of paragraph
10 (15),

11 (3) by striking the period at the end of para-
12 graph (16) and inserting “; and”, and

13 (4) by adding at the end the following:

14 “(17) diagnostic mammography, if conducted
15 by a facility that has a certificate (or provisional cer-
16 tificate) issued under section 354 of the Public
17 Health Service Act.”.

18 (b) **PAYMENT FOR SCREENING MAMMOGRAPHY.**—
19 Section 1834(c)(1)(C) (42 U.S.C. 1395m(c)(1)(C)) is
20 amended by striking “, subject to the deductible estab-
21 lished under section 1833(b),” and “80 percent of”.

22 (c) **WAIVER OF DEDUCTIBLE.**—The first sentence of
23 section 1833(b) (42 U.S.C. 1395l(b)) is amended by—

24 (1) striking “and” before “(4)”, and

25 (2) inserting the following before the period: “,
26 and (5) such deductible shall not apply with respect

1 to screening and diagnostic mammography described
2 in section 1861(s)(13) and section 1861(s)(17).”

3 (d) WAIVER OF COINSURANCE.—Section 1833(a)(1)
4 (42 U.S.C. 1395l(a)(1)) is amended by—

5 (1) striking “and” at the end of clause (O),

6 (2) inserting after clause (P) the following: “,

7 and

8 “(Q) with respect to diagnostic mammography
9 described in section 1861(s)(17), the amount paid
10 shall be 100 percent of the fee schedule amount pro-
11 vided under section 1848.”.

12 (e) WAIVER OF COINSURANCE IN HOSPITAL OUT-
13 PATIENT DEPARTMENTS.—The third sentence of section
14 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended by
15 inserting after “1861(s)(10)(A)” the following: “, with re-
16 spect to items and services described in section
17 1861(s)(13), with respect to items and services described
18 in section 1861(s)(17),”.

19 (f) EFFECTIVE DATE.—The amendments made by
20 the preceding subsections apply to services furnished on
21 or after January 1, 1997.

22 **SEC. 11129. ANNUAL MAMMOGRAMS.**

23 (a) PROVIDING ANNUAL SCREENING MAMMOGRAPHY
24 FOR WOMEN OVER AGE 49.—Section 1834(c)(2)(A) (42
25 U.S.C. 1395m) (c)(2)(A) is amended—

1 (1) in clause (iv), by striking “but under 63
2 years of age,” and

3 (2) by striking clause (v).

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) applies to services furnished on or after
6 January 1, 1997.

7 **SEC. 11130. COVERAGE OF COLORECTAL SCREENING.**

8 (a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m)
9 is amended by inserting after subsection (c) the following:

10 “(d) FREQUENCY AND PAYMENT LIMITS FOR
11 SCREENING FECAL-OCCULT BLOOD TESTS, SCREENING
12 FLEXIBLE SIGMOIDOSCOPIES AND SCREENING
13 COLONOSCOPY.—

14 “(1) FREQUENCY LIMITS FOR SCREENING
15 FECAL-OCCULT BLOOD TESTS.—Subject to revision
16 by the Secretary under paragraph (4), no payment
17 may be made under this part for a screening fecal-
18 occult blood test provided in an individual for the
19 purpose of early detection of colon cancer if the test
20 is performed—

21 “(A) in the case of an individual under 65
22 years of age, more frequently than is provided
23 in a periodicity schedule established by the Sec-
24 retary for purposes of this subparagraph, or

1 “(B) in the case of any other individual,
2 within the 11 months following the month in
3 which a previous screening fecal-occult blood
4 test was performed.

5 “(2) SCREENING FLEXIBLE
6 SIGMOIDOSCOPIES.—

7 “(A) PAYMENT AMOUNT.—The Secretary
8 shall establish a payment amount under section
9 1848 with respect to screening flexible
10 sigmoidoscopies provided for the purpose of
11 early detection of colon cancer that is consistent
12 with payment amounts under such section for
13 similar or related services, except that such
14 payment amount shall be established without
15 regard to subsection (a)(2)(A) of such section.

16 “(B) FREQUENCY LIMITS.—Subject to re-
17 vision by the Secretary under paragraph (4), no
18 payment may be made under this part for a
19 screening flexible sigmoidoscopy provided to an
20 individual for the purpose of early detection of
21 colon cancer if the procedure is performed—

22 “(i) in the case of an individual under
23 65 years of age, more frequently than is
24 provided in a periodicity schedule estab-

1 lished by the Secretary for purposes of this
2 subparagraph, or

3 “(ii) in the case of any other individ-
4 ual, within the 59 months following the
5 month in which a previous screening flexi-
6 ble sigmoidoscopy was performed.

7 “(3) SCREENING COLONOSCOPY FOR INDIVID-
8 UALS AT HIGH RISK FOR COLORECTAL CANCER.—

9 “(A) PAYMENT AMOUNT.—The Secretary
10 shall establish a payment amount under section
11 1848 with respect to screening colonoscopy for
12 individuals at high risk for colorectal cancer (as
13 determined in accordance with criteria estab-
14 lished by the Secretary) provided for the pur-
15 pose of early detection of colon cancer that is
16 consistent with payment amounts under such
17 section for similar or related services, except
18 that such payment amount shall be established
19 without regard to subsection (a)(2)(A) of such
20 section.

21 “(B) FREQUENCY LIMIT.—Subject to revi-
22 sion by the Secretary under paragraph (4), no
23 payment may be made under this part for a
24 screening colonoscopy for individuals at high
25 risk for colorectal cancer provided to an individ-

1 ual for the purpose of early detection of colon
2 cancer if the procedure is performed within the
3 47 months following the month in which a pre-
4 vious screening colonoscopy was performed.

5 “(C) FACTORS CONSIDERED IN ESTAB-
6 LISHING CRITERIA FOR DETERMINING INDIVID-
7 UALS AT HIGH RISK.—In establishing criteria
8 for determining whether an individual is at high
9 risk for colorectal cancer for purposes of this
10 paragraph, the Secretary shall take into consid-
11 eration family history, prior experience of can-
12 cer, a history of chronic digestive disease condi-
13 tion, and the presence of any appropriate recog-
14 nized gene markers for colorectal cancer.

15 “(4) REVISION OF FREQUENCY.—

16 “(A) REVIEW.—The Secretary shall review
17 periodically the appropriate frequency for per-
18 forming screening fecal-occult blood tests,
19 screening flexible sigmoidoscopies, and screen-
20 ing colonoscopy based on age and such other
21 factors and the Secretary believes to be perti-
22 nent.

23 “(B) REVISION OF FREQUENCY.—The Sec-
24 retary, taking into consideration the review
25 made under clause (i), may revise from time to

1 time the frequency with which such tests and
2 procedures may be paid for under this sub-
3 section.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) SECTION 1833(a).—Paragraphs (1)(D) and
6 (2)(D) of section 1833(a) (42 U.S.C. 13951(a)) are
7 each amended by striking “subsection (h)(1),” and
8 inserting “subsection (h)(1) or section 1834(d)(1),”.

9 (2) SECTION 1848(a)(2)(A).—Clauses (i) and (ii)
10 of section 1848(a)(2)(A) (42 U.S.C.
11 13951(a)(2)(A)) are each amended by striking “a
12 service” and inserting “a service (other than a
13 screening flexible sigmoidoscopy provided to an indi-
14 vidual for the purpose of early detection of colon
15 cancer or a screening colonoscopy provided to an in-
16 dividual at high risk for colorectal cancer for the
17 purpose of early detection of colon cancer)”.

18 (3) SECTION 1862(a).—Section 1862(a) (42
19 U.S.C. 1395y(a)) is amended—

20 (A) in paragraph (1)—

21 (i) by striking “and” at the end of
22 subparagraph (E),

23 (ii) by striking the semicolon at the
24 end of subparagraph (F) and inserting
25 “and”, and

1 (iii) by adding at the end the follow-
2 ing:

3 “(G) in the case of screening fecal-occult
4 blood tests, screening flexible sigmoidoscopies,
5 and screening colonoscopy provided for the pur-
6 pose of early detection of colon cancer, which
7 are performed more frequently than is covered
8 under section 1834(d);”, and

9 (B) in paragraph (7), by striking “para-
10 graph (1)(B) or under paragraph (1)(F)” and
11 inserting “subparagraphs (B), (F), or (G) of
12 paragraph (1)”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 the preceding subsections apply to services furnished on
15 or after January 1, 1996.

16 **SEC. 11131. PAYMENTS FOR VACCINES AND VACCINE AD-**
17 **MINISTRATION.**

18 (a) PAYMENT AMOUNTS FOR THE ADMINISTRATION
19 OF CERTAIN VACCINES.—

20 (1) IN GENERAL.—Section 1833(k) (42 U.S.C.
21 13951(k)) is amended to read as follows:

22 “(k) PAYMENT AMOUNT FOR CERTAIN VACCINES.—

23 “(1) IN GENERAL.—The payment amount
24 under this part for the administration of a vaccine
25 described in section 1861(s)(10) shall be equal to—

1 “(A)(i) for a vaccine administered in 1996
2 not in connection with the furnishing of another
3 service, \$9.00, and

4 “(ii) for a vaccine administered in 1996 in
5 connection with the furnishing of another serv-
6 ice, \$4.00, and

7 “(B) for a vaccine administered in any
8 subsequent year, the amount determined under
9 subparagraph (A), or under this subparagraph,
10 for the previous year, increased by the update
11 under section 1848(d)(3) for that subsequent
12 year for physicians’ services (described in sec-
13 tion 1848(d)(3)(A)(ii)(I)).

14 “(2) CROSS REFERENCE.—For a limitation on
15 actual charges for items and services described in
16 section 1861(s)(10), see paragraphs (1) and (2) of
17 section 1848(g).”.

18 (2) CONFORMING AMENDMENT TO SECTION
19 1832(a)(1).—Section 1832(a)(1) (42 U.S.C.
20 1395k(a)(1)) is amended by striking “and (D)” and
21 inserting “, (D), and (K)”.

22 (3) CONFORMING AMENDMENTS TO SECTION
23 1832(a)(2).—Section 1832(a)(2) (42 U.S.C.
24 1395k(a)(2)) is amended—

1 (A) in subparagraph (B), by striking “de-
2 scribed in subparagraph (G) or subparagraph
3 (I)” and inserting “or services described in sub-
4 paragraph (G), (I), or (K)”,

5 (B) in subparagraph (D), by inserting be-
6 fore the semicolon the following: “, other than,
7 in either case, services described in subpara-
8 graph (K)”,

9 (C) in subparagraph (H), by inserting be-
10 fore the semicolon the following: “, other than
11 services described in subparagraph (K)”,

12 (D) in subparagraph (I), by striking the
13 final “and”,

14 (E) in subparagraph (J), by striking the
15 period and adding “; and”, and

16 (F) by adding at the end the following:

17 “(K) administration of vaccines by provid-
18 ers of services, or as rural health clinic or Fed-
19 erally qualified health center services.”.

20 (4) CONFORMING AMENDMENTS TO SECTION
21 1833(a)(1).—Section 1833(a)(1)(B) (42 U.S.C.
22 13951(a)(1)(B)) is amended—

23 (A) by striking “items and services de-
24 scribed” and inserting “vaccines listed”, and

1 (B) by inserting at the end the following:
2 “and, with respect to the administration of
3 those vaccines, the amounts described in sub-
4 section (k)(1),”

5 (5) CONFORMING AMENDMENTS TO SECTION
6 1833(a)(2).—Section 1833(a)(2) (42 U.S.C.
7 13951(a)(2)) is amended—

8 (A) in the matter preceding subparagraph
9 (A), by striking “and (I)” and inserting “, (I),
10 and (K)”, and

11 (B) in the matter in subparagraph (A) pre-
12 ceding clause (i), by striking “items and serv-
13 ices described” and inserting “vaccines listed”.

14 (6) CONFORMING AMENDMENT TO SECTION
15 1833(a)(3).—Section 1833(a)(3) (42 U.S.C.
16 13951(a)(3)) is amended by striking “items and
17 services described” and inserting “vaccines listed”.

18 (7) CONFORMING AMENDMENTS TO SECTION
19 1833(a)(6).—Section 1833(a)(6) (42 U.S.C.
20 13951(a)(6)) is amended—

21 (A) by inserting “other than services de-
22 scribed in section 1832(a)(2)(K)” after “serv-
23 ices”, and

24 (B) by striking “and”.

1 (8) CONFORMING AMENDMENT TO SECTION
2 1833(a)(7).—Section 1833(a)(7) (42 U.S.C.
3 13951(a)(7)) is amended by striking the period and
4 adding at the end “; and”.

5 (9) CROSS REFERENCE.—Section 1833(a) (42
6 U.S.C. 13951(a)) is amended by adding at the end
7 the following:

8 “(8) in the case of services described in section
9 1832(a)(2)(k), the amount described in subsection
10 (k)(1).”.

11 (10) CONFORMING AMENDMENT TO SECTION
12 1834(g).—Section 1834(g)(2) (42 U.S.C.
13 1395m(g)(2)) is amended by inserting “(other than
14 services described in section 1832(a)(2)(K))” after
15 “hospital services”.

16 (11) CONFORMING AMENDMENTS TO SECTION
17 1842(b).—

18 (A) INITIAL MATTER IN PARAGRAPH
19 (3)(b).—The matter in section 1842(b)(3)(B)
20 (42 U.S.C. 1395u(b)(3)(B)) preceding clause
21 (i) is amended by inserting “, where payment
22 under this part for a service is on a basis other
23 than a cost basis,” after “carrier, and”.

24 (B) PARAGRAPH (3)(b)(ii).—Section
25 1842(b)(3)(B)(ii)(I) (42 U.S.C.

1 1395u(b)(3)(B)(ii)(I) is amended by inserting
2 “(or other payment basis)” after “reasonable
3 charge”.

4 (12) CONFORMING AMENDMENTS TO SECTION
5 1848(g).—

6 (A) PARAGRAPH (1).—The first sentence
7 of section 1848(g)(1) (42 U.S.C. 1395w-
8 4(g)(1)) is amended by inserting “or items and
9 services described in section 1861(s)(10)” after
10 “January 1, 1991”.

11 (B) PARAGRAPH (2).—Section
12 1848(g)(2)(C) (42 U.S.C. 1395w-4(g)(2)(C)) is
13 amended by adding at the end the following:
14 “For items and services described in section
15 1861(s)(10) furnished in a year after 1994, the
16 ‘limiting charge’ shall be 115 percent of the ap-
17 plicable amount described in section
18 1833(k)(1).”.

19 (b) ELIMINATION OF COINSURANCE AND DEDUCT-
20 IBLE FOR HEPATITIS B VACCINE.—Section
21 1833(a)(1)(B) (42 U.S.C. 13951(a)(1)(B)), the matter in
22 subparagraph (A) of section 1833(a)(2) (42 U.S.C.
23 13951(a)(2)) preceding clause (i), section 1833(a)(3) (42
24 U.S.C. 13951(a)(3)), paragraph (1) of the first sentence
25 of section 1833(b) (42 U.S.C. 13951(b)), and the third

1 sentence of section 1866(a)(2)(A) (42 U.S.C.
2 1395cc(a)(2)(A)) are each amended by striking
3 “1861(s)(10)(A)” and inserting “1861(s)(10)”.

4 (c) REPEAL OF OBSOLETE PROVISIONS.—

5 (1) SOCIAL SECURITY ACT.—Section
6 1861(s)(10)(A) (42 U.S.C. 1395x(s)(10)(A)) is
7 amended by striking “, subject to section 4071(b) of
8 the Omnibus Reconciliation Act of 1987,”.

9 (2) OBRA–1987.—Section 4071(b) of the Om-
10 nibus Budget Reconciliation Act of 1987 is repealed.

11 **PART 3—PROVISIONS RELATING TO PARTS A**

12 **AND B**

13 **SEC. 11141. CENTERS OF EXCELLENCE.**

14 (a) IN GENERAL.—Title XVIII is amended by insert-
15 ing after section 1888 the following:

16 **“SEC. 1889. CENTERS OF EXCELLENCE.**

17 “(a) IN GENERAL.—The Secretary shall use a com-
18 petitive process to contract with centers of excellence for
19 cataract surgery, coronary artery by-pass surgery, and
20 such other services as the Secretary determines to be ap-
21 propriate. Payment under this title shall be made for serv-
22 ices subject to such contracts on the basis of negotiated
23 or all-inclusive rates as follows:

24 “(1) COVERAGE OF URBAN AREA.—The center
25 shall cover services provided in an urban area (as

1 defined in section 1886(d)(2)(D)) for years begin-
2 ning with fiscal year 1996.

3 “(2) SAVINGS REQUIRED.—The amount of pay-
4 ment made by the Secretary to the center under this
5 title for services covered under the project shall be
6 less than the aggregate amount of the payments
7 that the Secretary would have made to the center for
8 such services had the project not been in effect.

9 “(3) TYPES OF SERVICES.—The Secretary shall
10 make payments to the center on such a basis for the
11 following services furnished to individuals entitled to
12 benefits under this title:

13 “(A) Facility, professional, and related
14 services relating to cataract surgery.

15 “(B) Coronary artery bypass surgery and
16 related services.

17 “(C) Such other services as the Secretary
18 and the center may agree to cover under the
19 agreement.

20 “(b) REBATE OF PORTION OF SAVINGS.—In the case
21 of any services furnished by a center under subsection (a),
22 the Secretary shall make a payment to each individual to
23 whom such services are furnished at such time and in such
24 manner as the Secretary may provide, in an amount equal
25 to 10 percent of the amount by which—

1 in making any exemptions and exceptions pursuant to sec-
 2 tion 1861(v)(1)(L)(ii) of the Social Security Act.

3 **SEC. 11143. INTERIM PAYMENTS FOR HOME HEALTH SERV-**
 4 **ICES.**

5 (a) REDUCTIONS IN COST LIMITS.—Section
 6 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amend-
 7 ed—

8 (1) by inserting “and before October 1, 1996,”
 9 after “July 1, 1987” in subclause (III),

10 (2) by striking the period at the end of the
 11 matter following subclause (III), and inserting “,
 12 and”, and

13 (3) by adding at the end the following new
 14 subclause:

15 “(IV) October 1, 1996, 105 percent of the me-
 16 dian of the labor-related and nonlabor per visit costs
 17 for freestanding home health agencies.”.

18 (b) DELAY IN UPDATES.—Section 1861(v)(1)(L)(iii)
 19 (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking
 20 “July 1, 1996” and inserting “October 1, 1996”.

21 (c) ADDITIONS TO COST LIMITS.—Section
 22 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by
 23 adding at the end the following:

24 “(iv) LIMITS FOR FISCAL YEARS 1997
 25 THROUGH 1999.—For services furnished by

1 home health agencies for cost reporting pe-
2 riods beginning on or after October 1,
3 1996, but before October 1, 1999, the Sec-
4 retary shall provide for an interim system
5 of limits. Payment shall be the lower of—

6 “(I) costs determined under the
7 preceding provisions of this subpara-
8 graph, or

9 “(II) an agency-specific per bene-
10 ficiary annual limitation calculated
11 from the agency’s 12-month cost re-
12 porting period ending on or after Jan-
13 uary 1, 1994, and on or before De-
14 cember 31, 1994, based on reasonable
15 costs (including nonroutine medical
16 supplies), updated by the home health
17 market basket index. The per bene-
18 ficiary limitation shall be multiplied
19 by the agency’s unduplicated census
20 count of patients (entitled to benefits
21 under this title) for the year subject
22 to the limitation to determine the ag-
23 gregate agency specific per beneficiary
24 limitation.

1 “(v) SPECIAL RULES.—For services
2 furnished by home health agencies for cost
3 reporting periods beginning on or after Oc-
4 tober 1, 1996, the following rules shall
5 apply:

6 “(I) For new providers and those
7 providers without a 12-month cost re-
8 porting period ending in calendar year
9 1994, the per beneficiary limitation
10 shall be equal to the mean of these
11 limits (or the Secretary’s best esti-
12 mates thereof) applied to home health
13 agencies as determined by the Sec-
14 retary. Home health agencies that
15 have altered their corporate structure
16 or name shall not be considered new
17 provides for payment purposes.

18 “(II) For beneficiaries who use
19 services furnished by more than one
20 home health agency, the per bene-
21 ficiary limitations shall be prorated
22 among agencies.

23 “(vi) BONUS PAYMENTS.—Home
24 health agencies whose cost or utilization
25 experience is below 125 percent of the

1 mean national or census region aggregate
2 per beneficiary cost or utilization experi-
3 ence for 1994, or best estimates thereof,
4 and whose year-end reasonable costs are
5 below the agency-specific per beneficiary
6 limitation, shall receive payments equal to
7 50 percent of the difference between the
8 agency's reasonable costs and its limit for
9 fiscal years 1997, 1998, and 1999. Such
10 payments may not exceed 5 percent of
11 such agency's aggregate Medicare reason-
12 able cost in a year.

13 “(vii) MODIFICATIONS FOR REGIONAL
14 OR NATIONAL VARIATIONS IN UTILIZA-
15 TION.—Effective January 1, 1997, or as
16 soon as feasible, the Secretary shall modify
17 the agency-specific per beneficiary annual
18 limitation described in clause (iv) to pro-
19 vide for regional or national variations in
20 utilization. For purposes of determining
21 payment under clause (iv), the limit shall
22 be calculated through a blend of 75 per-
23 cent of the agency-specific cost or utiliza-
24 tion experience in 1994 with 25 percent of
25 the national or census region cost or utili-

1 zation experience in 1994, or the Sec-
2 retary's best estimates thereof.”.

3 (d) USE OF INTERIM FINAL REGULATIONS.—The
4 Secretary shall implement the payment limits described in
5 section 1861(v)(1)(L)(iv) of the Social Security Act by
6 publishing in the Federal Register a notice of interim final
7 payment limits by August 1, 1996, and allowing for a pe-
8 riod of public comment thereon. Payments subject to these
9 limits will be effective for cost reporting periods beginning
10 on or after October 1, 1996, without the necessity for con-
11 sideration of comments received, but the Secretary shall,
12 by Federal Register notice, affirm or modify the limits
13 after considering those comments.

14 (e) DEVELOPMENT OF CASE MIX SYSTEM.—The Sec-
15 retary shall expand research on a prospective payment sys-
16 tem for home health agencies that shall tie prospective
17 payments to an episode of care, including an intensive ef-
18 fort to develop a reliable case mix adjuster that explains
19 a significant amount of the variances in costs.

20 (f) SUBMISSION OF DATA FOR CASE MIX SYSTEM.—
21 Effective for cost reporting periods beginning on or after
22 October 1, 1998, the Secretary may require all home
23 health agencies to submit such additional information as
24 the Secretary deems necessary for the development of a
25 reliable case mix system.

1 **SEC. 11144. PROSPECTIVE PAYMENT FOR HOME HEALTH**
2 **SERVICES.**

3 Title XVIII is amended by adding at the end the fol-
4 lowing:

5 **“SEC. 1893. PROSPECTIVE PAYMENT FOR HOME HEALTH**
6 **SERVICES.**

7 “(a) IN GENERAL.—Notwithstanding section
8 1861(v), the Secretary shall, for cost reporting periods be-
9 ginning on or after October 1, 1999, provide for payments
10 for home health services in accordance with a prospective
11 payment system, which pays home health agencies on a
12 per episode basis, established by the Secretary.

13 “(b) ELEMENTS OF SYSTEM.—Such a system shall
14 include the following:

15 “(1) BASED ON A PER EPISODE AMOUNT.—All
16 services covered and paid on a reasonable cost basis
17 under the medicare home health benefit as of the
18 date of the enactment of the Balanced Budget Act
19 of 1995 for Economic Growth and Fairness, includ-
20 ing medical supplies, shall be subject to the per epi-
21 sode amount. In defining an episode of care, the
22 Secretary shall consider an appropriate length of
23 time for an episode, the use of services, and the
24 number of visits provided within an episode, poten-
25 tial changes in the mix of services provided within
26 an episode and their cost, and a general system de-

1 sign that will provide for continued access to quality
2 services. The per episode amount shall be based on
3 the most current audited cost report data available
4 to the Secretary

5 “(2) USE OF CASE MIX.—The Secretary shall
6 employ an appropriate case mix adjustment that ex-
7 plains a significant amount of the variation in cost.

8 “(3) ANNUAL ADJUSTMENTS.—The episode
9 payment amount shall be adjusted annually by the
10 home health market basket index. The labor portion
11 of the episode amount shall be adjusted for geo-
12 graphic differences in labor-related costs based on
13 the most current hospital wage index.

14 “(4) OUTLIERS.—The Secretary may designate
15 a payment provision for outliers, recognizing the
16 need to adjust payments due to unusual variations
17 in the type or amount of medically necessary care.

18 “(5) COORDINATION BY HOME HEALTH AGEN-
19 CY.—A home health agency shall be responsible for
20 coordinating all care for a beneficiary. If a bene-
21 ficiary elects to transfer to, or receive services from,
22 another home health agency within an episode pe-
23 riod, the episode payment shall be prorated between
24 home health agencies.

1 “(c) SAVINGS.—Prior to implementing the prospec-
2 tive system described in subsections (a) and (b) in a budg-
3 et neutral fashion, the Secretary shall first reduce, by 15
4 percent, the cost limits, per beneficiary limits, and actual
5 costs, described in section 1861(v)(1)(L)(iv), as such lim-
6 its are in effect on September 30, 1999.”.

7 **SEC. 11145. PAYMENT BASED ON LOCATION WHERE HOME**
8 **HEALTH SERVICE IS FURNISHED.**

9 (a) CONDITIONS OF PARTICIPATION.—Section 1891
10 (42 U.S.C. 1395bbb) is amended by adding at the end
11 the following:

12 “(g) PAYMENT ON BASIS OF LOCATION OF SERV-
13 ICE.—A home health agency shall submit claims for pay-
14 ment of home health services under this title only on the
15 basis of the geographic location at which the service is fur-
16 nished, as determined by the Secretary.”.

17 (b) WAGE ADJUSTMENT.—Section 1861(v)(1)(L)(iii)
18 (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking
19 “agency is located” and inserting “service is furnished”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 previous subsections apply to services furnished on or after
22 October 1, 1996.

1 **SEC. 11146. ELIMINATION OF PERIODIC INTERIM PAY-**
2 **MENTS FOR HOME HEALTH AGENCIES.**

3 (a) IN GENERAL.—Section 1815(e)(2) (42 U.S.C.
4 1395g(e)(2)) is amended—

5 (1) by inserting “and” at the end of subpara-
6 graph (C),

7 (2) by striking subparagraph (D), and

8 (3) by redesignating subparagraph (E) as (D).

9 (b) EFFECTIVE DATE.—The amendments made by
10 subsection (a) apply to payments made on or after October
11 1, 1999.

12 **SEC. 11147. ESTABLISHMENT OF POST-HOSPITAL HOME**
13 **HEALTH BENEFIT UNDER PART A AND**
14 **TRANSFER OF OTHER HOME HEALTH SERV-**
15 **ICES TO PART B.**

16 (a) IN GENERAL.—Section 1812(a)(3) (42 U.S.C.
17 1395d(a)(3)) is amended—

18 (1) by inserting “post-hospital” before “home
19 health services”, and

20 (2) by inserting “for up to 100 visits during
21 any spell of illness (or, in the case of an individual
22 who is not enrolled in the insurance program estab-
23 lished by part B, home health services)” before the
24 semicolon.

25 (b) POST-HOSPITAL HOME HEALTH SERVICES.—
26 Section 1861 (42 U.S.C. 1395x), as amended by section

1 11118, is further amended by adding at the end the fol-
2 lowing:

3 “(pp) POST-HOSPITAL HOME HEALTH SERVICES.—
4 The term ‘post-hospital home health services’ means home
5 health services furnished to an individual under a plan of
6 treatment established when the individual was an inpa-
7 tient of a hospital or rural primary care hospital for not
8 less than 3 consecutive days before discharge, if home
9 health services are initiated for such individual within 30
10 days after discharge from the hospital or rural primary
11 care hospital.”.

12 (c) CONFORMING AMENDMENTS.—Section 1812(b)
13 (42 U.S.C. 1395d(b)) is amended—

14 (1) by striking “or” at the end of paragraph

15 (2);

16 (2) by striking the period at the end of para-
17 graph (3) and inserting “; or”, and

18 (3) by adding at the end the following:

19 “(4) post-hospital home health services fur-
20 nished to the individual during such spell of illness
21 after such services had been furnished to the individ-
22 ual for 100 visits during such spell.”.

23 (d) CLARIFICATION OF PART-TIME OR INTERMIT-
24 TENT NURSING CARE.—Section 1861(m) (42 U.S.C.
25 1395x(m)) is amended by adding at the end the following:

1 “For purposes of paragraphs (1) and (4), the term ‘part-
2 time or intermittent services’ means skilled nursing and
3 home health aide services furnished any number of days
4 per week as long as they are furnished (combined) less
5 than 8 hours each day and 28 or less hours each week
6 (or, subject to review on a case-by-case basis as to the
7 need for care, less than 8 hours each day and 35 or less
8 hours per week). For purposes of sections 1814(a)(2)(C)
9 and 1835(a)(2)(A), ‘intermittent’ means skilled nursing
10 care that is either provided or needed on fewer than 7
11 days each week, or less than 8 hours or each day of skilled
12 nursing and home health services combined for periods of
13 21 days or less (with extensions in exceptional cir-
14 cumstances when the need for additional care is finite and
15 predictable).”.

16 (e) PAYMENTS UNDER PART B.—Subparagraph (A)
17 of section 1833(a)(2) (42 U.S.C. 13951(a)(2)) is amended
18 to read as follows:

19 “(A) with respect to home health services
20 (other than a covered osteoporosis drug (as de-
21 fined in section 1861(kk)), and to items and
22 services described in section 1861(s)(10)(A),
23 the amounts determined under section
24 1861(v)(1)(L) or section 1893, or, if such serv-
25 ices are furnished by a public provider of serv-

1 ices, or by another provider which demonstrates
2 to the satisfaction of the Secretary that a sig-
3 nificant portion of its patients are low-income
4 (and requests that payment be made under this
5 provision), free of charge or at nominal charges
6 to the public, the amount determined in accord-
7 ance with section 1814(b)(2);”.

8 (f) EXCLUSION OF ADDITIONAL PART B COSTS
9 FROM DETERMINATION OF PART B MONTHLY PRE-
10 MIUM.—Section 1839(a) (42 U.S.C. 1395r(a)) is amend-
11 ed—

12 (A) in the second sentence of paragraph (1), by
13 inserting “(except as provided in paragraph (5))”
14 before the period, and

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

16 “(5) EXCLUSION OF HOME HEALTH COSTS.—In es-
17 timating the benefits and administrative costs which will
18 be payable from the Federal Supplementary Medical In-
19 surance Trust Fund for a year (beginning with 1997), the
20 Secretary shall exclude an estimate of any benefits and
21 administrative costs attributable to home health services
22 for which payment would have been made under part A
23 during the year but for paragraph (4) of section 1812(b),
24 or home health services furnished under part A that are
25 not post-hospital home health services.”

1 (g) PAYMENTS FROM SUPPLEMENTARY MEDICAL IN-
2 SURANCE TRUST FUND FOR CERTAIN HOME HEALTH
3 SERVICES FURNISHED UNDER PART A.—Section 1815(a)
4 (42 U.S.C. 1395g(a)) is amended by inserting after
5 “Trust Fund” the following: “or in the case of home
6 health services that are not post-hospital home health
7 services, from the Federal Supplementary Medical Insur-
8 ance Trust Fund)”.

9 (h) EFFECTIVE DATE.—The amendments made by
10 the preceding subsections apply to spells of illness begin-
11 ning on or after October 1, 1996.

12 **SEC. 11148. PERMANENT EXTENSION OF CERTAIN SECOND-**
13 **ARY PAYER PROVISIONS.**

14 (a) WORKING DISABLED.—Section 1862(b)(1)(B) is
15 amended by striking clause (iii).

16 (b) INDIVIDUAL WITH END STAGE RENAL DIS-
17 EASE.—Section 1862(b)(1)(C) is amended—

18 (1) in the first sentence, by striking “12-
19 month” each place it occurs and inserting “18-
20 month”, and

21 (2) by striking the second sentence.

22 (c) IRS-SSA-HCFA DATA MATCH.—

23 (1) SOCIAL SECURITY ACT.—Section
24 1862(b)(5)(C) is amended by striking clause (iii).

1 (2) INTERNAL REVENUE CODE.—Section
2 6103(l)(12) of the Internal Revenue Code of 1986 is
3 amended by striking subparagraph (F).

4 **PART 4—MEDICARE PART B PREMIUM**

5 **SEC. 11161. PART B PREMIUM.**

6 (a) IN GENERAL.—The first and second sentences of
7 section 1839(a)(3) (42 U.S.C. 1395r(a)(3)) are amended
8 to read as follows: “The Secretary shall, during September
9 of each year, determine and promulgate a monthly pre-
10 mium rate for the succeeding calendar year. That monthly
11 premium rate shall be equal to 50 percent of the monthly
12 actuarial rate for enrollees age 65 and over, determined
13 according to paragraph (1), for that succeeding calendar
14 year.”.

15 (b) CONFORMING AND TECHNICAL AMENDMENTS.—
16 Section 1839 (42 U.S.C. 1395r) is amended—

17 (1) in subsection (a)(2), by striking “(b) and
18 (e)” and inserting “(b), (c), and (f)”,

19 (2) in the third sentence of subsection (a)(3)—

20 (A) by inserting “rate” after “premium”,
21 and

22 (B) by striking “and the derivation of the
23 dollar amounts specified in this paragraph”,

24 (3) by striking subsection (e), and

1 (4) by redesignating subsection (g) and (e) and
2 inserting that subsection after subsection (d).

3 (c) EFFECTIVE DATE.—The amendments made by
4 the preceding subsections apply to premiums for months
5 after December 1995.

6 **Subtitle B—Expanded Medicare**
7 **Choice**

8 **SEC. 11201. EXPANDED CHOICE UNDER MEDICARE.**

9 (a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et
10 seq.) is amended by inserting after section 1804 the fol-
11 lowing:

12 “OPTION TO ENROLL IN MANAGED CARE PLANS

13 “SEC. 1805. Every individual entitled to benefits
14 under part A and enrolled under part B or enrolled under
15 part B only shall be eligible to enroll under part C with
16 any eligible organization with which the Secretary has en-
17 tered into a contract under part C and which serves the
18 geographic area in which the individual resides.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) applies to enrollments whose periods begin
21 after 1996.

22 **SEC. 11202. BROADER CHOICE AMONG MANAGED CARE OR-**
23 **GANIZATIONS.**

24 (a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et
25 seq.) is amended—

1 (1) by redesignating part C (42 U.S.C. 1395x
2 et seq.) as part D, and

3 (2) by inserting after part B (42 U.S.C. 1395j
4 et seq.) the following:

5 **“PART C—MANAGED CARE ORGANIZATIONS**

6 **“SEC. 1851A. TYPES OF MANAGED CARE ORGANIZATIONS.**

7 “(a) ELIGIBLE ORGANIZATIONS.—For purposes of
8 this part, the term ‘eligible organization’ means a public
9 or private entity, organized under the laws of any State,
10 that is—

11 “(1) a qualified health maintenance organiza-
12 tion (QHMO),

13 “(2) a competitive medical plan (CMP),

14 “(3) a preferred provider organization (PPO),
15 or

16 “(4) a provider sponsored organization (PSO).

17 “(b) QUALIFIED HEALTH MAINTENANCE ORGANIZA-
18 TION (QHMO).—For purposes of this part, the term
19 ‘qualified health maintenance organization’ means such as
20 organization (as defined in section 1310(d) of the Public
21 Health Service Act) that meets the requirements of sub-
22 paragraphs (B) and (E) of subsection (c)(1).

23 “(c) COMPETITIVE MEDICAL PLAN (CMP).—

1 “(1) IN GENERAL.—For purposes of this part,
2 the term ‘competitive medical plan’ means an entity
3 that meets the following requirements:

4 “(A) MINIMUM SERVICES TO ALL MEM-
5 BERS.—The entity provides to enrolled mem-
6 bers at least the following health care services:

7 “(i) Physicians’ services performed by
8 physicians (as defined in section
9 1861(r)(1)).

10 “(ii) Inpatient hospital services.

11 “(iii) Laboratory, X-ray, emergency,
12 and preventive services.

13 “(iv) Out-of-area coverage.

14 “(B) PROVISION OF PHYSICIANS’ SERV-
15 ICES.—The entity provides physicians’ services
16 primarily (i) directly through physicians who
17 are either employees or partners of such organi-
18 zation, or (ii) through contracts with individual
19 physicians or one or more groups of physicians
20 (organized on a group practice or individual
21 practice basis).

22 “(C) COMPENSATION ON PREPAID RISK
23 BASIS.—The entity is compensated (except for
24 deductibles, coinsurance, and copayments) for
25 the provision of health care services to enrolled

1 members by a payment which is paid on a peri-
2 odic basis without regard to the date the health
3 care services are provided and which is fixed
4 without regard to the frequency, extent, or kind
5 of health care service actually provided to a
6 member.

7 “(D) ASSUMPTION OF RISK.—The entity
8 assumes full financial risk on a prospective
9 basis for the provision of the health care serv-
10 ices listed in subparagraph (A), except that
11 such entity may—

12 “(i) obtain insurance or make other
13 arrangements for the cost of providing to
14 any enrolled member health care services
15 listed in subparagraph (A) the aggregate
16 value of which exceeds \$5,000 in any year,

17 “(ii) obtain insurance or make other
18 arrangements for the cost of health care
19 services listed in subparagraph (A) pro-
20 vided to its enrolled members other than
21 through the entity because medical neces-
22 sity required their provision before they
23 could be secured through the entity,

24 “(iii) obtain insurance or make other
25 arrangements for not more than 90 per-

1 cent of the amount by which its costs for
2 any of its fiscal years exceed 115 percent
3 of its income for such fiscal year, and

4 “(iv) make arrangements with physi-
5 cians or other health professionals, health
6 care institutions, or any combination of
7 such individuals or institutions to assume
8 all or part of the financial risk on a pro-
9 spective basis for the provision of basic
10 health services by the physicians or other
11 health professionals or through the institu-
12 tions.

13 “(E) FISCAL SOUNDNESS; PROVISION
14 AGAINST INSOLVENCY.—The entity meets
15 standards for fiscal soundness (including stand-
16 ards for provision against the risk of insol-
17 vency) applicable to Federally qualified health
18 maintenance organizations under title XIII of
19 the Public Health Service Act.

20 “(2) EXCEPTION FOR CERTAIN GRAND-
21 FATHERED CONTRACTS.—Paragraph (1)(A)(ii) shall
22 not apply to an entity which had contracted with a
23 single State agency administering a State plan ap-
24 proved under title XIX for the provision of services
25 (other than inpatient hospital services) to individuals

1 eligible for such services under such State plan on
2 a prepaid risk basis prior to 1970.

3 “(d) PREFERRED PROVIDER ORGANIZATION
4 (PPO).—

5 “(1) IN GENERAL.—For purposes of this part,
6 the term ‘preferred provider organization’ means an
7 entity that meets the following requirements:

8 “(A) MINIMUM SERVICES TO ALL MEM-
9 BERS.—The entity provides at least physicians’
10 services performed by physicians (as defined in
11 section 1861(r)(1)).

12 “(B) PROVISION OF PHYSICIAN SERVICES;
13 FISCAL SOUNDNESS.—The entity meets the re-
14 quirements of subparagraphs (B) and (E) of
15 subsection (c)(1).

16 “(C) ASSUMPTION OF RISK.—The entity
17 meets the requirements of subsection (c)(1)(D)
18 with respect to members enrolled with the orga-
19 nization under this part.

20 “(2) DETERMINATION OF PRIVATE MEMBER-
21 SHIP.—In applying the provisions of sections
22 1851E(g) and 1851F(e)(1)(B)(i) and (f)(1)(B)(i)
23 (concerning minimum private enrollment) to an or-
24 ganization that meets the requirements of paragraph
25 (1), individuals for whom the organization has as-

1 sumed substantial financial risk shall be considered
2 to be members of the organization.

3 “(e) PROVIDER SPONSORED ORGANIZATION
4 (PSO).—

5 “(1) IN GENERAL.—For purposes of this part,
6 the term ‘provider sponsored organization’ means an
7 entity that meets the following requirements:

8 “(A) TYPE OF ENTITY.—The entity is a
9 hospital, a group of affiliated hospitals, or an
10 affiliated group consisting of a hospital or hos-
11 pitals and physicians (as defined in section
12 1861(r)(1)).

13 “(B) MINIMUM SERVICES TO ALL MEM-
14 BERS.—The entity provides at least physicians’
15 services performed by physicians (as defined in
16 section 1861(r)(1)) and inpatient hospital serv-
17 ices.

18 “(C) DIRECT PROVISION OF SERVICES.—
19 The entity provides directly a substantial por-
20 tion of the services covered under this title (as
21 determined by the Secretary, which may vary
22 for rural or under served areas).

23 “(D) ASSUMPTION OF RISK.—The entity
24 meets the requirements of subsection (c)(1)(D)

1 with respect to members enrolled with the orga-
2 nization under this part.

3 “(E) FISCAL SOUNDNESS; PROVISION
4 AGAINST INSOLVENCY.—The entity meets re-
5 quirements for fiscal soundness and provision
6 against insolvency developed by the Secretary.

7 “(2) DETERMINATION OF PRIVATE MEMBER-
8 SHIP.—In applying the provisions of sections
9 1851E(g) and 1851F(e)(1)(B)(i) and (f)(1)(B)(i)
10 (concerning minimum private enrollment) to an or-
11 ganization that meets the requirements of paragraph
12 (1), individuals for whom the organization has as-
13 sumed substantial financial risk shall be considered
14 to be members of the organization.

15 “(3) LIMITED PREEMPTION OF STATE LAW.—
16 Except as otherwise provided in the next sentence,
17 an organization that meets the requirements of
18 paragraph (1) may provide health benefits to indi-
19 viduals enrolled with the organization under this
20 part without regard to any State law that imposes
21 requirements different from those under paragraph
22 (1)(E)) (concerning fiscal soundness and provision
23 against insolvency), or that imposes requirements (in
24 other respects) that differ from those imposed on
25 other organizations which provide health care bene-

1 fits only through (or preferentially through) certain
2 entities. If the Secretary determines that a State has
3 licensing standards which are substantially equiva-
4 lent to the requirements of such paragraph (1)(E),
5 that the State has a process for issuing licenses on
6 a timely basis, and that the State does not impose
7 requirements (in other respects) that differ from
8 those imposed on other organizations which provide
9 health care benefits only through (or preferentially
10 through) certain entities, the Secretary shall require
11 the organization to obtain a license from the State.

12 **“SEC. 1851B. ENROLLMENT AND DISENROLLMENT.**

13 “(a) IN GENERAL.—

14 “(1) SECRETARY’S RESPONSIBILITY.—The Sec-
15 retary shall carry out enrollment and termination of
16 enrollment of individuals with eligible organizations.

17 “(2) INDIVIDUAL OPTIONS.—An individual may,
18 as prescribed by regulations—

19 “(A) enroll under this part with an eligible
20 organization; and

21 “(B) terminate enrollment with such orga-
22 nization—

23 “(i) as of the beginning of the first
24 calendar month following the date on

1 which the request is made for such termi-
2 nation;

3 “(ii) as of the date determined in ac-
4 cordance with regulations, in the case of fi-
5 nancial insolvency of the organization; and

6 “(iii) retroactively to the date of en-
7 rollment, in such special circumstances as
8 the Secretary may designate.

9 “(b) INFORMATION CONCERNING ENROLLMENT.—

10 “(1) STANDARDIZED COMPARATIVE MATE-
11 RIALS.—The Secretary shall develop and distribute
12 standardized comparative materials about eligible or-
13 ganizations and medicare supplemental policies (as
14 defined in section 1882(g)(1)) to enable individuals
15 to compare benefits, costs, and quality indicators.

16 “(2) COST-SHARING BY PARTICIPATING ORGANI-
17 ZATIONS.—Each eligible organization with a con-
18 tract under this part shall pay the Secretary for its
19 pro rata share (as determined by the Secretary) of
20 the estimated costs to be incurred by the Secretary
21 in carrying out the requirements of the preceding
22 sentence, the first sentence of subsection (a)(1), and
23 section 4360 of the Omnibus Reconciliation Act of
24 1990. Those payments are appropriated to defray

1 the costs described in the preceding sentence, to re-
2 main available until expended.

3 “(2) REVIEW OF MARKETING MATERIALS.—The
4 Secretary may prescribe the procedures and condi-
5 tions under which an eligible organization that has
6 entered into a contract with the Secretary under this
7 subsection may furnish information about the orga-
8 nization to enrollees and individuals eligible to enroll
9 under this part. No brochures, application forms, or
10 other promotional or informational material may be
11 distributed by an organization to (or for the use of)
12 such individuals unless at least 45 days before its
13 distribution, the organization has submitted the ma-
14 terial to the Secretary for review, and the Secretary
15 has not disapproved the distribution of the material.
16 The Secretary shall review all such material submit-
17 ted and shall disapprove such material if the Sec-
18 retary determines, in the Secretary’s discretion, that
19 the material is materially inaccurate or misleading
20 or otherwise makes a material misrepresentation.

21 “(c) PERIODS OF ENROLLMENT.—

22 “(1) STANDARD ENROLLMENT OPPORTUNI-
23 TIES.—Subject to the provisions of this section, an
24 organization with a contract under this part shall

1 permit enrollment under this part by any individ-
2 ual—

3 “(A) during the month of each year speci-
4 fied by the Secretary for all eligible organiza-
5 tions;

6 “(B) during the individual’s initial enroll-
7 ment period in the program under part B (as
8 described in section 1837(d));

9 “(C) during a special enrollment period in
10 the program under part B (for individuals for-
11 merly electing employment-based coverage) de-
12 scribed in section 1837(i)(3); and

13 “(D) during the 90-day period beginning
14 30 days before the date the individual takes up
15 residence in the service area of the organiza-
16 tion.

17 “(2) SPECIAL ENROLLMENT PERIOD FOR INDI-
18 VIDUALS LOSING COVERAGE BY ANOTHER ORGANIZA-
19 TION.—

20 “(A) IN GENERAL.—Subject to other pro-
21 visions of this section, if a contract with an or-
22 ganization under this part is not renewed or
23 otherwise terminated, or is renewed in a man-
24 ner that discontinues coverage for individuals
25 residing in part of the service area, each other

1 organization with a contract under this part
2 shall permit enrollment under this part by af-
3 fected individuals enrolled with such other orga-
4 nization on the effective date of such termi-
5 nation or discontinuation of coverage.

6 “(B) ENROLLMENT PERIOD.—The enroll-
7 ment period required by subparagraph (A) shall
8 be for 30 days and shall begin 30 days after the
9 date that the Secretary provides notice of such
10 requirement.

11 “(2) ACCEPTANCE OR DENIAL OF APPLICA-
12 TION.—An eligible organization shall enroll individ-
13 uals under this part in the order of application, and
14 may deny enrollment of such an individual only if
15 the enrollment—

16 “(A) would exceed the limits of the organi-
17 zation’s capacity (as determined by the Sec-
18 retary);

19 “(B) would result in an enrolled population
20 substantially nonrepresentative, as determined
21 in accordance with regulations of the Secretary,
22 of the population in the geographic area served
23 by the organization; or

24 “(C) would result in the organization’s
25 failing to meet the requirements of sections

1 1851E(g) and 1851F(e)(1)(B)(i) and
2 (f)(1)(B)(i) (concerning minimum private en-
3 rollment).

4 “(3) EFFECTIVE DATE OF ENROLLMENT.—An
5 individual’s enrollment with an eligible organization
6 under this part shall be effective—

7 “(A) in the case of an enrollment under
8 paragraph (1)(A), on the first day of the third
9 month beginning after the end of the enroll-
10 ment period;

11 “(B) in the case of an enrollment under
12 paragraph (1)(B), as specified by section
13 1838(a);

14 “(C) in the case of an enrollment under
15 paragraph (1)(C), as specified by section
16 1838(e);

17 “(D) in the case of an enrollment under
18 paragraph (1)(D), on the first day of the first
19 month following the month in which the individ-
20 ual enrolled; and

21 “(E) in the case of an enrollment under
22 paragraph (2), 30 days after the end of the
23 open enrollment period, or, if the Secretary de-
24 termines that such date is not feasible, such
25 other date as the Secretary specifies.

1 “(d) ENROLLMENT OR TERMINATION FOR HEALTH
2 REASONS PROHIBITED.—An eligible organization—

3 “(1) shall not refuse to enroll, and shall not
4 expel or refuse to re-enroll, any individual eligible to
5 enroll or enrolled with the organization under this
6 part because of the individual’s health status or re-
7 quirements for health care services;

8 “(2) shall include in any marketing materials a
9 statement of the requirements of paragraph (1); and

10 “(3) shall notify each such individual of the re-
11 quirements of paragraph (1) at the time of the indi-
12 vidual’s enrollment.

13 **“SEC. 1851C. BENEFITS.**

14 “(a) BASIC BENEFITS.—

15 “(1) IN GENERAL.—An eligible organization
16 must provide to members enrolled under this part,
17 either directly or through providers and other per-
18 sons that meet the applicable requirements of this
19 title and part A of title XI—

20 “(A) services covered under parts A and B
21 of this title, for those members entitled to bene-
22 fits under part A and enrolled under part B, or

23 “(B) services covered under part B, for
24 those members enrolled only under such part,

1 which are available to individuals residing in the ge-
2 ographic area served by the organization.

3 “(2) PPO REQUIRED TO AFFORD ‘POINT OF
4 SERVICE’ OPTION.—An eligible organization that
5 contracts as a preferred provider organization under
6 this part, in addition to providing services in accord-
7 ance with paragraph (1), shall also pay for any serv-
8 ice furnished to a member enrolled under this part
9 (in the amounts, if any, that otherwise would be
10 paid under this title) by any entity that may furnish
11 that service under this title (other than an entity
12 through which the organization provides services, or
13 other than a service with respect to which the orga-
14 nization is required to provide for reimbursement
15 under subsection (h)(2) (concerning urgently needed
16 services provided outside the organization).

17 “(3) PSO PROHIBITED FROM AFFORDING
18 ‘POINT OF SERVICE’ OPTION.—An eligible organiza-
19 tion that contracts as a provider sponsored organiza-
20 tion under this part may not pay for any service de-
21 scribed in subsection (d) that is furnished to a num-
22 ber enrolled under this part.

23 “(b) ADDITIONAL BENEFITS OR OTHER ADJUST-
24 MENT UNDER RISK PLANS.—

1 “(1) REQUIREMENT WHERE ADJUSTED COMMU-
2 NITY RATES BELOW PAYMENT RATES.—Each con-
3 tract under section 1851F(e) shall provide for ad-
4 justment in accordance with this subsection, if—

5 “(A) the adjusted community rate for serv-
6 ices under parts A and B (as reduced for the
7 actual value of the coinsurance and deductibles
8 under those parts) for members enrolled under
9 this part with the organization and entitled to
10 benefits under part A and enrolled in part B,
11 or

12 “(B) the adjusted community rate for serv-
13 ices under part B (as reduced for the actuarial
14 value of the coinsurance and deductibles under
15 that part) for members enrolled under this part
16 B only is less than the average of the per capita
17 rates of payment to be made under section
18 1851F(e)(2) at the beginning of an annual con-
19 tract period for members enrolled under this
20 part with the organization and entitled to bene-
21 fits under part A and enrolled in part B, or en-
22 rolled in part B only, respectively.

23 “(2) SELECTION BY ORGANIZATION OF ADDI-
24 TIONAL BENEFITS.—An eligible organization to
25 which paragraph (1) applies shall either—

1 “(A) provide to members described in
2 paragraph (1)(A) or (1)(B), as applicable, the
3 additional benefits described in paragraph (3)
4 which are selected by the eligible organization
5 and which the Secretary finds are at least equal
6 in value to the difference between the average
7 per capita payment and the adjusted commu-
8 nity rate (as so reduced); or

9 “(B) elect an alternative, in accordance
10 with paragraph (4).

11 “(3) ADDITIONAL BENEFITS.—The additional
12 benefits referred to in paragraph (2) are—

13 “(A) the reduction of the premium rate or
14 other charges made with respect to services fur-
15 nished by the organization to members enrolled
16 under this part; or

17 “(B) the provision of additional health
18 benefits; or both.

19 “(4) ALTERNATIVES TO ADDITIONAL BENE-
20 FITS.—An eligible organization to which paragraph
21 (1) applies—

22 “(A) may elect to receive a lesser payment
23 such that there is no longer a difference be-
24 tween the AAPCC and adjusted community rate
25 (as so reduced); and

1 “(B) may (with the approval of the Sec-
2 retary) provide that a part of the value of such
3 additional benefits be withheld and reserved by
4 the Secretary as provided in paragraph (5).

5 “(5) BENEFIT STABILIZATION FUND.—An orga-
6 nization having a contract under section 1851F(e)
7 may (with the approval of the Secretary) provide
8 that a part of the value of additional benefits other-
9 wise required to be provided by reason of paragraph
10 (1) be withheld and reserved in the Federal Hospital
11 Insurance Trust Fund and in the Federal Supple-
12 mentary Medical Insurance Trust Fund (in such
13 proportions as the Secretary determines to be appro-
14 priate) by the Secretary for subsequent annual con-
15 tract periods, to the extent required to stabilize and
16 prevent undue fluctuations in the additional benefits
17 offered in those subsequent periods by the organiza-
18 tion in accordance with paragraph (3). Any of such
19 value of additional benefits which is not provided to
20 members of the organization in accordance with
21 paragraph (3) prior to the end of such period, shall
22 revert for the use of such trust funds.

23 “(6) DETERMINATION OF PER CAPITA RATES.—
24 If the Secretary finds that there is insufficient en-
25 rollment experience to determine an average of the

1 per capita rates of payment to be made under sec-
2 tion 1851F(e)(2) at the beginning of a contract pe-
3 riod, the Secretary may determine such an average
4 based on the enrollment experience of other con-
5 tracts entered into under this part.

6 “(c) SUPPLEMENTAL BENEFITS.—

7 “(1) SUBJECT TO SECRETARY’S APPROVAL.—

8 An eligible organization may provide to individuals
9 enrolled under this part (without affording such in-
10 dividuals an option to decline such coverage), such
11 additional health care services as the Secretary may
12 approve. The Secretary shall approve any such addi-
13 tional services unless the Secretary determines that
14 including such additional services will substantially
15 discourage enrollment by covered individuals with
16 the organization.

17 “(2) AT ENROLLEES’ OPTION.—Such an orga-
18 nization may provide to such individuals such addi-
19 tional health care services as such individuals may
20 elect, at their option, to have covered.

21 “(3) DISCLOSURE OF PREMIUM.—Such an or-
22 ganization shall furnish to such individuals informa-
23 tion on the portion of its premium rate or other
24 charges applicable to such additional services.

1 “(d) STANDARDIZED PACKAGES OF ADDITIONAL BEN-
2 EFITS.—Any health care service described in subsection
3 (b) or (c) that is included in a standardized package of
4 benefits specified by the Secretary may be offered only as
5 part of that standardized package.

6 “(e) AVAILABILITY AND ACCESSIBILITY OF SERV-
7 ICES.—

8 “(1) SERVICES PROVIDED THROUGH THE ORGA-
9 NIZATION.—An eligible organization with a contract
10 under this part must make the services it has con-
11 tracted to provide to individuals enrolled with the or-
12 ganization under this part—

13 “(A) available and accessible to each such
14 individual, within the area served by the organi-
15 zation, with reasonable promptness and in a
16 manner with assures continuity, and

17 “(B) when medically necessary, available
18 and accessible twenty-four hours a day and
19 seven days a week.

20 “(2) SERVICES PROVIDED OUTSIDE THE ORGA-
21 NIZATION.—An eligible organization with a contract
22 under this part must provide for reimbursement with
23 respect to services described in paragraph (1) pro-
24 vided to such an individual other than through the
25 organization, if—

1 “(A) the services were medically necessary
2 and immediately required because of an unfore-
3 seen illness, injury, or condition; and

4 “(B) it was not reasonable given the cir-
5 cumstances to obtain the services through the
6 organization.

7 **“SEC. 1851D. LIABILITY OF BENEFICIARY AND THIRD PAR-**
8 **TIES.**

9 “(a) LIMITS ON LIABILITY FOR REQUIRED BENE-
10 FITS.—

11 “(1) LIMITATION TO ACTUARIAL VALUE OF
12 FEE-FOR-SERVICE COVERAGE.—Total charges by an
13 eligible organization to individuals enrolled with the
14 organization under this part, with respect to services
15 described in section 1851C(a)—

16 “(A) shall include no amounts other than
17 the individual’s share of premiums, deductibles,
18 coinsurance, and copayments; and

19 “(B) shall not exceed the actuarial value of
20 the deductibles and coinsurance that would be
21 applicable under this title on the average to
22 such individuals if they were not members of an
23 eligible organization.

24 “(2) ALTERNATIVE DATA.—If the Secretary
25 finds that adequate data are not available for the de-

1 termination required under paragraph (1) with re-
2 spect to an eligible organization, the Secretary may
3 substitute the actuarial value of the deductibles and
4 coinsurance applicable on the average to individuals
5 in the area, in the State, or in the United States,
6 eligible to enroll under this part with the organiza-
7 tion, or other appropriate data.

8 “(b) LIMITS ON PREMIUM FOR SUPPLEMENTAL BEN-
9 EFITS.—If an eligible organization provides to its mem-
10 bers enrolled under this part supplemental benefits in ac-
11 cordance with section 1851C, the sum of—

12 “(1) the portion of such organization’s premium
13 rate charged, with respect to such supplemental ben-
14 efits, to members enrolled under this part, and

15 “(2) the deductibles, coinsurance, and
16 copayments charged, with respect to such services to
17 such members shall not exceed the adjusted commu-
18 nity rate for such services.

19 “(c) LIMITATION ON AMOUNTS AN OUT-OF-PLAN
20 PHYSICIAN OR OTHER ENTITY MAY COLLECT.—

21 “(1) A physician or other entity (other than a
22 provider of services) that does not have a contract
23 establishing payment amounts for services furnished
24 to an individual enrolled under this part with an eli-
25 gible organization shall accept as payment in full for

1 services that are furnished to such an individual the
2 amounts that the physician or other entity could col-
3 lect if the individual were not so enrolled. Any pen-
4 alty or other provision of law that applies to such
5 payments with respect to an individual entitled to
6 benefits under this title (but not enrolled with an eli-
7 gible organization under this part) shall also apply
8 with respect to an individual so enrolled.

9 “(2) For similar requirements applicable to pro-
10 viders of services, see section 1866(a)(1)(O).

11 “(d) PLAN AS A SECONDARY PAYER.—Notwithstand-
12 ing any other provision of law, an eligible organization
13 may (in the case of the provision of services for which the
14 Medicare program is a secondary payer under section
15 1862(b)(2)) charge or authorize the provider of such serv-
16 ices to charge, in accordance with the charges allowed
17 under such law or policy—

18 “(1) the insurance carrier, employer, or other
19 entity which under such law, plan, or policy is to pay
20 for the provision of such services, or

21 “(2) such member to the extent that the mem-
22 ber has been paid under such law, plan, or policy for
23 such services.

1 **“SEC. 1851E. BENEFICIARY PROTECTIONS.**

2 “(a) EXPLANATION OF RIGHTS AND RESTRIC-
3 TIONS.—Each eligible organization shall provide each en-
4 rollee, at the time of enrollment and not less frequently
5 than annually thereafter, an explanation of the enrollee’s
6 rights under this part and other important information,
7 including the following:

8 “(1) COVERAGE.—The enrollee’s rights to bene-
9 fits from the organization, and benefit limitations,
10 including—

11 “(A) out-of-area coverage provided by the
12 organization,

13 “(B) the organization’s coverage of emer-
14 gency services and urgently needed care, and

15 “(C) the restrictions on payments under
16 this title for services furnished other than by or
17 through the organization.

18 “(2) TERMINATION OF COVERAGE.—An expla-
19 nation that—

20 “(A) the organization may terminate or
21 refuse to renew the contract under this part;
22 and

23 “(B) termination of such contract could re-
24 sult in termination of enrollment of individuals
25 with the organization.

1 “(3) PATIENT RIGHTS.—Safeguards on enroll-
2 ees’ rights, including—

3 “(A) appeal rights of enrollees,

4 “(B) the right to be informed about var-
5 ious treatment options, and

6 “(C) the right to decline treatment.

7 “(4) EMERGENCIES.—The appropriate use of
8 the 911 emergency telephone system in the case of
9 medical emergencies.

10 “(5) FRAUD AND ABUSE REPORTING.—The
11 processes for reporting potential fraud or abuse.

12 “(b) NOTIFICATION OF TERMINATION OPTION IN
13 MARKETING MATERIALS.—Each eligible organization
14 with a contract under this part shall include the informa-
15 tion required by subsection (a)(2) in any marketing mate-
16 rials described in section 1851B(b)(3) that are distributed
17 by an eligible organization to individuals eligible to enroll
18 under this part with the organization.

19 “(c) GRIEVANCE MECHANISM.—An eligible organiza-
20 tion with a contract under this part must provide mean-
21 ingful procedures for hearing and resolving grievances be-
22 tween the organization (including any entity or individual
23 through which the organization provides health care serv-
24 ices) and members enrolled with the organization under
25 this part.

1 “(d) COVERAGE DETERMINATIONS AND APPEALS.—

2 “(1) DETERMINATION BY ORGANIZATION.—An
3 eligible organization with a contract under this part
4 shall have a procedure for determining whether an
5 individual enrolled with the organization under this
6 part is entitled to receive a health service described
7 in section 1851C(a) and the amount (if any) that
8 the individual is required to pay for that service,
9 which includes the following elements:

10 “(A) TIMELY REVIEW.—The organization
11 shall provide for review of a coverage issue
12 within 30 days of a request by such individual,
13 and for reconsideration, where requested, within
14 60 days after the initial review.

15 “(B) EXPEDITED REVIEW IN URGENT
16 CASES.—The organization shall have an expe-
17 dited process for review and reconsideration of
18 a coverage issue in cases in which delayed treat-
19 ment may place the health of such individual in
20 jeopardy, risk serious impairment of bodily
21 functions, or limit medically appropriate treat-
22 ment options.

23 “(2) REVIEW BY EXTERNAL CONTRACTOR.—An
24 individual dissatisfied with a determination under
25 paragraph (1) concerning such individual’s coverage

1 under a contract under this part is entitled to a
2 hearing before an independent reviewer designated
3 by the Secretary.

4 “(3) APPEAL TO SECRETARY.—An individual
5 dissatisfied with a determination under paragraph
6 (2) concerning such individual’s coverage under a
7 contract under this part is entitled, if the amount in
8 controversy is \$100 or more, to a hearing before the
9 Secretary to the same extent as is provided in sec-
10 tion 205(b), and in any such hearing the Secretary
11 shall make the eligible organization a party. If the
12 amount in controversy is \$1,000 or more, the indi-
13 vidual or eligible organization shall, upon notifying
14 the other party, be entitled to judicial review of the
15 Secretary’s final decision as provided in section
16 205(g), and both the individual and the eligible or-
17 ganization shall be entitled to be parties to that judi-
18 cial review. In applying sections 205(b) and 205(g)
19 as provided in this subparagraph, and in applying
20 section 205(l) thereto, any reference therein to the
21 Commissioner of Social Security or the Social Secu-
22 rity Administration shall be considered a reference
23 to the Secretary or the Department of Health and
24 Human Services, respectively.

25 “(e) QUALITY ASSURANCE.—

1 “(1) INTERNAL QUALITY ASSURANCE (IQA) PRO-
2 GRAM.—

3 “(A) IN GENERAL.—Subject to subpara-
4 graph (B), an eligible organization must have
5 arrangements, established in accordance with
6 regulations of the Secretary, for an ongoing
7 quality assurance program for health care serv-
8 ices provided to individuals enrolled with the or-
9 ganization under this part that—

10 “(i) focuses on health outcomes; and

11 “(ii) provides for review by physicians
12 and other health care professionals of the
13 process followed in the provision of such
14 health care services.

15 “(B) ACCEPTANCE OF ACCREDITATION IN
16 SATISFACTION OF IQA STANDARDS.—If (or to
17 the extent that) an eligible organization has
18 been accredited by an accrediting body whose
19 standards with respect to one or more of the
20 elements of an internal quality assurance pro-
21 gram are at least as stringent as such stand-
22 ards pursuant to subparagraph (A), the organi-
23 zation shall be deemed to meet the require-
24 ments of such subparagraph (A) with respect to
25 such program elements.

1 “(2) EXTERNAL QUALITY REVIEW.—

2 “(A) REQUIREMENTS.—Each contract with
3 an eligible organization under this part shall
4 provide that the organization will maintain an
5 agreement with—

6 “(i) a utilization and quality control
7 peer review organization (which has a con-
8 tract with the Secretary under part B of
9 title XI for the area in which the eligible
10 organization is located);

11 “(ii) an entity selected by the Sec-
12 retary under section 1154(a)(4)(C); or

13 “(iii) an independent quality review
14 and improvement organization selected by
15 the organization and approved by the Sec-
16 retary,

17 under which the review organization will per-
18 form functions under section 1154(a)(4)(B) and
19 section 1154(a)(14) (other than those per-
20 formed under contracts described in section
21 1866(a)(1)(F)) with respect to services, fur-
22 nished by the eligible organization, for which
23 payment may be made under this title.

24 “(B) QUALITY REVIEW AS COVERED SERV-
25 ICE.—For purposes of payment under this title,

1 the cost of such agreement to the eligible orga-
2 nization shall be considered a cost incurred by
3 a provider of services in providing covered serv-
4 ices under this title and shall be paid directly
5 by the Secretary to the review organization on
6 behalf of such eligible organization in accord-
7 ance with a schedule established by the Sec-
8 retary.

9 “(C) PAYMENT FROM TRUST FUNDS.—

10 Such payments—

11 “(i) shall be transferred in appro-
12 priate proportions from the Federal Hos-
13 pital Insurance Trust Fund and from the
14 Supplemental Medical Insurance Trust
15 Fund, without regard to amounts appro-
16 priated in advance in appropriation Acts,
17 in the same manner as transfers are made
18 for payment for services provided directly
19 to beneficiaries, and

20 “(ii) shall not be less in the aggregate
21 for such organizations for a fiscal year
22 that the amounts the Secretary determines
23 to be sufficient to cover the costs of such
24 organizations’ conducting activities de-
25 scribed in subparagraph (A) with respect

1 to such eligible organizations under part B
2 of title XI.

3 “(f) BENEFICIARY ADVANCE DIRECTIVES CONCERN-
4 ING MEDICAL TREATMENT.—A contract under this part
5 shall provide that an eligible organization shall meet the
6 requirements of section 1866(f) (relating to maintaining
7 written policies and procedures respecting advance direc-
8 tives).

9 “(g) PRIVATE ENROLLMENT REQUIREMENTS.—

10 “(1) 50 PERCENT REQUIREMENT.—Subject to
11 section 11205 of the Balanced Budget Act of 1995
12 for Economic Growth and Fairness, each eligible or-
13 ganization with which the Secretary enters into a
14 contract under this part shall have, for the duration
15 of such contract, an enrolled membership (without
16 consideration of members enrolled in the program
17 under title XIX) at least one-half of which consists
18 of individuals who are not entitled to benefits under
19 this title.

20 “(2) EXCEPTIONS.—The Secretary may modify
21 or waive the requirement imposed by paragraph (1)
22 only in the following circumstances:

23 “(A) AREA WITH LARGE MEDICARE POPU-
24 LATION.—If more than 50 percent of the popu-
25 lation of the area served by the organization

1 consists of individuals who are entitled to bene-
2 fits under this title.

3 “(B) INITIAL PERIOD FOR GOVERNMENTAL
4 CONTRACTOR.—In the case of an eligible orga-
5 nization that is owned and operated by a gov-
6 ernmental entity, only with respect to a period
7 of three years beginning on the date the organi-
8 zation first enters into a contract under this
9 part, and only if the organization has taken and
10 is making reasonable efforts to enroll individ-
11 uals who are not entitled to benefits under this
12 title,

13 “(C) UNDERSERVED RURAL AREA.—If the
14 organization serves an underserved rural area.

15 “(D) CONTRACTOR WITH GOOD PAST
16 RECORD.—If the organization has had contracts
17 under this part for a total of at least three
18 years, has complied with all applicable require-
19 ments during that period, maintains a level of
20 enrollment of individuals not entitled to benefits
21 under this title determined by the Secretary,
22 and complies with any additional monitoring re-
23 quirements established by the Secretary.

24 “(E) CONTRACTOR WITH GOOD RECORD IN
25 ANOTHER GEOGRAPHIC AREA.—If—

1 “(i) the Secretary has not previously
2 entered into a contract with the organiza-
3 tion under this part in the same geo-
4 graphic area (or has entered into contracts
5 for a total of three years or less),

6 “(ii) the organization (or a parent
7 company that controls the organization)
8 has entered into (or subsidiaries of the or-
9 ganization or parent company have entered
10 into) contracts under this part for at least
11 three different geographic areas—

12 “(I) for which no waiver has been
13 granted under this paragraph and
14 during the course of which there has
15 been compliance with all applicable re-
16 quirements; or

17 “(II) for which a waiver has been
18 granted under subparagraph (D);

19 “(iii) the organization (or parent com-
20 pany) demonstrates to the Secretary a
21 long-term business and financial commit-
22 ment to the geographic area served by the
23 organization, and the Secretary determines
24 that a waiver is necessary to promote com-
25 petition in that area; and

1 “(iv) the organization complies with
2 all applicable requirements and any addi-
3 tional monitoring requirements established
4 by the Secretary.

5 “(3) SUBSTITUTION OF QUALITY MEASURE-
6 MENT SYSTEM.—For conditions under which the re-
7 quirements of this subsection will be replaced by re-
8 quirements of a quality measurement system, see
9 section 11205 of the Balanced Budget Act of 1995
10 for Economic Growth and Fairness.

11 “(h) ACCESS TO SPECIALTY CARE AND CASE MAN-
12 AGEMENT.—Each eligible organization shall ensure that
13 enrollees with chronic illnesses or disabilities, and other
14 enrollees as appropriate, shall have access to medically ap-
15 propriate specialty care and medically appropriate case
16 management.

17 “(i) RESTRICTIONS ON PHYSICIAN INCENTIVE
18 PLANS.—

19 “(1) CRITERIA.—Each contract with an eligible
20 organization under this part shall provide that the
21 organization may not operate any physician incentive
22 plan (as defined in paragraph (2)) unless the follow-
23 ing requirements are met:

24 “(A) NO INDUCEMENT TO LIMIT CARE.—

25 No specific payment is made directly or indi-

1 rectly under the plan to a physician or physi-
2 cian group as an inducement to reduce or limit
3 medically necessary services provided with re-
4 spect to a specific individual enrolled with the
5 organization.

6 “(B) REQUIREMENTS WHERE PHYSICIAN
7 AT FINANCIAL RISK.—If the plan places a phy-
8 sician or physician group at substantial finan-
9 cial risk (as determined by the Secretary) for
10 services not provided by the physician or physi-
11 cian group, the organization—

12 “(i) provides stop-loss protection for
13 the physician or group that is adequate
14 and appropriate, based on standards devel-
15 oped by the Secretary that take into ac-
16 count the number of physicians placed at
17 such substantial financial risk in the group
18 or under the plan and the number of indi-
19 viduals enrolled with the organization who
20 receive services from the physician or the
21 physician group, and

22 “(ii) conducts periodic surveys of both
23 individuals enrolled and individuals pre-
24 viously enrolled with the organization to
25 determine the degree of access of such in-

1 coverage of an individual under this part in a
2 payment area for a month, in an amount equal
3 to $\frac{1}{12}$ of the annual capitation rate (as cal-
4 culated under subsection (c)) with respect to
5 that individual for that area, adjusted for such
6 risk factors as age, disability status, gender, in-
7 stitutional status, and such other factors as the
8 Secretary determines to be appropriate, so as to
9 ensure actuarial equivalence. The Secretary
10 may add to, modify, or substitute for such fac-
11 tors, if such changes will improve the deter-
12 mination of actuarial equivalence.

13 “(B) SPECIAL RULE FOR END-STAGE
14 RENAL DISEASE.—The Secretary shall establish
15 a separate rate of payment to an eligible orga-
16 nization with respect to any individual deter-
17 mined to have end-stage renal disease and en-
18 rolled in a plan of the organization. Such rate
19 of payment shall be actuarially equivalent to
20 rates paid to other enrollees in the payment
21 area (or such other area as specified by the
22 Secretary).

23 “(2) ADJUSTMENT TO REFLECT NUMBER OF
24 ENROLLEES.—

1 “(A) IN GENERAL.—The amount of pay-
2 ment under this subsection may be retroactively
3 adjusted to take into account any differences
4 between the actual number of individuals en-
5 rolled with an organization under this part and
6 the number of such individuals estimated to be
7 so enrolled in determining the amount of the
8 advance payment.

9 “(B) SPECIAL RULE FOR CERTAIN EN-
10 ROLLEES.—

11 “(i) IN GENERAL.—Subject to clause
12 (ii), the Secretary may make retroactive
13 adjustments under subparagraph (A) to
14 take into account individuals enrolled dur-
15 ing the period beginning on the date on
16 which the individual enrolls with an eligible
17 organization under a plan operated, spon-
18 sored, or contributed to by the individual’s
19 employer or former employer (or the em-
20 ployer or former employer of the individ-
21 ual’s spouse) and ending on the date on
22 which the individual is enrolled in the or-
23 ganization under this part, except that for
24 purposes of making such retroactive ad-

1 justments under this subparagraph, such
2 period may not exceed 90 days.

3 “(ii) EXCEPTION.—No adjustment
4 may be made under clause (i) with respect
5 to any individual who does not certify that
6 the organization provided the individual
7 with the disclosure statement described in
8 section 1851(E)(a) at the time the individ-
9 ual enrolled with the organization.

10 “(b) ANNUAL ANNOUNCEMENT OF PAYMENT
11 RATES.—

12 “(1) ANNUAL ANNOUNCEMENT.—The Secretary
13 shall annually determine, and shall announce (in a
14 manner intended to provide notice to interested par-
15 ties) not later than August 1 before the calendar
16 year concerned—

17 “(A) the annual capitation rate for each
18 payment area for the year, and

19 “(B) the risk and other factors to be used
20 in adjusting such rates under subsection
21 (a)(1)(A) for payments for months in that year.

22 “(2) ADVANCE NOTICE OF METHODOLOGICAL
23 CHANGES.—At least 45 days before making the an-
24 nouncement under paragraph (2) for a year, the
25 Secretary shall provide for notice to eligible organi-

1 zations of proposed changes to be made in the meth-
2 odology from the methodology and assumptions used
3 in the previous announcement and shall provide such
4 organizations an opportunity to comment on such
5 proposed changes.

6 “(3) EXPLANATION OF ASSUMPTIONS.—In each
7 announcement made under paragraph (1) for a year,
8 the Secretary shall include an explanation of the as-
9 sumptions and changes in methodology used in the
10 announcement in sufficient detail so that eligible or-
11 ganizations can compute monthly adjusted capitation
12 rates for individuals in each payment area which is
13 in whole or in part within the service area of such
14 an organization.

15 “(c) CALCULATION OF ANNUAL CAPITATION
16 RATES.—

17 “(1) IN GENERAL.—For purposes of this part,
18 the annual capitation rate for a payment area for a
19 contract year consisting of a calendar year, is equal
20 to the greatest of the following:

21 “(A) BLENDED CAPITATION RATE.—The
22 sum of—

23 “(i) area-specific percentage for the
24 year (as specified under paragraph (2) for
25 the year) of the annual area-specific

1 MedicarePlus capitation rate for the year
2 for the MedicarePlus payment area, as de-
3 termined under paragraph (3), and

4 “(ii) national percentage (as specified
5 under paragraph (2) for the year) of the
6 input-price-adjusted annual national
7 MedicarePlus capitation, rate for the year,
8 as determined under paragraph (4),

9 multiplied by a budget neutrality adjustment
10 factor determined under paragraph (5).

11 “(B) MINIMUM AMOUNT.—

12 “(i) For 1996, \$310.

13 “(ii) For 1997, \$325.

14 “(iii) For a succeeding year, is the
15 minimum amount specified in this sub-
16 paragraph for the preceding year increased
17 by national per capita growth percentage,
18 specified under paragraph (6) for that suc-
19 ceeding year.

20 “(C) MINIMUM INCREASE OF 3 PERCENT
21 OVER PREVIOUS YEAR’S RATE.—

22 “(i) For 1996, 102 percent of the an-
23 nual per capita rate of payment for 1995
24 determined under section 1876(a)(1)(C)
25 for the payment area.

1 “(ii) For a subsequent year, 102 per-
2 cent of the annual capitation rate under
3 this subsection for the area for the pre-
4 vious year.

5 “(2) AREA-SPECIFIC AND NATIONAL PERCENT-
6 AGES.—For purposes of paragraph (1)(A)—

7 “(A) for 1996 and 1997, the ‘area-specific
8 percentage’ is 90 percent and the ‘national per-
9 centage’ is 10 percent,

10 “(B) for 1998, the ‘area-specific percent-
11 age’ is 85 percent and the ‘national percentage’
12 is 15 percent,

13 “(C) for 1999, the ‘area-specific percent-
14 age’ is 80 percent and the ‘national percentage’
15 is 20 percent,

16 “(D) for 2000, the ‘area-specific percent-
17 age’ is 75 percent and the ‘national percentage’
18 is 25 percent, and

19 “(E) for a year after 2000, the ‘area-spe-
20 cific percentage’ is 70 percent and the ‘national
21 percentage’ is 30 percent.

22 “(3) ANNUAL AREA-SPECIFIC MEDICARE
23 CHOICE CAPITATION RATE.—

24 “(A) IN GENERAL.—For purposes of para-
25 graph (1)(A), subject to subparagraph (B), the

1 annual area-specific Medicare Choice capitation
2 rate for a Medicare Choice payment area—

3 “(i) for 1996 is the annual per capita
4 rate of payment for 1995 determined
5 under section 1876(a)(1)(C) for the pay-
6 ment area, increased by the national aver-
7 age per capita growth percentage for 1996
8 (as defined in paragraph (6)); or

9 “(ii) for a subsequent year is the an-
10 nual area-specific capitation rate for the
11 previous year determined under this para-
12 graph for the payment area, increased by
13 the national average per capita growth per-
14 centage for such subsequent year.

15 “(B) REMOVAL OF MEDICAL EDUCATION
16 AND DISPROPORTIONATE SHARE HOSPITAL PAY-
17 MENTS FROM CALCULATION OF ADJUSTED AV-
18 ERAGE PER CAPITA COST.—In determining the
19 annual area-specific Medicare Choice capitation
20 rate for 1997 under subparagraph (A)(i), the
21 average annual per capita rate of payment for
22 1996 determined under (A)(i) shall be deter-
23 mined as though the Secretary had excluded
24 from such rate any amounts which the Sec-

1 retary estimated would have been payable under
2 this title during the year for—

3 “(i) payment adjustments under sec-
4 tion 1886(d)(5)(F) for hospitals serving a
5 disproportionate share of low-income pa-
6 tients; and

7 “(ii) the indirect costs of medical edu-
8 cation under section 1886(d)(5)(B) or for
9 direct graduate medical education costs
10 under section 1886(h).

11 “(4) INPUT-PRICE-ADJUSTED ANNUAL NA-
12 TIONAL CAPITATION RATE.—

13 “(A) IN GENERAL.—For purposes of para-
14 graph (1)(A), the input-price-adjusted annual
15 national capitation rate for a payment area for
16 a year is equal to the sum, for all the types of
17 medicare services (as classified by the Sec-
18 retary), of the plan (for each such type) of—

19 “(i) the national standardized annual
20 capitation rate (determined under subpara-
21 graph (B)) for the year,

22 “(ii) the proportion of such rate for
23 the year which is attributable to such type
24 of services, and

1 “(iii) an index that reflects (for that
2 year and that type of services) the relative
3 input price of such services in the area
4 compared to the national average input
5 price of such services.

6 In applying clause (iii), the Secretary shall, sub-
7 ject to subparagraph (C), apply those indices
8 under this title that are used in applying (or
9 updating) national payment rates for specific
10 areas and localities.

11 “(B) NATIONAL STANDARDIZED ANNUAL
12 CAPITATION RATE.—In subparagraph (A)(i),
13 the ‘national standardized annual capitation
14 rate’ for a year is equal to—

15 “(i) the sum (for all payment areas)
16 of the product of (I) the annual area-spe-
17 cific capitation rate for that year for the
18 area under paragraph (3), and (II) the av-
19 erage number of medicare beneficiaries re-
20 siding in that area in the year; divided by

21 “(ii) the total average number of med-
22 icare beneficiaries residing in all the pay-
23 ment areas for that year.

24 “(C) SPECIAL RULES FOR 1996.—In apply-
25 ing this paragraph for 1996—

1 “(i) medicare services shall be divided
2 into 2 types of services: part A services
3 and part B services;

4 “(ii) the proportions described in sub-
5 paragraph (A)(ii) for such types of services
6 shall be—

7 “(I) for part A services, the ratio
8 (expressed as a percentage) of the av-
9 erage annual per capita rate of pay-
10 ment for the area for part A for 1995
11 to the total average annual per capita
12 rate of payment for the area for parts
13 A and B for 1995, and

14 “(II) for part B services, 100
15 percent minus the ratio described in
16 subclause (I);

17 “(iii) for the part A services, 70 per-
18 cent of payments attributable to such serv-
19 ices shall be adjusted by the index used
20 under section 1886(d)(3)(E) to adjust pay-
21 ment rates for relative hospital wage levels
22 for hospitals located in the payment area
23 involved;

24 “(iv) for part B services—

1 “(I) 66 percent of payments at-
2 tributable to such services shall be ad-
3 justed by the index of the geographic
4 area factors under section 1848(e)
5 used to adjust payment rates for phy-
6 sicians’ services furnished in the pay-
7 ment area, and

8 “(II) of the remaining 34 percent
9 of the amount of such payments, 70
10 percent shall be adjusted by the index
11 described in clause (iii);

12 “(v) the index values shall be com-
13 puted based only on the beneficiary popu-
14 lation who are 65 years of age or older
15 who are not determined to have end stage
16 renal disease.

17 The Secretary may continue to apply the rules
18 described in this subparagraph (or similar
19 rules) for 1997.

20 “(5) BUDGET NEUTRALITY ADJUSTMENT FAC-
21 TOR.—For each year, the Secretary shall compute a
22 budget neutrality adjustment factor so that the ag-
23 gregate of the payments under this part shall not ex-
24 ceed the aggregate payments that would have been
25 made under this part if the area-specific percentage

1 for the year had been 100 percent and the national
2 percentage had been 0 percent.

3 “(6) NATIONAL AVERAGE PER CAPITA GROWTH
4 PERCENTAGE DEFINED.—In this part, the “national
5 average per capita growth percentage shall be the
6 percentage determined by the Secretary on an an-
7 nual basis (not later than August 1st before the cal-
8 endar year concerned) to reflect the Secretary’s esti-
9 mate of the projected per capita rate of growth in
10 private health insurance expenditures adjusted to re-
11 flect differences between the average benefit package
12 under private insurance and the Medicare benefit
13 package and differences in utilization and intensity
14 of services between the general insured population
15 and Medicare beneficiaries. In determining this per-
16 centage, the Secretary shall consider the traditional
17 fee-for-service growth rates to ensure there is not a
18 wide disparity between fee for service growth rates
19 and the national average per capita growth rate. Un-
20 less the Secretary otherwise determines, the national
21 average per capita growth percentage shall be 7 per-
22 cent.

23 “(d) PAYMENT AREA DEFINED.—

24 “(1) IN GENERAL.—In this part, except as pro-
25 vided in paragraph (3), the term ‘payment area’

1 means a county, or equivalent area specified by the
2 Secretary.

3 “(2) RULE FOR ESRD BENEFICIARIES.—In the
4 case of individuals who are determined to have end
5 stage renal disease, the payment area shall be each
6 State.

7 **“SEC. 1851G. SANCTIONS.**

8 “(a) VIOLATIONS SUBJECT TO CIVIL MONEY PEN-
9 ALTIES.—In addition to any other remedies authorized by
10 law, the Secretary may impose a civil money penalty in
11 accordance with subsection (c) on an eligible organization
12 with a contract under this part that has committed any
13 of the following violations:

14 “(1) FAILURE TO PROVIDE MEDICALLY NEC-
15 ESSARY CARE.—The organization has failed substan-
16 tially to provide medically necessary items and serv-
17 ices that are required (under law or under the con-
18 tract) to be provided to an individual covered under
19 the contract, if the failure has adversely affected (or
20 has substantial likelihood of adversely affecting) the
21 individual.

22 “(2) EXCESSIVE PREMIUMS.—The organization
23 has imposed premiums on individuals enrolled under
24 this part in excess of the premiums permitted.

1 “(3) DISCONTINUATION OF COVERAGE.—The
2 organization has expelled or refused to re-enroll an
3 individual in violation of the provisions of this part.

4 “(4) DISCOURAGING ENROLLMENT.—The orga-
5 nization has engaged in any practice that would rea-
6 sonably be expected to have the effect of denying or
7 discouraging enrollment (except as permitted by this
8 part) by eligible individuals with the organization
9 whose medical condition or history indicates a need
10 for substantial future medical services.

11 “(5) FALSE INFORMATION.—The organization
12 has misrepresented or falsified information fur-
13 nished—

14 “(A) to the Secretary under this part, or

15 “(B) to an individual or to any other entity
16 under this part.

17 “(6) FAILURE TO COOPERATE WITH EXTERNAL
18 QUALITY REVIEW.—The organization fails to cooper-
19 ate in the performance of the review required under
20 section 1851E(e)(2).

21 “(7) PHYSICIAN INCENTIVE PLAN VIOLA-
22 TIONS.—The organization fails to comply with the
23 requirements of section 1851E(i).

24 “(8) RELATIONSHIP WITH EXCLUDED INDIVID-
25 UAL OR ENTITY.—The organization.—

1 “(A) employs or contracts with any indi-
2 vidual or entity that is excluded from participa-
3 tion under this title under section 1128 or
4 1128A for the provision of health care, utiliza-
5 tion review, medical social work, or administra-
6 tive services; or

7 “(B) employs or contracts with any entity
8 for the provision (directly or indirectly) through
9 such an excluded individual or entity of such
10 services.

11 “(b) VIOLATIONS SUBJECT TO INTERMEDIATE SANC-
12 TIONS.—In addition to any other remedies authorized by
13 law, the Secretary may impose an intermediate sanction
14 in accordance with subsection (d) on an eligible organiza-
15 tion with a contract under this part that has committed
16 any of the following violations:

17 “(1) VIOLATION SUBJECT TO CIVIL MONEY
18 PENALTY.—Any violation specified in subsection (a).

19 “(2) GROUNDS FOR TERMINATION OF CON-
20 TRACT.—Any violation that would be grounds for
21 termination of the contract with the organization
22 pursuant to section 1851F(b)(2).

23 “(3) FAILURE TO MAKE PROMPT PAYMENT.—
24 Failure to make prompt payment as required by sec-
25 tion 1851F(d).

1 “(4) DELAYED COVERAGE DETERMINATIONS.—
2 Failure to meet timeliness standards for coverage
3 determinations under section 1851E(d)(1).

4 “(5) INSUFFICIENT PRIVATE ENROLLMENT.—
5 Failure to meet the minimum requirements of sec-
6 tion 1851E(g).

7 “(c) CIVIL MONEY PENALTIES.—

8 “(1) AMOUNT OF PENALTY.—The Secretary
9 may impose, on an eligible organization determined
10 to have committed a violation specified in subsection
11 (a), civil money penalties not to exceed the sum of
12 the following amounts, as applicable:

13 “(A) for each such determination, not
14 more than—

15 “(i) \$100,000 in the case of a deter-
16 mination under subsection (a)(4) or
17 (a)(5)(i); or

18 “(ii) \$25,000, in the case of any other
19 such determination;

20 “(B) with respect to a determination under
21 subsection (a)(2), double the excess amount
22 charged (and the excess amount charged shall
23 be deducted from the penalty and returned to
24 the individual concerned); and

1 “(C) with respect to a determination under
2 subsection (a)(4), \$15,000 for each individual
3 not enrolled as a result of the practice involved.

4 “(2) ADMINISTRATIVE PROCEDURE.—The pro-
5 visions of section 1128A (other than subsections (a)
6 and (b) shall apply to a civil money penalty under
7 this section in the same manner as they apply to a
8 civil money penalty or proceeding under section
9 1128A(a).

10 “(d) INTERMEDIATE SANCTIONS.—The Secretary
11 may impose, on an eligible organization determined to
12 have committed a violation specified in subsection (a) or
13 (b), either or both of the following sanctions.

14 “(1) SUSPENSION OF ENROLLMENT.—Susten-
15 sion of enrollment of individuals with the organiza-
16 tion under this part after the date the Secretary no-
17 tifies the organization of a determination under sub-
18 section (a) or (b) and until the Secretary is satisfied
19 that the basis for such determination has been cor-
20 rected and is not likely to recur.

21 “(2) SUSPENSION OF PAYMENT.—Suspension of
22 payment to the organization under this part for indi-
23 viduals enrolled after the date the Secretary notifies
24 the organization of a determination under subsection
25 (a) or (b) and until the Secretary is satisfied that

1 the basis for such determination has been corrected
2 and is not likely to recur.

3 **“SEC. 1851H. DEFINITIONS.**

4 “(a) ADJUSTED COMMUNITY RATE.—

5 “(1) IN GENERAL.—For purposes of this part,
6 the term ‘adjusted community rate’ for a service or
7 services means, at the election of an eligible organi-
8 zation, either—

9 “(A) the rate of payment for that service
10 or services which the Secretary annually deter-
11 mines would apply to a member enrolled under
12 this part with an eligible organization if the
13 rate of payment were determined under a com-
14 munity rating system’ (as defined in section
15 1302(8) of the Public Health Service Act, other
16 than subparagraph (C)), or

17 “(B) such portion of the weighted aggre-
18 gate premium, which the Secretary annually es-
19 timates would apply to a member enrolled
20 under this part with the eligible organization,
21 as the Secretary annually estimates is attrib-
22 utable to that service or services, adjusted in
23 accordance with paragraph (2).

24 “(2) ADJUSTMENT OF DIFFERENCES IN UTILI-
25 ZATION.—The rate determined in accordance with

1 subparagraphs (A) and (B) of paragraph (1) shall
2 be adjusted for—

3 “(A) the differences between the utilization
4 characteristics of the members enrolled with the
5 eligible organization under this part and utiliza-
6 tion characteristics of the other members of the
7 organization; or

8 “(B) (if the Secretary finds that adequate
9 data are not available to calculate the adjust-
10 ment pursuant to subparagraph (A)) the dif-
11 ferences between—

12 “(i) the utilization characteristics of
13 members in other eligible organizations, or
14 individuals in the area, in the State, or in
15 the United States, eligible to enroll under
16 this part with an eligible organization, and

17 “(ii) the utilization characteristics of
18 the rest of the population in the area, in
19 the State, or in the United States, respec-
20 tively.

21 “(b) ADJUSTED AVERAGE PER CAPITA COST
22 (AAPCC).—For purposes of this part, the term ‘AAPCC’
23 (adjusted average per capita cost) means the average per
24 capita amount that the Secretary estimates in advance (on
25 the basis of actual experience, or retrospective actuarial

1 equivalent based upon an adequate sample and other in-
2 formation and data, in a geographic area served by an
3 eligible organization or in a similar area, with appropriate
4 adjustments to assure actuarial equivalence) would be pay-
5 able in any contract year for services covered under parts
6 A and B, or part B only, and types of expenses otherwise
7 reimbursable under parts A and B, or part B only (includ-
8 ing administrative costs incurred by organizations de-
9 scribed in sections 1816 and 1842), if the services were
10 to be furnished by other than an eligible organization or,
11 in the case of services covered only under section
12 1861(s)(2)(H), if the services were to be furnished by a
13 physician or as an incident to a physician's service.”.

14 (b) REPEAL OF SUPERSEDED PROVISION.—Section
15 1876 (42 U.S.C. 1395mm) is repealed, except to the ex-
16 tent provided in subsection (e).

17 (c) CONFORMING AMENDMENTS.—

18 (1) Section 1154(a)(4)(B) (42 U.S.C. 1320c-
19 3(a)(4)(B)) is amended—

20 (A) in the first sentence, by striking “risk-
21 sharing contract under section 1876” and in-
22 sserting “contract under part C of title XVIII”,
23 and

24 (B) in the second sentence, by striking “a
25 health maintenance organization or competitive

1 medical plan under section 1876” and inserting
2 “an eligible organization under part C of title
3 XVIII”.

4 (2) The second sentence of section
5 1154(a)(4)(C) (42 U.S.C. 1320c-3(A)(4)(C)) is
6 amended by striking “section 1876” and inserting
7 “part C of title XVIII”.

8 (3) Section 1866(a)(1)(O) (42 U.S.C.
9 1395cc(a)(1)(O)) is amended by striking “risk-shar-
10 ing contract under section 1876” and inserting
11 “contract under part C”.

12 (4) The matter in the first sentence of section
13 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) preceding sub-
14 paragraph (A) is amended by striking “1876(c)(8)”
15 and inserting “1851E(f)”.

16 (5) Section 1866(f)(2)(E) (42 U.S.C.
17 1395cc(f)(2)(E)) is amended by striking “1876(b)”
18 and inserting “1851A(a)”.

19 (6) Section 1882(f)(1) is amended—

20 (A) by striking “1876(b) and inserting
21 “1851A”; and

22 (B) by striking “section 1876” and insert-
23 ing “part C”.

24 (d) EFFECTIVE DATE.—Except to the extent other-
25 wise provided, the amendments made by the preceding

1 subsections apply to items and services furnished after
2 1996.

3 (e) TRANSITION PROVISIONS FOR COST CON-
4 TRACTS.—

5 (1) REPEAL OF AUTHORITY FOR COST CON-
6 TRACTS DELAYED TO 2001.—The amendments made
7 by the preceding subsections (other than the amend-
8 ments specified in paragraph (2)) do not apply to
9 items and services furnished before 2001 under a
10 contract under section 1876(h) of the Social Secu-
11 rity Act (42 U.S.C. 1395mm(h)).

12 (2) PROVISIONS WHOSE EFFECT IS NOT DE-
13 LAYED.—The effective dates of the following provi-
14 sions of part C of the Social Security Act (as en-
15 acted by subsection (a)(2) of this section) shall not
16 be delayed by reason of paragraph (1):

17 (A) DEFINITION OF QUALIFIED HMO.—
18 Section 1851A(b).

19 (B) ENROLLMENT AND
20 DISENROLLMENT.—Section 1851B.

21 (C) BENEFICIARY PROTECTIONS.—Sub-
22 sections (a) (explanation of patients' rights and
23 restrictions), (c) (grievance mechanism), (d)
24 (coverage determinations and appeals), and (g)

1 (private enrollment requirements) of section
2 1851E.

3 (3) OPTION RESTRICTED TO GRANDFATHERED
4 ORGANIZATIONS.—With respect to services provided
5 after 1995 but before 2001, the Secretary may enter
6 into contracts under subsection (h) of section 1876
7 of the Social Security Act (42 U.S.C. 1395mm) only
8 with entities with which the Secretary has entered
9 into contracts under that subsection for all or part
10 of 1995, or to which payments have been made dur-
11 ing 1995 under section 1833(a)(1)(A) of that Act
12 (42 U.S.C. 13951(a)(1)(A)).

13 (f) REGULATIONS.—

14 (1) CONTINUITY OF CURRENT REGULATIONS.—
15 Regulations in effect (or available in proposed form)
16 on December 31, 1996, that apply to section 1876
17 of the Social Security Act (42 U.S.C. 1395mm) shall
18 apply to part C of title XVIII of that Act (as en-
19 acted by subsection (a)(2) of this section), except to
20 the extent that the regulations are inconsistent with
21 the provisions of that part.

22 (2) INTERIM FINAL REGULATIONS.—The Sec-
23 retary may issue regulations before 1998 for part C
24 of title XVIII of the Social Security Act (as enacted

1 by subsection (a)(2) of this section) on an interim
2 final basis.

3 (g) CONSIDERATION OF EXPERIENCE UNDER SEC-
4 TION 1876 IN SATISFACTION OF REQUIREMENTS OF PART
5 C.—Any requirement in part C of title XVIII of the Social
6 Security Act (as enacted by subsection (a)(2) of this sec-
7 tion) that (in a particular context) relates to matters that
8 occurred before 1997 shall be satisfied if the correspond-
9 ing requirement was satisfied under section 1876 (42
10 U.S.C. 1395mm) of that Act.

11 (h) ENROLLMENT TRANSITION RULE.—An individ-
12 ual who is enrolled on December 31, 1996, with an eligible
13 organization under section 1876 of the Social Security Act
14 (42 U.S.C. 1395mm) shall be considered to be enrolled
15 with that organization on January 1, 1997, under part
16 C of title XVIII of that Act (as added by subsection (a)(2)
17 of this section) if that organization has a contract under
18 that part for providing services on January 1, 1997 (un-
19 less the individual has disenrolled effective on that date).

20 (i) IMMEDIATE EFFECTIVE DATE FOR CERTAIN RE-
21 QUIREMENTS FOR DEMONSTRATIONS.—Section
22 1851B(b)(2) of the Social Security Act (as enacted by
23 subsection (a)(2) of this section) (requiring contribution
24 to certain costs related to the enrollment process compara-

1 tive materials) applies to demonstrations occurring after
2 the date of enactment of this Act.

3 **SEC. 11203. DEVELOPMENT OF STANDARDS FOR FISCAL**
4 **SOUNDNESS AND REQUIREMENTS AGAINST**
5 **RISK OF INSOLVENCY.**

6 The Secretary of Health and Human Services, in con-
7 sultation with the National Association of Insurance Com-
8 missioners, organizations that provide or pay for health
9 care services, and consumer organizations, shall develop
10 (and publish as an interim final rule by July 1, 1996)
11 standards for fiscal soundness and requirements concern-
12 ing adequate provision against the risk of insolvency for
13 provider sponsored organizations that have entered into
14 contracts under part C of title XVIII of the Social Secu-
15 rity Act (as enacted by section 11202(a)(2) of this Act).
16 The Secretary may also publish, as an interim final rule
17 by that date, any additional requirements related to such
18 organizations.

19 **SEC. 11204. APPLICABILITY OF MEDICARE RATES TO EN-**
20 **ROLLEES WHO USE AN OUT-OF-PLAN PRO-**
21 **VIDER OF SERVICES.**

22 (a) Section 1866(a)(1)(O) (42 U.S.C.
23 1395cc(a)(1)(O)) is amended—

24 (1) by striking “in the case of hospitals and
25 skilled nursing facilities,”;

1 (2) by striking “inpatient hospital and extended
2 care services that are covered under this title and”
3 and inserting “services that”; and

4 (3) by striking “(in the case of hospitals) or
5 limits (in the case of skilled nursing facilities)”.

6 (b) The amendment made by subsection (a) applies
7 to services furnished after 1996.

8 **SEC. 11205. SUBSTITUTION OF QUALITY MEASUREMENT**
9 **SYSTEM FOR PRIVATE ENROLLMENT RE-**
10 **QUIREMENT.**

11 (a) PROMULGATION OF REGULATIONS.—The Sec-
12 retary of Health and Human Services, after consulting
13 with representatives from managed health care plans (in-
14 cluding representatives of provider service organizations),
15 consumer organizations, and other major purchasers of
16 managed care services—

17 (1) shall publish proposed regulations by July
18 1, 1997, requiring the collection, analysis, and re-
19 porting of data that will permit measurement of out-
20 comes and other indices of the quality of managed
21 care plans;

22 (2) shall publish final regulations after complet-
23 ing review of comments on the proposed regulations
24 published pursuant to paragraph (1).

1 (b) REVISION OF BENEFICIARY PROTECTION RE-
2 QUIREMENT.—As of the effective date of final regulations
3 published pursuant to subsection (a), section 1851E(g)
4 (as enacted by section 11202(a)(2) of this Act) is amended
5 to read as follows:

6 “(g) QUALITY MEASUREMENT SYSTEM.—Each eligi-
7 ble organization with which the Secretary enters into a
8 contract under this part shall meet the requirements of
9 the quality measurement system established by the Sec-
10 retary in regulations.”.

11 **SEC. 11206. HMO COMPETITIVE PRICING AND RELATED**
12 **DEMONSTRATIONS.**

13 (a) AMENDMENT EFFECTIVE ON DATE OF ENACT-
14 MENT.—Section 402(b) of the Social Security Amend-
15 ments of 1967 (42 U.S.C. 1395b–1(b)) is amended by in-
16 serting after the first sentence the following: “The Sec-
17 retary may also waive, in the case of such an experiment
18 or demonstration project, compliance with the require-
19 ments of sections 1876 and 1882 of that Act.

20 “(2) REPORT TO CONGRESS ON COMPETITIVE
21 PRICING DEMONSTRATION.—Not later than January
22 1, 2002, the Secretary shall report to Congress on
23 specific recommendations for a new payment meth-
24 odology for eligible organizations with contracts

1 under Part C to be based on the results of the com-
2 petitive pricing demonstrations.”.

3 (b) AMENDMENT EFFECTIVE FOR 1997–2000.—

4 (1) The second sentence of section (402)(b) of
5 the Social Security Amendments of 1967 (42 U.S.C.
6 1395B–1(b)) (as added by subsection (a) of this sec-
7 tion) is amended by inserting “and part C of title
8 XVIII” after “1882”.

9 (2) The amendment made by paragraph (1) ap-
10 plies to activities occurring after 1996.

11 (c) AMENDMENT EFFECTIVE AFTER 2000.—

12 (1) The second sentence of section 402(b) of
13 the Social Security Amendments of 1967 (42 U.S.C.
14 1395b–1(b)) (as added by subsection (a) and
15 amended by subsection (b) of this section) is further
16 amended by striking “sections 1876 and 1882” and
17 inserting “section 1882”.

18 (2) The amendment made by paragraph (1) ap-
19 plies to activities occurring after 2000.

20 **SEC. 11207. ELIMINATION OF HEALTH CARE PREPAYMENT**
21 **PLAN OPTION FOR ENTITIES ELIGIBLE TO**
22 **PARTICIPATE UNDER PART C.**

23 (a) ELIMINATION OF OPTION.—

24 (1) IN GENERAL.—Section 1833(a)(1)(A) (42
25 U.S.C. 13951(a)(1)(A)) is amended by inserting

1 after “prepayment basis” the following: “(and either
2 is sponsored by a union or employer, or does not
3 provide, or provide benefits for, any inpatient hos-
4 pital services)”.

5 (2) EFFECTIVE DATE.—The amendment made
6 by subparagraph (A) applies to services furnished
7 after 1996.

8 (b) MEDIGAP AMENDMENT.—Section 1882(g) (42
9 U.S.C. 1395ss(g)) is amended by striking “, during the
10 period beginning on the date specified in subsection
11 (p)(1)(C) and ending on December 31, 1995,”.

12 **SEC. 11208. MEDIGAP REFORMS.**

13 (a) UNIFORM ENROLLMENT PERIODS.—

14 (1) IN GENERAL.—Section 1882(s)(2)(A) (42
15 U.S.C. 1395ss(s)(2)(A)) is amended by striking “an
16 application is submitted” and all that follows and in-
17 serting the following: “an application is submitted—

18 “(i) prior to or during the 6-month period be-
19 ginning with the first month as of the first day on
20 which the individual is 65 years of age or older and
21 is enrolled for benefits under part B;

22 “(ii) during an annual 30-day period specified
23 by the Secretary; or

24 “(iii) during a period specified by the Secretary
25 in the circumstances described in section

1 1851B(c)(2) (with respect to an individual losing
2 coverage through an organization's termination of
3 contract or discontinuation of coverage).”.

4 (2) EFFECTIVE DATE.—The amendment made
5 by the paragraph (1) is effective after 1996.

6 (b) STANDARDIZED INFORMATION.—

7 (1) IN GENERAL.—

8 (A)(i) Section 1882 (42 U.S.C. 1395ss) is
9 amended by adding at the end the following:

10 “(u) Each entity that offers a medicare supplemental
11 policy shall pay the Secretary for its pro rata share (a
12 determined by the Secretary) of the estimated costs to be
13 incurred by the Secretary in carrying out the requirements
14 of the first sentence of section 1851B(b)(1) and section
15 4360 of the Omnibus Reconciliation Act of 1990. Those
16 payments are appropriated to defray the costs described
17 in the preceding sentence, to remain available until ex-
18 pended.”.

19 (ii) Section 1882(c)(5) (42 U.S.C.
20 1395ss(c)(5)) is amended by striking “(t)” and
21 inserting “(u)”.

22 (B) Section 4360(g) of the Omnibus Rec-
23 onciliation Act of 1990 (42 U.S.C. 1395b-4(g))
24 is amended to read as follows:

1 “(g) FUNDING.—For funding provisions, see section
2 1851B(b)(2), and section 1882(u), of the Social Security
3 Act.”.

4 (2) EFFECTIVE DATE.—The amendments made
5 by the preceding paragraphs apply to demonstra-
6 tions occurring after the date of enactment of this
7 Act, and to other activities occurring after 1996.

8 (c) COMMUNITY RATING.—

9 (1) IN GENERAL.—Section 1882(c) (42 U.S.C.
10 1395ss(c)) is amended—

11 (A) by striking “and” at the end of para-
12 graph (4),

13 (B) by striking the period at the end of
14 paragraph (5) and adding “; and”, and

15 (C) by adding after paragraph (5) the fol-
16 lowing: “(6) provides for the same premium for
17 each enrollee.”.

18 (2) CONFORMING AMENDMENT.—Section
19 1882(b)(1)(B) (42 U.S.C. 1395ss(b)(1)(B)) is
20 amended by striking “(5)” and inserting “(6)”.

21 (3) EFFECTIVE DATE AND TRANSITIONAL PRO-
22 VISIONS.—The amendments made by the preceding
23 paragraphs apply to policies and plans as of the be-
24 ginning of 1997 (whether issued before or after that
25 time), subject to such transitional rules as the Sec-

1 retary may develop after consulting with the Na-
2 tional Association of Insurance Commissioners.

3 (d) LONG-TERM CARE INSURANCE SAFE HARBOR.—

4 (1) IN GENERAL.—Section 1882(d)(3)(C) is
5 amended—

6 (A) by striking “or (iii)” and inserting
7 “(iii)”; and

8 (B) by inserting before the period the fol-
9 lowing: “, or (iv) the sale or issuance of a
10 health insurance policy (or rider to an insur-
11 ance contract which is not a health insurance
12 policy) providing benefits only for long-term
13 care, nursing home care, home health care, or
14 community-based care, or any combination
15 thereof, that coordinates against or excludes
16 items and services available under this title, if
17 such coordination or exclusion is disclosed in
18 the policy’s outline of coverage.”.

19 (2) EFFECTIVE DATE AND OTHER RULES.—

20 (A) The amendments made by this section
21 shall take effect as if included in the enactment
22 of section 4354 of the Omnibus Budget Rec-
23 onciliation Act of 1990 (hereafter referred to as
24 “OBRA–1990”).

1 (B) No penalty shall be imposed under sec-
2 tion 1882(d)(3)(A)(i) of the Social Security Act
3 for any set or omission occurring after the ef-
4 fective date of the amendments made by section
5 4354 of OBRA–90 and before the date of the
6 enactment of this Act relating to the sale of a
7 health insurance policy described in section
8 1882(d)(3)(C)(iv) of the Social Security Act.

9 **SEC. 11209. STANDARDIZED BENEFITS PACKAGES.**

10 (a) **MANAGED CARE.**—The Secretary, no later than
11 July 1, 1996, after consulting with the National Associa-
12 tion of Insurance Commissioners, consumer groups, man-
13 aged care plans, providers of health care, and insurers,
14 shall develop standard packages of benefits (in addition
15 to the benefits covered under title XVIII of the Social Se-
16 curity Act (42 U.S.C. 1395 et seq.)) that may be offered
17 by eligible organizations under part C of that title (as
18 added by section 11202(a)(2) of this Act).

19 (b) **MEDIGAP.**—

20 (1)(A) The Secretary shall request the National
21 Association of Insurance Commissioners, in con-
22 sultation with consumer groups, managed care
23 plans, providers of health care, and insurers, to ex-
24 amine (and recommend by March 1, 1997, any re-
25 structuring needed for) the standard benefit pack-

1 ages developed under section 1882(p)(2) of the So-
2 cial Security Act (42 U.S.C. 1395ss(p)(2)) in order
3 to facilitate to the maximum extent feasible compari-
4 son across medicare supplemental policies and bene-
5 fits offered by eligible organizations under section
6 1876.

7 (B) The Secretary, no later than May 1, 1997,
8 after taking into account any recommendations
9 made under subparagraph (A) by the National Asso-
10 ciation of Insurance Commissioners, shall restruc-
11 ture, as needed, those standard benefit packages.

12 (2)(A) Section 1882(p) (42 U.S.C. 1395ss(p))
13 is amended by adding at the end the following:

14 “(11) The groups or packages of benefits (in-
15 cluding the core group of basic benefits) under para-
16 graph (2) shall be modified by any changes made by
17 the Secretary under section 11209(b)(1)(B) of the
18 Balanced Budget Act of 1995 for Economic Growth
19 and Fairness.”.

20 (B) The amendment made by subparagraph (A)
21 applies to services provided after 1997.

22 MEDICAID LANGUAGE EXPLANATION

23 The proposal would include language with establish-
24 ing a per capita cap on the average per beneficiary rate
25 of growth in the Medicaid program.

1 There would be an “equity adjustor” to states with
 2 low per capita expenditures (i.e., their growth rates would
 3 be higher than other states). The national average growth
 4 rate, however, would be tagged to grow by a national index
 5 (compensating for the “equity adjustor”).

6 With respect to savings in the disproportionate share
 7 hospital program, we would phase out the current dis-
 8 proportionate share program and phase in a retargeted
 9 disproportionate share program identical to the Coalition’s
 10 bill.

11 Funding levels would be as follows:

	1996	1997	1998	1999	2000	2001	2002
Phase-out	10.7	8.0	5.3	2.6	0.0	0.0	0.0
Phase-in .	0.0	1.3	2.7	4.0	5.0	5.0	5.0
Total ...	10.7	9.3	8.0	6.6	5.0	5.0	5.0

12 The program would also include a mandatory set-
 13 aside of payments of \$290 million for federally qualified
 14 health centers and \$125 million for rural health centers
 15 in FY 1997 to be increased annually by the overall rate
 16 of Medicaid growth in the previous year. We estimate this
 17 would cost approximately \$3 billion over the six year pe-
 18 riod.

19 In addition, we would include language from the con-
 20 ference report for the \$3.5 billion for payments to states
 21 for costs incurred for the provision of care to undocu-
 22 mented aliens.

1 “(b) FOR UNDOCUMENTED IMMIGRANTS.—

2 “(1) IN GENERAL.—Each of the 15 States with
3 the largest number of illegal immigrants (as esti-
4 mated by the Statistics Division of the Immigration
5 and Naturalization Service as of October, 1992)
6 shall be entitled, for each of fiscal years 1996
7 through 2000, to an amount bearing the same ratio
8 to the amount specified in paragraph (2) as the ille-
9 gal immigrant population in all 15 such States.

10 “(2) AMOUNTS AUTHORIZED.—For purposes of
11 paragraph (1) amounts authorized to be appro-
12 priated are—

13 “(A) \$631,000,000 for fiscal year 1996;

14 “(B) \$664,000,000 for fiscal year 1997;

15 “(C) \$699,000,000 for fiscal year 1998;

16 “(D) \$735,000,000 for fiscal year 1999;

17 and

18 “(E) \$771,000,000 for fiscal year 2000.

19 “(3) ANNUAL REPORT.—Not later than 90 days
20 after the end of each fiscal year in which a State re-
21 ceives or uses amounts pursuant to this subsection,
22 the State shall submit to the Secretary, and make
23 available to the public, a report on its use of such
24 amounts in such fiscal year which includes:

1 “(A) a listing of each of the providers re-
2 ceiving payment from such amounts and the
3 amount of such payments; and

4 “(B) such information as the Secretary
5 may require to provide an assurance that serv-
6 ices provided with such payments were consist-
7 ent with the limitations under section 1903(v).

8 “(c) EXTENDED AVAILABILITY OF FUNDS.—
9 Amounts appropriated pursuant to this section and not
10 required by a State for the purposes of this section in a
11 fiscal year may be used by the State for such purposes
12 in any subsequent fiscal year, and shall remain available
13 until expended.

14 “(d) STATE ASSURANCES.—Each State receiving
15 transitional assistance payments under this section shall
16 provide assurances satisfactory to the Secretary—

17 “(1) in the case of payments under subsection
18 (a), that such payments will be used by the State to
19 make payments to health care providers for services
20 which would otherwise be uncompensated; and

21 “(2) in the case of payments under subsection
22 (b), that such payments will be used by the State to
23 make payments for emergency health care services
24 for illegal immigrants in accordance with section
25 1903(v).”.

1 (2) PAYMENTS TO STATES.—Section 1903(a) is
2 amended—

3 (A) by striking the period at the end of
4 paragraph (7) and inserting “; plus”; and

5 (B) by adding after paragraph (7) the fol-
6 lowing new paragraph;

7 “(8) an amount equal to 100 percent
8 of payments authorized pursuant to section
9 1923A”.

10 (3) SUNSET.—Effective October 1, 2000, the
11 amendments made by this subsection are repealed.

12 **SEC. 11303. MEDICAID ELIGIBILITY QUALITY CONTROL**
13 **(MEQC) REQUIREMENTS.**

14 Section 1903(u) is amended—

15 (1) in paragraph (1)(A), to read as follows:

16 “(A) Notwithstanding subsection (a), the
17 Secretary shall reduce the aggregate Federal
18 payment limit applicable to a State for fiscal
19 year 1997 or any succeeding fiscal year by the
20 amount, if any, equal to the sum of the prod-
21 ucts, for each group defined in section 1931(b),
22 of—

23 “(i) the number of excess erroneous
24 enrollments of individuals in each such
25 group; and

1 “(ii) the per beneficiary rate applica-
2 ble to such group for such fiscal year pur-
3 suant to section 1931(c).”;

4 (2) in paragraph (1)(C), by striking “erroneous
5 excess payments for medical assistance” and insert-
6 ing “excess erroneous enrollments”;

7 (3) by striking subparagraphs (D) and (E) of
8 paragraph (1) and inserting the following:

9 “(D) CALCULATION FACTORS.—For pur-
10 poses of this subsection—

11 “(i) ERRONEOUS ENROLLMENTS.—
12 The term ‘erroneous enrollments’ means,
13 with respect to a group defined in section
14 1931(b), the number of individuals that a
15 State reports, pursuant to section
16 1931(c)(4), as enrolled in such group who
17 either (I) should have been so reported as
18 enrolled in another such group which has
19 a lower per beneficiary base rate, or (II)
20 were ineligible for medical assistance under
21 the State plan.

22 “(ii) EXCLUSION FROM ERRONEOUS
23 ENROLLMENTS.—The term ‘erroneous en-
24 rollments’ does not include any enroll-
25 ment—

1 “(I) of individuals whose eligi-
2 bility was determined exclusively by
3 the Commissioner of Social Security
4 under an agreement pursuant to sec-
5 tion 1634, and such other classes of
6 individuals as the Secretary may by
7 regulation prescribe whose eligibility
8 was determined in part under such an
9 agreement;

10 “(II) resulting from the failure of
11 an individual to cooperate or give cor-
12 rect information with respect to third-
13 party liability as required under sec-
14 tion 1912(a)(1)(C) or 402(a)(26)(C);
15 or

16 “(III) during a presumptive eligi-
17 bility period (as defined in section
18 1920(b)(1)).

19 “(iii) EXCESS ERRONEOUS ENROLL-
20 MENTS.—The term ‘excess erroneous en-
21 rollments’ means, with respect to a group
22 of individuals defined in section 1931(b),
23 erroneous enrollments in excess of 3 per-
24 cent of total enrollments of individuals in
25 such group.”; and

1 (4) in paragraph (2), by striking “erroneous ex-
 2 cess payments” and inserting “excess erroneous en-
 3 rollments”.

4 **PART 2—ELIGIBILITY**

5 **SEC. 11311. EXTENSION OF COVERAGE TO ADDITIONAL IN-** 6 **DIVIDUALS, SUBJECT TO POVERTY-RELATED** 7 **OR CASELOAD LIMITS.**

8 (a) EXPANDED ELIGIBILITY.—Section 1902(a)(10)
 9 is amended by adding after subparagraph (F) the follow-
 10 ing new paragraph:

11 “(G) at the option of a State, for making
 12 medical assistance available to one of the fol-
 13 lowing groups of individuals who would other-
 14 wise be ineligible for such assistance:

15 “(i) individuals whose income does not
 16 exceed a limit established by the State, not
 17 greater than 150 percent of the Federal
 18 poverty line; or * * *

19 (b) DISREGARD OF ADDITIONAL ENROLLEES IN CAL-
 20 CULATION OF FEDERAL PAYMENT LIMIT.—Section
 21 1931(c)(4)(A), as added by section 11301 of this Act, is
 22 amended by adding at the end the following new clause:

23 “(iii) EXPANDED ELIGIBILITY DIS-
 24 REGARD.—The numbers reported by the
 25 State shall not include any individuals en-

1 rolled in the State program under this title
2 pursuant to section 1902(a)(10)(G).”.

3 **SEC. 11312. ELIMINATION OF AUTHORITY FOR NEW ELIGI-**
4 **BILITY EXPANSION DEMONSTRATIONS.**

5 Section 1115(a)(1) is amended by inserting “(except
6 that waivers of requirements of section 1902 with respect
7 to eligibility of individuals for medical assistance shall not
8 be granted (but may be extended or modified) on or after
9 October 1, 1996)” after “project”.

10 **SEC. 11313. UPPER INCOME LIMIT ON “LESS RESTRICTIVE”**
11 **ELIGIBILITY METHODOLOGIES.**

12 Section 1902(r)(2) is amended—

13 (1) in paragraph (A), by inserting “(except as
14 provided in subparagraph (C))” after “no more re-
15 strictive”; and

16 (2) by adding at the end the following new sub-
17 paragraph:

18 “(C) The methodology described in subparagraph (A)
19 shall not result in an income eligibility limit (based on
20 gross income) higher than the higher of—

21 “(i) 150 percent of the Federal poverty line; or

22 “(ii) the income eligibility limit applicable under
23 the State plan in effect in fiscal year 1995 (taking
24 into account any such limit applicable under a waiv-
25 er under section 1115).”.

PART 3—MANAGED CARE**SEC. 11321. PRIMARY CARE CASE MANAGEMENT SERVICES****AS STATE OPTION WITHOUT NEED FOR WAIVER.****(a) PRIMARY CARE CASE MANAGEMENT SERVICES**

DEFINED.—Section 1905 is amended by adding at the end of the following new subsection:

“(t)(1) The term ‘primary care case management system’ means a State program under which individuals eligible for medical assistance under the State plan under this title are enrolled with primary care case managers and are entitled to receive health care items and services covered under the State plan and specified in such program only as approved (and arranged or provided) by such managers.

“(2) The term ‘primary care case manager’ means a provider that has entered into a primary care case management contract with the State agency and that is—

“(A) a physician, a physician group practice, or an entity employing or having other arrangements with physicians who provide case management services; or

“(B) at State option—

“(i) a nurse practitioner (as described in section 1905(a)(21);

1 “(ii) a certified nurse-midwife (as defined
2 in section 1861(gg)); or

3 “(iii) a physician assistant (as defined in
4 section 1861(aa)(5).

5 “(3) The term ‘primary care case management con-
6 tract’ means a contract with a State agency under which
7 a primary care case manager undertakes to locate, coordi-
8 nate and monitor covered primary care, covered primary
9 care and other services, or covered services specified by
10 the State, to all individuals enrolled with the primary care
11 case manager, and which provides for—

12 “(A) reasonable and adequate hours of oper-
13 ation, including 24-hour availability of information,
14 referral, and treatment with respect to medical
15 emergencies;

16 “(B) restriction of enrollment to individuals re-
17 siding sufficiently near a service delivery site of the
18 entity to be able to reach such site within a reason-
19 able time using available and affordable modes of
20 transportation;

21 “(C) employment of, or contracts or other ar-
22 rangements with, sufficient numbers of physicians
23 and other appropriate health care professionals to en-
24 sure that services under the contract can be fur-

1 nished to enrollees promptly and without com-
2 promise to quality of care;

3 “(D) a prohibition on discrimination on the
4 basis of health status or requirements for health
5 services in enrollment, disenrollment, reenrollment,
6 or disenrollment of individuals eligible for medical
7 assistance under this title; and

8 “(E) a right for enrollees to terminate such en-
9 rollment without cause during the first month of
10 each enrollment period, each such enrollment period
11 not to exceed six months in duration, and to termi-
12 nate their enrollment at any time for cause.

13 “(4) The term ‘primary care’ includes all health care
14 services customarily provided by or under the supervision
15 of, and all laboratory services customarily provided by or
16 through, a general practitioner, family medicine physician,
17 internal medicine physician, obstetrician/gynecologist, or
18 pediatrician.”.

19 (b) INCLUSION IN DEFINITION OF MEDICAL ASSIST-
20 ANCE.—Section 1905(a) is amended—

21 (1) by striking “and” at the end of paragraph
22 (24);

23 (2) by redesignating paragraph (25) as para-
24 graph (26); and

1 (3) by inserting after paragraph (24) the fol-
2 lowing new paragraph:

3 “(25) primary care case management services
4 (as defined in subsection (t)); and”.

5 (c) STATE PLAN REQUIREMENT.—Section 1902(a) is
6 amended—

7 (1) by striking “and” at the end of paragraph
8 (61);

9 (2) by striking the period at the end of para-
10 graph (62) and inserting “; and”; and

11 (3) by adding after paragraph (62) the follow-
12 ing new paragraph:

13 “(63) provide that any primary care case man-
14 agement services furnished under the plan will be
15 furnished in accordance with the provisions of sec-
16 tion 1905(t).”.

17 (d) REPEAL OF WAIVER AUTHORITY.—Section
18 1915(b) is amended by striking paragraph (1) and reded-
19 ignating paragraphs (2), (3), and (4) as paragraphs (1),
20 (2), and (3), respectively.

21 (e) EXCEPTION TO FREEDOM OF CHOICE.—For
22 State option to mandate enrollment in primary care case
23 management programs, see section 11322.

1 **SEC. 11322. STATE OPTIONS TO RESTRICT CHOICE OF PRO-**
2 **VIDERS.**

3 (a) MANDATORY ENROLLMENT IN MANAGED
4 CARE.—Section 1915(a) is amended by inserting at the
5 end the following new paragraph:

6 “(3) requires individuals eligible for medical as-
7 sistance for items or services under the State plan
8 to enroll with an entity that provides or arranges for
9 services for enrollees under a contract pursuant to
10 section 1903(m), or with a primary care case man-
11 ager (as defined in section 1905(t)) (and/or restricts
12 the number of provider agreements with such enti-
13 ties under the State plan, consistent with quality of
14 care), if—

15 “(A)(i) individuals are permitted to choose
16 between at least 2 such entities, or 2 such man-
17 agers, or an entity and a manager, each of
18 which has sufficient capacity to provide services
19 to enrollees; or

20 “(ii) with respect to a rural area—

21 “(I) individuals who are required to
22 enroll with a single entity are afforded the
23 option in appropriate circumstances to ob-
24 tain covered services by an alternative pro-
25 vider; and

1 “(II) an individual who is offered no
2 alternative to a single entity or manager is
3 given a choice between at least two provid-
4 ers within such entity or through such
5 manager;

6 “(iii)(I) the State does not restrict the par-
7 ticipation of any Indian health program speci-
8 fied in section 1931(d)(1)(C); and

9 “(II) in any case in which the State directs
10 the enrollment of an individual who is an In-
11 dian (as defined in section 4 of the Indian
12 Health Care Improvement Act of 1976) in ac-
13 cordance with this subsection, such individual is
14 enrolled with a participating entity specified in
15 subelause (I), if any;

16 “(B) the State restricts such individuals
17 from changing their enrollment without cause
18 for periods no longer than six months (and per-
19 mits enrollees to change enrollment for cause at
20 any time); and

21 “(C) such restrictions do not apply to pro-
22 viders of family planning services (as defined in
23 section 1905(a)(4)(C)) and are not conditions
24 for payment of medicare cost sharing pursuant
25 to section 1905(p)(3).”.

1 (b) STATE OPTION FOR SIX-MONTH LOCK-IN IN
2 RISK-BASED ARRANGEMENTS.—Section 1903(m)(2) is
3 amended—

4 (1) in paragraph (A)(vi)—

5 (A) by striking “(I) as provided under sub-
6 paragraph (F),”; and

7 (B) by striking all that follows “to termi-
8 nate such enrollment” and inserting “in accord-
9 ance with the provisions of subparagraph (F);”;
10 and

11 (2) in subparagraph (F), by striking “In the
12 case of—” and all that follows through “a State
13 plan” and inserting “A State plan”.

14 **SEC. 11323. ELIMINATION OF RESTRICTIONS ON RISK CON-**
15 **TRACTS.**

16 (a) 75 PERCENT LIMIT ON MEDICARE AND MEDIC-
17 AID ENROLLMENT.—

18 (1) IN GENERAL.—Section 1903(m)(2)(A) is
19 amended by striking clause (ii).

20 (2) CONFORMING AMENDMENTS.—Section
21 1903(m)(2) is amended—

22 (A) by striking subparagraphs (C), (D),
23 and (E); and

24 (B) in subparagraph (G), by striking
25 “clauses (i) and (ii)” and inserting “clause (i)”.

1 (b) SECRETARIAL APPROVAL OF CONTRACTS OVER
2 \$100,000.—Section 1903(m)(2)(A) is amended in clause
3 (iii) by striking all that follow “actuarially sound basis”
4 and inserting a semicolon.

5 (c) ADDITIONAL AMENDMENTS.—For additional
6 amendments to section 1903(m)(2)(A), see section
7 11341(b).

8 **SEC. 11324. 6-MONTH GUARANTEED ELIGIBILITY FOR ALL**
9 **INDIVIDUALS ENROLLED IN MANAGED CARE.**

10 Section 1902(e)(2) is amended—

11 (1) by striking “who is enrolled” and all that
12 follows through “section 1903(m)(2)(A)” and insert-
13 ing “who is enrolled with a health maintenance orga-
14 nization (as defined in section 1903(m)), with a pri-
15 mary care case manager (as defined in section
16 1905(t),”; and

17 (2) by inserting before the period “or by or
18 through such case manager”.

19 **SEC. 11325. REQUIREMENTS TO ENSURE QUALITY OF AND**
20 **ACCESS TO CARE UNDER MANAGED CARE**
21 **PLANS.**

22 Section 1902(a), as amended by section 11321(c), is
23 amended—

24 (1) in paragraph (62), by striking “; and” at
25 the end and inserting a semicolon;

1 (2) by striking the period at the end of para-
2 graph (63) and inserting “; and”; and

3 (3) by adding after paragraph (63) the follow-
4 ing new paragraph:

5 “(64) provide, with respect to all agreements
6 between the State agency and entities described in
7 section 1903(m), section 1905(t), and other provid-
8 ers of managed care services—

9 “(A) that the State agency will develop
10 and implement a quality improvement strategy,
11 consistent with standards established by the
12 Secretary, which includes—

13 “(i) standards for the provision of
14 services under such agreements designed to
15 ensure reasonable access of enrolled indi-
16 viduals to covered services meeting applica-
17 ble standards for quality and safety;

18 “(ii) procedures for monitoring per-
19 formance of entities under such agree-
20 ments, including—

21 “(I) procedures for collection
22 from (or reporting by) providers of
23 patient data; and

24 “(II) procedures for analysis of
25 such data;

1 “(B) that providers entering into such
2 agreements under which payment is made on a
3 prepaid capitated or other risk basis shall be re-
4 quired—

5 “(i) to demonstrate a capacity to de-
6 liver covered services to all enrolled individ-
7 uals; and

8 “(ii) to maintain an internal quality
9 assurance program, meeting such stand-
10 ards as the Secretary may establish in reg-
11 ulations, which includes a grievance proc-
12 ess.”.

13 **PART 4—BENEFITS**

14 **SEC. 11331. HOME- AND COMMUNITY-BASED SERVICES AS** 15 **STATE OPTION WITHOUT NEED FOR WAIVER.**

16 (a) **ELIMINATION OF WAIVER RESTRICTION.**—Sec-
17 tion 1915(c) is relocated and redesignated as subsection
18 (u) of section 1905, and is amended—

19 (1) in paragraph (1), by striking everything
20 through “pursuant to a written plan” and inserting
21 “The term ‘home- and community-based services’
22 means items and services (other than room and
23 board) which are provided in accordance with the
24 provisions of this subsection, and pursuant to a writ-
25 ten plan”;

1 (2) in paragraph (2)—

2 (A) by striking the matter that precedes
3 subparagraph (A) and inserting “A State agen-
4 cy that elects to provide home- and community-
5 based services as defined in this subsection
6 shall ensure that—”;

7 (B) by adding “and” at the end of sub-
8 paragraph (B);

9 (C) by striking the semicolon at the end of
10 subparagraph (C) and inserting a period; and

11 (D) by striking subparagraphs (D) and
12 (E);

13 (3) in paragraph (3), to read as follows:

14 “(3) A State plan may provide—

15 “(i) that home- and community-based serv-
16 ices furnished under the plan shall not be sub-
17 ject to the provisions of section 1902(a)(1) (re-
18 lating to statewideness), section 1902(a)(10)(B)
19 (relating to comparability), or section
20 1902(a)(10)(C)(i)(III) (relating to income and
21 resource rules applicable in the community),
22 and

23 “(ii) for purposes of post-eligibility treat-
24 ment of income, for disregard of a greater
25 amount for the maintenance needs of the indi-

1 vidual than amounts specified in regulations
2 with respect to a similarly situated institu-
3 tionalized individual.”;

4 (4) in paragraph (4)—

5 (A) by striking the matter preceding sub-
6 paragraph (A) and inserting “A State plan pro-
7 viding for home- and community-based services
8 may—”;

9 (B) in subparagraph (A)—

10 (i) by striking “benefits under such
11 waiver” and inserting “such benefits”;

12 (ii) by striking “under such waiver”
13 and inserting “for such benefits”; and

14 (iii) by striking “if the waiver did not
15 apply” and inserting “if institutionalized”;

16 and

17 (C) by striking the final sentence; and

18 (5) by striking paragraphs (6) through (10).

19 (b) INCLUSION IN DEFINITION OF “MEDICAL AS-
20 SISTANCE”.—Section 1905(a)(22) is amended to read
21 “home- and community-based services (as defined in sub-
22 section (u));”.

23 (c) STATE PLAN REQUIREMENT.—Section 1902(a),
24 as amended by sections 11321(c) and 11325, is amend-
25 ed—

1 (1) by striking “and” at the end of paragraph
2 (63);

3 (2) by striking the period at the end of para-
4 graph (64) and inserting “; and”; and

5 (3) by adding after paragraph (64) the follow-
6 ing new paragraph:

7 “(65) provide that any home- and community-
8 based services furnished under the plan will be fur-
9 nished in accordance with the provisions of section
10 1905(u).”.

11 (d) REPEAL OF SUPERSEDED PROVISIONS.—

12 (1) Sections 1929 and 1930 are repealed.

13 (2) Section 1905(a) is amended by striking
14 paragraph (23).

15 **SEC. 11332. ELIMINATION OF REQUIREMENTS TO PAY FOR**
16 **PRIVATE INSURANCE.**

17 (a) REPEAL OF STATE PLAN PROVISION.—

18 (1) Section 1902(a)(25) is amended—

19 (A) by striking subparagraph (G); and

20 (B) by redesignating subparagraphs (H)

21 and (I) as subparagraphs (G) and (H), respec-

22 tively.

23 (b) REPEAL OF ENROLLMENT REQUIREMENTS.—

24 Section 1906 is repealed.

1 (c) REINSTATEMENT OF STATE OPTION.—Section
2 1905(a) is amended, in the matter preceding clause (i),
3 by inserting “(including, at State option, through pur-
4 chase or payment of enrollee costs of health insurance)”
5 after “The term ‘medical assistance’ means payment”.

6 **SEC. 11333. BENEFITS FOR INDIVIDUALS COVERED DURING**
7 **TRANSITION TO WORK.**

8 (a) PAYMENT OF GROUP HEALTH COINSURANCE AT
9 MEDICAID RATES.—

10 (1) Section 1925(a)(4)(B) is amended—

11 (A) by striking “and” at the end of clause
12 (i)(II);

13 (B) by striking the period at the end of
14 clause (ii); and

15 (C) by adding after clause (ii) the following
16 new clause:

17 “(iii) the State may limit the amount
18 of any deductible or copayment for any
19 health care item or service to the applica-
20 ble portion of the amount the State would
21 pay if such item or service had been fur-
22 nished by a provider participating in the
23 program under the State plan.”.

24 (2) Section 1925(b)(4)(D) is amended by add-
25 ing at the end the following new sentence: “If the

1 State elects to pay such deductibles and coinsurance,
2 the State may limit the amount of such payments as
3 provided in subsection (a)(4)(C)(iii).”.

4 (b) ELIMINATION OF PREMIUM LIMIT.—Section
5 1925 (b)(5)(C) is repealed.

6 (c) PROVISION CONCERNING REPORTING REQUIRE-
7 MENTS MADE OPTIONAL.—

8 (1) REPORTING REQUIREMENT.—Section
9 1925(b)(2)(B) is amended to read as follows:

10 “(B) REPORTING REQUIREMENTS.—Each
11 State may require, as a condition for additional
12 extended assistance under this subsection, re-
13 ports by the family at such times and contain-
14 ing such information as the State may specify
15 concerning gross monthly earnings and costs
16 for child care.”.

17 (2) STATE OPTION TO TERMINATE BENEFITS
18 FOR FAILURE TO REPORT.—Section 1925(b)(3)(A)
19 is amended (a) in clause (iii), by striking
20 “(2)(B)(ii)” each place it appears and inserting
21 “(2)(B)”.

1 **PART 5—PROVIDER PARTICIPATION AND**
2 **PAYMENT RATES**

3 **SEC. 11341. METHODS FOR ESTABLISHING PROVIDER PAY-**
4 **MENT RATES.**

5 (a) PLAN AMENDMENTS.—Section 1902(a)(13) is
6 amended—

7 (1) by striking all that precedes subparagraph
8 (D) and inserting the following:

9 “(13) provide—

10 “(A) for a public process for determination of
11 rates of payment under the plan (including any pay-
12 ment adjustments under section 1923) for nursing
13 facility services and services of intermediate care fa-
14 cilities for the mentally retarded under which—

15 “(i) proposed rates are published, and pro-
16 viders, beneficiaries and their representatives,
17 and other concerned State residents are given a
18 reasonable opportunity for review and comment
19 thereon; and

20 “(ii) final rates are published, together
21 with justifications based on the administrative
22 record; and”;

23 (2) by redesignating subsections (D) and (E) as
24 subsections (B) and (C), respectively;

1 (3) in subparagraph (B), as redesignated, by
2 striking everything through “of 100 percent of
3 costs” and inserting the following:

4 “(B) for payment under the plan—

5 “(i) for all services described in clause (B)
6 or (C) of section 1905(a)(2) furnished on or be-
7 fore September 30, 1998; and

8 “(ii) for services described in clause (i) fur-
9 nished on or after October 1, 1998, by an en-
10 tity described in section 1931(d)(1)(C) of 100
11 percent of costs”; and

12 (4) by striking subsection (F).

13 (b) **STUDY AND REPORT TO CONGRESS.**—The Sec-
14 retary shall conduct a study of the effect on access to serv-
15 ices, and quality and safety of services, of the rate-setting
16 methods used by States pursuant to section 1902(a)(13)
17 of the Social Security Act, as amended by subsection (a),
18 and shall submit a report to the Congress on the conclu-
19 sions from such study, together with any legislative rec-
20 ommendations, not later than the date four years after
21 enactment of this Act.

22 **SEC. 11343. ELIMINATION OF OBSTETRICAL AND PEDI-**
23 **ATRIC PAYMENT RATE REQUIREMENTS.**

24 Section 1926 is repealed.

1 **PART 6—STATE PLAN ADMINISTRATION**

2 **SEC. 11351. MMIS REQUIREMENTS.**

3 (a) IN GENERAL.—Section 1903(r) is amended—

4 (1) by striking all that precedes paragraph (5)
5 and inserting the following:

6 “(r) MEDICAID MANAGEMENT INFORMATION SYS-
7 TEMS (MMIS).—(1) IN GENERAL.—In order to receive
8 payments under subsection (a) for use of automated data
9 systems in administration of the State plan under this
10 title, a State must have in operation mechanized claims
11 processing and information retrieval systems that meet the
12 requirements of this subsection and that the Secretary has
13 found to be—

14 “(A) adequate to provide efficient, economical,
15 and effective administration of such State plan;

16 “(B) compatible with the claims processing and
17 information retrieval systems used in the adminis-
18 tration of title XVIII, and for this purpose—

19 “(i) having a uniform identification coding
20 system for providers, other payees, and bene-
21 ficiaries under this title or title XVIII;

22 “(ii) providing liaison between States and
23 carriers and intermediaries with agreements
24 under title XVIII to facilitate timely exchange
25 of appropriate data; and

1 “(iii) providing for exchange of data be-
2 tween the States and the Secretary with respect
3 to persons sanctioned under this title or title
4 XVIII;

5 “(C) capable of providing accurate and timely
6 data;

7 “(D) able to accommodate receipt of provider
8 claims in standard formats to the extent specified by
9 the Secretary; and

10 “(E) able to transmit electronically such data
11 as is specified by the Secretary.”.

12 (2) in paragraph (5)—

13 (A) by striking all that precedes clause (i)
14 and inserting the following:

15 “(2) In order to meet the requirements of this para-
16 graph, mechanized claims processing and information re-
17 trieval systems must meet the following requirements:”;

18 (B) in clause (iii), by striking “under para-
19 graph (6)”;

20 (C) by redesignating clauses (i) through
21 (iii) as paragraphs (A) through (C); and

22 (3) by striking paragraphs (6), (7), and (8).

23 (b) CONFORMING AMENDMENTS.—Section
24 1902(a)(25)(A)(ii) is amended—

1 (1) by striking “, and” at the end of subclause
2 (I) and inserting a semicolon;

3 (2) by relocating the matter in subclause (I)
4 immediately after “which plan shall”, after striking
5 the intervening hyphen and the subclause designa-
6 tion; and

7 (3) by striking subclause (II).

8 **SEC. 11352. ELIMINATION OF PERSONNEL REQUIREMENTS.**

9 Section 1902(a)(4) is amended—

10 (1) in subparagraph (A), to read as follows:

11 “(A) provide such methods of administration as
12 found by the Secretary to be necessary for the prop-
13 er and efficient operation of the plan;”;

14 (2) by striking subparagraph (B); and

15 (3) by redesignating subparagraph (C) as sub-
16 paragraph (B).

17 **SEC. 11353. ELIMINATION OF REQUIREMENTS FOR COOP-**

18 **ERATIVE AGREEMENTS WITH HEALTH AGEN-**

19 **CIES.**

20 Section 1902(a)(11) is repealed.

1 **SEC. 11355. STATE REVIEW OF MENTALLY ILL OR RE-**
2 **TARDED NURSING FACILITY RESIDENTS**
3 **UPON CHANGE IN PHYSICAL OR MENTAL**
4 **CONDITION.**

5 (a) STATE REVIEW ON CHANGE IN RESIDENT'S CON-
6 DITION.—Section 1919(e)(7)(B)(iii) is amended to read as
7 follows:

8 “(iii) Review required upon change in resi-
9 dent’s condition.—A review and determination
10 under clause (i) or (ii) must be conducted
11 promptly after a nursing facility has notified
12 the State mental health authority or State men-
13 tal retardation or developmental disability au-
14 thority, as applicable, with respect to a mentally
15 ill or mentally retarded resident, that there has
16 been a significant change in the resident’s phys-
17 ical or mental condition.”.

18 (b) CONFORMING AMENDMENTS.—

19 (1) Section 1919(b)(3)(E) is amended by add-
20 ing at the end the following: “In addition, a nursing
21 facility shall notify the State mental health authority
22 or State mental retardation or developmental disabil-
23 ity authority, as applicable, promptly after a signifi-
24 cant change in the physical or mental condition of
25 a resident who is mentally ill or mentally retarded.”.

1 (2) The heading to section 1919(e)(7)(B) is
2 amended by striking “annual”.

3 (3) The heading to section 1919(e)(7)(D)(i) is
4 amended by striking “annual”.

5 **SEC. 11356. NURSE AID TRAINING IN MEDICARE AND MED-**
6 **ICAID NURSING FACILITIES SUBJECT TO EX-**
7 **TENDED SURVEY AND UNDER CERTAIN**
8 **OTHER CONDITIONS.**

9 (a) **MEDICARE.**—Section 1819(f)(2)(B)(iii)(I) is
10 amended, in the matter preceding sub-subclause (a), by
11 striking “by or in a skilled nursing facility” and inserting
12 “by a skilled nursing facility (or in such a facility, unless
13 the State determines that there is no other such program
14 offered within a reasonable distance, provides notice of the
15 approval to the State long-term care ombudsman, and
16 assures, through an oversight effort, that an adequate en-
17 vironment exists for such a program)”.

18 (b) **MEDICAID.**—Section 1919(f)(2)(B)(iii)(I) is
19 amended, in the matter preceding sub-subclause (a), by
20 striking “by or in a nursing facility” and inserting “by
21 a nursing facility (or in such a facility, unless the State
22 determines that there is no other such program offered
23 within a reasonable distance, provides notice of the ap-
24 proval to the State long-term care ombudsman, and

1 assures, through an oversight effort, that an adequate en-
2 vironment exists for such a program)”.
3

3 **SEC. 11357. COMBINED STATE PLAN SUBMISSION.**

4 (a) IN GENERAL.—A State may submit to the Sec-
5 retary of Health and Human Services a single State plan
6 (with any amendments) to carry out—

7 (1) the long-term care grant program estab-
8 lished by subtitle E;

9 (2) the program of health insurance for the
10 temporarily unemployed established by subtitle G;
11 and

12 (3) the medical assistance program under title
13 XIX of the Social Security Act.

14 (b) EFFECT OF COMBINED SUBMISSION.—A State
15 plan submitted pursuant to subsection (a) must meet all
16 requirements of each of the programs specified in such
17 subsection.

18 (c) TIMETABLE FOR APPROVAL.—The Secretary
19 shall, within 90 days after receipt of a State plan submit-
20 ted pursuant to subsection (a), either approve or dis-
21 approve the plan, or inform the State that specified addi-
22 tional information is needed to permit review of the plan.

1 **SEC. 11358. PUBLIC PROCESS FOR DEVELOPING STATE**
2 **PLAN AMENDMENTS.**

3 Section 1902(a), as amended by sections 11321(c),
4 11325, and 11331(e), is amended—

5 (1) by striking “and” at the end of paragraph
6 (64);

7 (2) by striking the period at the end of para-
8 graph (65) and inserting “; and”; and

9 (3) by adding after paragraph (65) the follow-
10 ing new paragraph:

11 “(66) a process for development of amendments
12 to the State plan that affords an opportunity for re-
13 view and comment to interested persons and groups,
14 including beneficiaries, providers, Indian tribes, trib-
15 al organizations, Indian Health Service facilities,
16 and urban Indian health organizations.”.

17 **PART 7—EFFECTIVE DATE**

18 **SEC. 11361. EFFECTIVE DATE.**

19 (a) IN GENERAL.—Except where otherwise specifi-
20 cally provided, the provisions of and amendments made
21 by this subtitle shall be effective with respect to State pro-
22 grams under title XIX of the Social Security Act on and
23 after October 1, 1996.

24 (b) EXTENSION FOR STATE LAW AMENDMENT.—In
25 the case of a State plan under title XIX of the Social Se-
26 curity Act which the Secretary of Health and Human

1 Services determines requires State legislation in order for
 2 the plan to meet the additional requirements imposed by
 3 the amendments made by subsection (a), the State plan
 4 shall not be regarded as failing to comply with the require-
 5 ments of such title solely on the basis of its failure to meet
 6 these additional requirements before the first day of the
 7 first calendar quarter beginning after the close of the first
 8 regular session of the State legislature that begins after
 9 the date of enactment of this Act. For purposes of the
 10 previous sentence, in the case of a State that has a 2-
 11 year legislative session, each year of such session shall be
 12 deemed to be a separate regular session of the State legis-
 13 lature.

14 **Subtitle D—Fraud and Abuse**

15 **SEC. 11401. SHORT TITLE; TABLE OF CONTENTS OF SUB-**
 16 **TITLE.**

17 (a) **SHORT TITLE.**—This subtitle may be cited as the
 18 “Federal Health Care Payment Integrity Act of 1995”.

19 (b) **TABLE OF CONTENTS OF SUBTITLE.**—The table
 20 of contents of this subtitle is as follows:

TABLE OF CONTENTS

Sec. 11401. Short title; table of contents of subtitle.

PART 1—AMENDMENTS TO CURRENT LAW ENFORCEMENT AUTHORITIES

Sec. 11402. Extension of current civil money penalties.

Sec. 11403. Exclusion of persons who defraud Medicare.

Sec. 11404. Illegal remuneration with respect to health care benefit programs

Sec. 11405. Amendments to PRO (quality of care) sanctions provisions.

Sec. 11406. Final adverse action data base.

Sec. 11407. Expansion of authority of medicaid fraud control units.

- Sec. 11408. Recovery of overpayments from bankrupt providers.
- Sec. 11409. Grants to States to revoke licenses of unqualified providers.
- Sec. 11410. Authorization for interception of wire, oral or electronic communications.

PART 2—RESOURCES FOR ANTI-FRAUD ACTIVITIES

- Sec. 11421. Medicare anti-fraud and abuse program.
- Sec. 11422. Medicare beneficiary integrity system.
- Sec. 11423. Government-side anti-fraud reinvestment fund.

PART 3—AMENDMENTS TO CRIMINAL LAW

- Sec. 11431. Health care fraud.
- Sec. 11432. Forfeitures for federal health care offenses.
- Sec. 11433. Injunctive relief relating to federal health care offenses.
- Sec. 11434. Grand jury disclosure.
- Sec. 11435. False statements.
- Sec. 11436. Obstruction of criminal investigations, audits or inspections of federal health care offenses.
- Sec. 11437. Theft or embezzlement.
- Sec. 11438. Laundering of monetary instruments.
- Sec. 11439. Authorized investigative demand procedures.

PART 4—MEDICARE IMPROVEMENTS

Subpart A—Coordination of Benefits

- Sec. 11441. Clarification of time and filing limitations.
- Sec. 11442. Clarification of liability of third party administrators.
- Sec. 11443. Clarification of payment amounts to Medicare.
- Sec. 11444. Conditions for double damages.
- Sec. 11445. Repeal of excise tax.
- Sec. 11446. Information requirements.
- Sec. 11447. Technical changes concerning minimum sizes of group health plans.

Subpart B—Contractor Reform

- Sec. 11451. Increased flexibility in contracting for medicare claims processing.

Subpart C—Provisions Relating to Part B of Medicare

- Sec. 11461. Replacement of reasonable charge methodology by fee schedules.
- Sec. 11462. Application of inherent reasonableness to surgical dressings.
- Sec. 11463. Application of competitive acquisition process to certain part B items and services.
- Sec. 11464. Application of competitive acquisition process to laboratory services.
- Sec. 11465. Changes in payments for clinical laboratory tests.

Subpart D—Provisions Relating to Parts A and B of Medicare

- Sec. 11471. Disclosure of taxpayer identifying numbers and other information.
- Sec. 11472. Use of wage index for area in which home health services are furnished.

PART 1—AMENDMENTS TO CURRENT LAW**ENFORCEMENT AUTHORITIES****SEC. 11402. EXTENSION OF CURRENT CIVIL MONEY PENALTIES.**

(a) GENERAL CIVIL MONEY PENALTIES.—Section 1128A (42 U.S.C. 1320a–7a) is amended—

(1) in the third sentence of subsection (a), by striking “programs under title XVIII” and inserting “Federal health care program (as defined in subsection (m))”;

(2) in subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

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

“(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in subsection (m)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amount attributable to the amounts recovered under this section by reason of the amendments made by the Federal Health Care Payment Integrity Act of 1995 (as estimated by the Secretary) shall be deposited into the Health Care

1 Fraud and Abuse Control Account established under
2 section 11423 of such Act.”;

3 (3) in subsection (i)—

4 (A) in paragraph (2), by striking “title V,
5 XVIII, XIX, or XX of this Act” and inserting
6 “a Federal health care program (as defined in
7 subsection (m))”;

8 (B) in paragraph (4), by striking “a health
9 insurance or medical services program under
10 title XVIII or XIX of this Act” and inserting
11 “a Federal health care program (as so de-
12 fined)”;

13 (C) in paragraph (5), by striking “title V,
14 XVIII, XIX, or XX” and inserting “a Federal
15 health care program (as so defined)”;

16 (4) by adding at the end the following new sub-
17 section:

18 “(m)(1) For purposes of this section, with respect to
19 a Federal health care program not contained in this Act,
20 references to the Secretary in this section shall be deemed
21 to be references to the Secretary of Administrator of the
22 department or agency with jurisdiction over such program
23 and references to the Inspector General of the Department
24 of Health and Human Services in this section shall be
25 deemed to be references to the Inspector General and any

1 other office with primary enforcement authority of the ap-
2 plicable department or agency. With respect to investiga-
3 tions of an employee welfare benefit plan as defined in
4 section 3 of the Employee Retirement Income Security
5 Act, the agency or department shall be deemed to be the
6 Department of Labor.

7 “(2)(A) The Secretary and Administrator of the de-
8 partments and agencies referred to in paragraph (1) may
9 include, in any action pursuant to this section, claims
10 within the Jurisdiction of other Federal departments or
11 agencies as long as the following conditions are satisfied:

12 “(i) The case involves primarily claims submit-
13 ted to the Federal health care programs of the de-
14 partment or agency initiating the action.

15 “(ii) The Secretary of Administrator and the
16 Inspector General of the department or agency initi-
17 ating the action gives notice and an opportunity to
18 participate in the investigation to the Secretary or
19 Administrator and the Inspector General of the de-
20 partment or agency with primary jurisdiction over
21 the Federal health care programs to which the
22 claims were submitted. With respect to actions in-
23 volving an employee welfare benefit plan as defined
24 in section 3 of the Employee Retirement Income Se-
25 curity Act, the department with primary jurisdiction

1 shall be deemed to be the Department of Labor for
2 purposes of this notice.

3 “(B) If the conditions specified in subparagraph (A)
4 are fulfilled, the Inspector General of the department or
5 agency initiating the action is authorized to exercise all
6 powers granted under the Inspector General Act of 1978
7 with respect to the claims submitted to the other depart-
8 ments or agencies to the same manner and extent as pro-
9 vided in that Act with respect to claims submitted to such
10 departments or agencies.”.

11 (b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP
12 OR CONTROL INTEREST IN PARTICIPATING ENTITY.—
13 Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

14 (1) by striking “or” at the end of paragraph
15 (a)(D);

16 (2) by striking “, or” at the end of paragraph
17 (2) and inserting a semicolon;

18 (3) by striking the semicolon at the end of
19 paragraph (3) and inserting “; or”; and

20 (4) by inserting after paragraph (3) the follow-
21 ing new paragraph:

22 “(4) in the case of a person who is not an orga-
23 nization, agency, or other entity, is excluded from
24 participating in a program under title XVIII or a
25 State health care program in accordance with this

1 subsection or under section 1128 and who, at the
2 time of a violation of this subsection, retains a direct
3 or indirect ownership or control interest of 5 percent
4 or more, or an ownership or control interest (as de-
5 fined in section 1124(a)(3)) in, or who is an officer
6 or managing employee (as defined in section
7 1126(b)) of, an entity that is participating in a pro-
8 gram under title XVIII or a State health care pro-
9 gram;”.

10 (c) EMPLOYER BILLING FOR SERVICES FURNISHED,
11 DIRECTED, OR PRESCRIBED BY AN EXCLUDED EM-
12 PLOYEE.—Section 1128A(a)(1) (42 U.S.C. 1320a-
13 7a(a)(1)) is amended—

14 (1) by striking “or” at the end of subparagraph
15 (C);

16 (2) by striking “; or” at the end of subpara-
17 graph (D) and inserting “, or”; and

18 (3) by adding at the end the following new sub-
19 paragraph:

20 “(E) is for a medical or other item or serv-
21 ice furnished, directed, or prescribed by an indi-
22 vidual who is an employee or agent of the per-
23 son during a period in which such employee or
24 agent was excluded from the program under
25 which the claim was made on any of the

1 grounds for exclusion described in subpara-
2 graph (D);”.

3 (d) MODIFICATIONS OF AMOUNTS OF PENALTIES
4 AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C.
5 1320a–7a(a)), as amended by subsection (b), is amended
6 in the matter following paragraph (4)—

7 (1) by striking “\$2,000” and inserting
8 \$10,000”;

9 (2) by inserting “; in cases under paragraph
10 (4), \$10,000 for each day the prohibited relationship
11 occurs” after “false or misleading information was
12 given”; and

13 (3) by striking “twice the amount” and insert-
14 ing “3 times the amount”.

15 (e) CLAIMS FOR ITEM OR SERVICE BASED ON INCOR-
16 RECT CODING.—Section 1128A(a)(1)(A) (42 U.S.C.
17 1320a–7a(a)(1)(A)) is amended by striking “claimed,”
18 and inserting “claimed, including any person who engages
19 in a pattern or practice of presenting or causing to be pre-
20 sented a claim for an item or service that is based on a
21 code that the person knows or should know will result in
22 a greater payment to the person that the code the person
23 knows or should know is applicable to the item or service
24 actually provided”.

1 (f) PERMITTING SECRETARY TO IMPOSE CIVIL
2 MONEY PENALTY.—Section 1128A(b) (42 U.S.C. 1320a–
3 7a(b)) is amended by adding the following new subpara-
4 graph:

5 “(3) Any person (including any organization,
6 agency, or other entity, but excluding a beneficiary
7 as defined in subsection (i)(5)) who the Secretary
8 determines has violated section 1128B(b) of this
9 title shall be subject to a civil monetary penalty of
10 not more than \$10,000 for each such violation. In
11 addition, such person shall be subject to an assess-
12 ment of not more than twice the total amount of the
13 remuneration offered, paid, solicited, or received in
14 violation of section 1128B(b). The total amount of
15 remuneration subject to all assessments shall be cal-
16 culated without regard to whether some portion
17 thereof also may have been intended to serve a pur-
18 pose other than one proscribed by section
19 1128B(b).”.

20 (g) PROHIBITION AGAINST OFFERING INDUCEMENTS
21 TO INDIVIDUALS ENROLLED UNDER PROGRAMS.—

22 (1) OFFER OF REMUNERATION.—Section
23 1128A(a) (42 U.S.C. 1320a–7a(a)) as amended by
24 subsection (b) of this section, is amended—

1 (A) by striking “or” at the end of para-
2 graph (3) and inserting a semicolon;

3 (B) by inserting “or” after the semicolon
4 at the end of paragraph (4); and

5 (C) by inserting after paragraph (4) the
6 following new paragraph:

7 “(5) offers to or transfers remuneration to
8 any individual eligible for benefits under a Fed-
9 eral health program that such person knows or
10 should know is likely to influence such individ-
11 ual to order or receive from a particular pro-
12 vider, practitioner, or supplier any item or serv-
13 ice for which payment may be made, in whole
14 or in part, under such program;”.

15 (2) REMUNERATION DEFINED.—Section
16 2238A(i) (42 U.S.C. 1320a–7a(i)) is amended by
17 adding the following new paragraph:

18 “(6) The term ‘remuneration’ includes the waiv-
19 er of coinsurance and deductible amounts (or any
20 part thereof), and transfers of items or services for
21 free or for other than fair market value. The term
22 ‘remuneration’ does not include—

23 “(A) the waiver of coinsurance and deduct-
24 ible amounts by a person, if—

1 “(i) the waiver is not offered as part
2 of any advertisement or solicitation;

3 “(ii) the person does not routinely
4 waive coinsurance or deductible amounts;
5 and

6 “(iii) the person—

7 “(I) waives the coinsurance and
8 deductible amount after determining
9 in good faith that the individual is in
10 financial need;

11 “(II) fails to collect coinsurance
12 or deductible amounts after making
13 reasonable collection efforts; or

14 “(III) provides for any permissible
15 waiver as specified in section
16 1128B(b)(3) or in regulations issued
17 by the Secretary;

18 “(B) differentials in coinsurance and de-
19 ductible amounts as part of a benefit plan de-
20 sign as long as the differentials have been dis-
21 closed in writing to all beneficiaries, third party
22 payors, and providers, to whom claims are pre-
23 sented and as long as the differentials meet the
24 standards as defined in regulations promulgated

1 by the Secretary not later than 180 days after
2 the date of the enactment of this Act; or

3 “(C) incentives given to individuals to pro-
4 mote the delivery of preventive care as deter-
5 mined by the Secretary in regulations as pro-
6 mulgated.”.

7 (h) DEFINITION OF FEDERAL HEALTH CARE PRO-
8 GRAM.—Section 1128A (42 U.S.C. 1320a–7b) is amended
9 by adding at the end the following new subsection:

10 “(m) FEDERAL HEALTH CARE PROGRAM.—For pur-
11 poses of this section, the term ‘Federal health care pro-
12 gram’ means—

13 “(1) any plan or program (except a plan de-
14 scribed in section 3(1) of the Employee Retirement
15 Income Security Act) that provides health benefits,
16 whether directly, through insurance, or otherwise,
17 which is funded, in whole or in part, by the United
18 States Government; or

19 “(2) any State health care program, as defined
20 in section 1128(h).”.

21 **SEC. 11403. EXCLUSION OF PERSONS WHO DEFRAUD MEDI-**
22 **CARE.**

23 (a) MINIMUM PERIOD OF EXCLUSION FOR CERTAIN
24 INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE
25 EXCLUSION FROM MEDICARE AND STATE HEALTH CARE

1 PROGRAMS.—Section 1128(c)(3) (42 U.S.C. 1320a–
2 7(c)(3)) is amended by adding at the end the following
3 new subparagraphs:

4 “(D) In the case of an exclusion of an individ-
5 ual or entity under paragraph (1), (2), or (3) of sub-
6 section (b), the period of the exclusion shall be 3
7 years, unless the Secretary determines in accordance
8 with published regulations that a longer period is
9 appropriate because of aggravating circumstances.

10 “(E) In the case of an exclusion of an individ-
11 ual or entity under subsection (b)(4) or (b)(5), the
12 period of the exclusion shall not be less than the pe-
13 riod during which the individual or entity’s license to
14 provide health care is revoked, suspended, or surren-
15 dered, or the individual or the entity is excluded or
16 suspended from a Federal or State health care pro-
17 gram.

18 “(F) In the case of an exclusion of an individ-
19 ual or entity under subsection (b)(6)(B), the period
20 of the exclusion shall be not less than 1 year.”.

21 (b) PERMISSIVE EXCLUSION OF INDIVIDUALS WITH
22 OWNERSHIP OR CONTROL INTEREST IN SANCTIONED EN-
23 TITIES.—Section 1128(b) (42 U.S.C. 1320a–7(b)) is
24 amended by adding at the end the following new para-
25 graph:

1 “(15) INDIVIDUALS CONTROLLING A SANC-
2 TIONED ENTITY.—Any individual who has a direct
3 or indirect ownership or control interest of 5 percent
4 or more, or an ownership or control interest (as de-
5 fined in section 1124(a)(3)) in, or who is an officer
6 or managing employee (as defined in section
7 1126(b)) of, an entity—

8 “(A) that has been convicted of any of-
9 fense described in subsection (a) or in para-
10 graph (1), (2), or (3) of this subsection; or

11 “(B) that has been excluded from partici-
12 pation under a program title XVIII or under a
13 State health care program.”.

14 (c) SANCTIONS AGAINST PROVIDERS FOR EXCESSIVE
15 FEES OR PRICES.—Section 1128(b)(6)(A) (42 U.S.C.
16 1320a-7(b)(6)(A)) is amended—

17 (1) by inserting after “substantially in excess of
18 such individual’s or entity’s usual charges” the fol-
19 lowing: “(as specified by the Secretary in regula-
20 tions)”; and

21 (2) by striking “(or in applicable cases, sub-
22 stantially in excess of such individuals or entities’
23 costs)” and inserting “, costs or fees” before “for
24 such items or services.”.

1 (d) APPLICABILITY OF THE BANKRUPTCY CODE TO
2 PROGRAM SANCTIONS.—

3 (1) Section 1128 (42 U.S.C. 1320a–7) is
4 amended by adding at the end the following new
5 subsection:

6 “(j) An exclusion imposed under this sec-
7 tion is not subject to the automatic stay im-
8 posed under the Bankruptcy Code, 11 U.S.C.
9 § 362.”.

10 (2) Section 1128A(a) (42 U.S.C. 1320a–7a) is
11 amended by adding at the end the following sen-
12 tence: “An exclusion imposed under this section is
13 not subject to the automatic stay which is imposed
14 under 11 U.S.C. § 362, and any penalties and as-
15 sessments imposed under this section shall be
16 nondischargeable under the Bankruptcy Code (11
17 U.S.C. § 101 et seq.).”.

18 (3) Section 1892(a)(4) (42 U.S.C.
19 1395ccc(a)(4)) is amended by adding at the end the
20 following sentence: “An exclusion imposed under
21 paragraph (2)(C)(ii) or paragraph (3)(B) is not sub-
22 ject to the automatic stay which is imposed under
23 the Bankruptcy Code (11 U.S.C. § 362).”.

1 **SEC. 11404. ILLEGAL REMUNERATION WITH RESPECT TO**
2 **HEALTH CARE BENEFIT PROGRAMS.**

3 (a) IN GENERAL.—Chapter 11 of title 18, United
4 States Code, is amended by adding at the end the follow-
5 ing:

6 **“§227. Illegal remuneration with respect to health**
7 **care benefit programs**

8 “(a) Whoever knowingly and willfully solicits or re-
9 ceives any remuneration (including any kickback, bribe, or
10 rebate) directly or indirectly, overtly or covertly, in cash
11 or in kind—

12 “(1) in return for referring any individual to a
13 person for the furnishing or arranging for the fur-
14 nishing of any item or service for which payment
15 may be made in whole or in part by any health care
16 benefit program; or

17 “(2) in return for purchasing, leasing, ordering,
18 or arranging for or recommending purchasing, leas-
19 ing or ordering any good, facility, service, or item
20 for which payment may be made in whole or in part
21 by any health care benefit program, or attempting to
22 do so,

23 shall be fined under this title or imprisoned for not more
24 than 5 years, or both.

25 “(b) Whoever knowingly and willfully offers or pays
26 any remuneration (including any kickback, bribe, or re-

1 bate) directly or indirectly, overtly, or covertly, in cash or
2 in kind to any person to induce such person—

3 “(1) to refer an individual to a person for the
4 furnishing or arranging for the furnishing of any
5 item or service for which payment may be made in
6 whole or in part by any health benefit program; or

7 “(2) to purchase, lease, order, or arrange for or
8 recommend purchasing, leasing, or ordering any
9 good, facility, service, or item for which payment
10 may be made in whole or in part by any health bene-
11 fit program or attempts to do so,

12 shall be fined under this title or imprisoned for not more
13 than 5 years, or both.

14 “(c) Subsections (a) and (b) shall not apply to—

15 “(1) a discount or other reduction in price ob-
16 tained by a provider of services or other entity under
17 a health care benefit program if the reduction in
18 price is properly disclosed and appropriately re-
19 flected in the costs claimed or charges made by the
20 provider or entity under a health care benefit pro-
21 gram;

22 “(2) any amount paid by an employer to an em-
23 ployee (who has a bona fide employment relationship
24 with such employer) for employment in the provision
25 of covered items or services if the amount of the re-

1 muneration under the arrangement is consistent
2 with the fair market value of the services and is not
3 determined in a manner that takes into account (di-
4 rectly or indirectly) the volume or value of any refer-
5 rals;

6 “(3) any amount paid by a vendor of goods or
7 services to a person authorized to act as a purchas-
8 ing agent for a group of individuals or entities who
9 are furnishing services reimbursed under a health
10 care benefit program if—

11 “(A) the person has a written contract,
12 with each such individual or entity, which speci-
13 fies the amount to be paid the person, which
14 amount may be a fixed amount or a percentage
15 of the value of the purchases made by each
16 such individual or entity under the contract,
17 and

18 “(B) in the case of an entity that is a pro-
19 vider of services (as defined in section 1861(u)
20 of the Social Security Act, the person discloses
21 (in such form and manner as the Secretary of
22 Health and Human Services requires) to the
23 entity and, upon request, to the Secretary the
24 amount received from each such vendor with re-

1 spect to purchases made by or on behalf of the
2 entity;

3 “(4) a waiver of any coinsurance under part B
4 of title XVIII of the Social Security Act by a feder-
5 ally qualified health care center with respect to an
6 individual who qualifies for subsidized services under
7 a provision of the Public Health Service Act; and

8 “(5) any payment practice specified by the Sec-
9 retary of Health and Human Services in regulations
10 promulgated pursuant to section 14(a) of the Medi-
11 care and Medicaid Patient and Program Protection
12 act of 1987.

13 “(d) Any person injured in his business or property
14 by reason of a violation of this section or section 226 of
15 this title may sue therefor in any appropriate United
16 States district court and shall recover threefold the dam-
17 ages such person sustains and the cost of the suit, includ-
18 ing a reasonable attorney’s fee.

19 “(e) As used in this section, ‘health care benefit pro-
20 gram’ has the meaning given such term in section 1347(b)
21 of this title.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 at the beginning of chapter 11 of title 18, United States
24 Code, is amended by adding at the end the following:

“227. Illegal remuneration with respect to health care benefit programs.”.

1 (c) CONFORMING AMENDMENT.—Section 1128B of
2 the Social Security Act (42 U.S.C. 1320a–7b) is amended
3 by striking subsection (b).

4 **SEC. 11405. AMENDMENTS TO PRO (QUALITY OF CARE)**
5 **SANCTIONS PROVISIONS.**

6 (a) MINIMUM PERIOD OF EXCLUSION FOR PRACTI-
7 TIONERS AND PERSONS FAILING TO MEET STATUTORY
8 OBLIGATIONS.—

9 (1) IN GENERAL.—Section 1156(b)(1) (42
10 U.S.C. 1320e–5(b)(1)) is amended in the second
11 sentence by striking “may prescribe)” and inserting
12 “may prescribe, except that such period may not be
13 less than 1 year).”.

14 (2) CONFORMING AMENDMENT.—Section
15 1156(b)(2) (42 U.S.C. 1320e–5(b)(2)) is amended
16 by striking “shall remain” and inserting “shall (sub-
17 ject to the minimum period specified in the second
18 sentence of paragraph (1)) remain”.

19 (b) REPEAL OF “UNWILLING OR UNABLE” CONDI-
20 TION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1)
21 (42 U.S.C. 1320e–5(b)(1)) is amended—

22 (1) in the second sentence, by striking “and de-
23 termines” and all that follows through “such obliga-
24 tions,”; and

25 (2) by striking the third sentence.

1 (c) SANCTIONS AGAINST PRACTITIONERS AND PER-
2 SONS FOR FAILURE TO COMPLY WITH STATUTORY OBLI-
3 GATIONS.—Section 1156(b)(3) (42 U.S.C. 1320c–5(b)(3))
4 is amended by striking “the actual or estimated cost” and
5 inserting “up to \$10,000 for each instance.”

6 **SEC. 11406. FINAL ADVERSE ACTION DATA BASE.**

7 (a) GENERAL PURPOSE.—Not later than January 1,
8 1997, the Secretary of Health and Human Services (in
9 this section referred to as the “Secretary”) shall establish
10 a national health care fraud and abuse data collection pro-
11 gram or the reporting of final adverse actions against
12 health care providers, suppliers, or practitioners as re-
13 quired by subsection (b), with access as set forth in sub-
14 section (c).

15 (b) REPORTING OF INFORMATION.—

16 (1) IN GENERAL.—Each government agency
17 and Federal health care program shall (and each
18 other health plan may) report to the Secretary any
19 final adverse action taken against a health care pro-
20 vider, supplier, or practitioner.

21 (2) INFORMATION TO BE REPORTED.—The in-
22 formation to be reported under paragraph (1) in-
23 cludes:

1 (A) The name and TIN (as defined in sec-
2 tion 7701(a)(41) of the Internal Revenue Code
3 of 1986) of—

4 (i) any health care provider, supplier,
5 or practitioner that is the subject of a final
6 adverse action, and

7 (ii) any individual with a relationship
8 specified in section 1128(b)(8)(A) to an
9 entity described in clause (i).

10 (B) The name (if know) of any health care
11 entity with which a health care provider, sup-
12 plier, or practitioner is affiliated or associated.

13 (C) The nature of the final adverse action
14 and whether such action is on appeal.

15 (D) A description of the acts of omissions
16 and injuries upon which the final adverse action
17 was based, and such other information as the
18 Secretary determines by regulation is required
19 for appropriate interpretation of information re-
20 ported under this section.

21 (3) CONFIDENTIALITY.—In determining what
22 information is required, the Secretary shall include
23 procedures to ensure that the privacy of individuals
24 receiving health care services is appropriately pro-
25 tected.

1 (4) TIMING AND FORM OF REPORTING.—The
2 information required to be reported under this sub-
3 section shall be reported regularly (but less often
4 than monthly) and in such form and manner as the
5 Secretary prescribes. Such information shall first be
6 required to be reported on a date specified by the
7 Secretary.

8 (c) DISCLOSURE AND CORRECTION OF INFORMA-
9 TION.—

10 (1) DISCLOSURE.—With respect to the informa-
11 tion about final adverse actions reported to the Sec-
12 retary under this section respecting a health care
13 provider, supplier, or practitioner, the Secretary
14 shall, by regulation, provide for—

15 (A) disclosure of the information, upon re-
16 quest, to the health care provider, supplier, or
17 licensed practitioner, and

18 (B) procedures in the case of disputed ac-
19 curacy of the information.

20 (2) CORRECTIONS.—Each Government agency
21 and health plan shall report corrections of informa-
22 tion already reported about any final adverse action
23 taken against a health care provider, supplier, or
24 practitioner, in such form and manner that the Sec-
25 retary prescribes by regulation.

1 (d) ACCESS TO REPORTED INFORMATION.—

2 (1) AVAILABILITY.—The information in this
3 database shall be available to Federal and State gov-
4 ernment agencies, health plans, and the public pur-
5 suant to procedures that the Secretary shall provide
6 by regulation.

7 (2) FEES FOR DISCLOSURE.—The Secretary
8 may establish or approve reasonable fees for the dis-
9 closure of information in this database (other than
10 with respect to requests by Federal agencies). The
11 amount of such a fee may be sufficient to recover
12 the full costs of carrying out the provisions of this
13 section, including reporting, disclosure and adminis-
14 tration. Such fees shall be available to the Secretary
15 or, in the Secretary's discretion to the agency des-
16 igned under this section to cover such costs.

17 (e) PROTECTION FROM LIABILITY FOR REPORT-
18 ING.—No person or entity, including the agency des-
19 igned by the Secretary in subsection (b)(5) shall be held
20 liable in any civil action with respect to any report made
21 as required by this section, without knowledge of the fal-
22 sity of the information contained in the report.

23 (f) DEFINITIONS AND SPECIAL RULES.—For pur-
24 poses of this section:

1 (1)(A) The term “final adverse action” in-
2 cludes:

3 (i) Civil judgments against a health care
4 provider or practitioner in Federal or State
5 court related to the delivery of a health care
6 item or service.

7 (ii) Federal or State criminal convictions
8 related to the delivery of a health care item or
9 service.

10 (iii) Actions by Federal or State agencies
11 responsible for the licensing and certifications
12 of health care providers, suppliers, and licensed
13 health care practitioners, including—

14 (I) formal or official actions, such as
15 revocation or suspension of a license (and
16 the length of any such suspension), rep-
17 rimand, censure or probation,

18 (II) any other loss of license, or the
19 right to apply for or renew a license of the
20 provider, supplier, or practitioner, whether
21 by operation of law, voluntary surrender,
22 non-renewable or otherwise, or

23 (III) any other negative action or
24 finding by such Federal or State agency
25 that, is publicly available information.

1 (iv) Exclusion from participation in Fed-
2 eral or State health care programs.

3 (v) Any other adjudicated actions or deci-
4 sions that the Secretary shall establish by regu-
5 lation.

6 (B) The term does not include any action with
7 respect to a malpractice claim.

8 (2) The terms “licensed health care practi-
9 tioner”, “licensed practitioner”, and “practitioner”
10 mean, with respect to a State, an individual who is
11 licensed or otherwise authorized by the State to pro-
12 vide health care services (or any individual who,
13 without authority holds himself or herself out to be
14 so licensed or authorized).

15 (3) The term “health care provider” means a
16 provider of services as defined in section 1861(u) of
17 the Social Security Act, and any person or entity, in-
18 cluding a health maintenance organization, group
19 medical practice, or any other entity listed by the
20 Secretary in regulation, that provides health care
21 services.

22 (4) The term “supplier” means a supplier of
23 health care items and services described in section
24 1819(a) and (b), and section 1861 of the Social Se-
25 curity Act.

1 (5) The term “Government agency” shall in-
2 clude:

3 (A) The Department of Justice.

4 (B) The Department of Health and
5 Human Services.

6 (C) Any other Federal agency that either
7 administers or provides payment for the deliv-
8 ery of health care services, including, but not
9 limited to the Department of Defense and the
10 Veterans’ Administration.

11 (D) State law enforcement agencies.

12 (E) State medicaid fraud and abuse units.

13 (F) Federal or State agencies responsible
14 for the licensing and certification of health care
15 providers and licensed health care practitioners.

16 (6) the term “Federal health care program”
17 has the meaning given such term in section
18 1128B(b) of the Social Security Act.

19 (7) The term “health plan” has the meaning
20 given such term in section 1347 of title 18 of the
21 United States Code.

22 (8) For purposes of paragraph (1), the exist-
23 ence of a conviction shall be determined under sec-
24 tion 1128 of the Social Security Act.

1 (g) CONFORMING AMENDMENT.—Section 1921(d)
2 (42 U.S.C. 1396r-2(d)) is amended by inserting “and sec-
3 tion 105 of the Federal Health Care Payment Integrity
4 Act of 1995 after “section 422 of the Health Care Quality
5 Improvement Act of 1986”.

6 **SEC. 11407. EXPANSION OF AUTHORITY OF MEDICAID**
7 **FRAUD CONTROL UNITS.**

8 (a) EXTENSION OF CONCURRENT AUTHORITY TO IN-
9 VESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL
10 PROGRAMS.—Section 1903(q)(3) (42 U.S.C. 1396b(q)(3))
11 is amended by striking “in connection with” and all that
12 follows and inserting the following:

13 “in connection with—

14 “(A) any aspect of the provision of medical
15 assistance and the activities of providers of
16 such assistance under the State plan under this
17 title; and

18 “(B) (in cases where the entity’s function
19 is also described by subparagraph (A), and
20 upon the approval of the relevant Federal agen-
21 cy) any aspect of the provision of health care
22 services and activities of providers of such serv-
23 ices under any Federal health care program (as
24 defined in section 1128B(b)(1)).”.

1 (b) EXTENSION OF AUTHORITY TO INVESTIGATE
2 AND PROSECUTE PATIENT ABUSE IN NON-MEDICAID
3 BOARD AND CARE FACILITIES.—Section 1903(q)(4) (42
4 U.S.C. 1396(b)(q)(4)) is amended to read as follows:

5 “(4)(A) The entity has—

6 “(i) procedures for reviewing complaints of
7 abuse or neglect of patients in health care fa-
8 cilities which receive payments under the State
9 plan under this title;

10 “(ii) at the option of the entity, procedures
11 for reviewing complaints of abuse or neglect of
12 patients residing in board and care facilities;
13 and

14 “(iii) procedures for acting upon such com-
15 plaints under the criminal laws of the State or
16 for referring such complaints to other State
17 agencies for action.

18 “(B) For purposes of this paragraph, the term
19 ‘board and care facility’ means a residential setting
20 which receives payment from or on behalf of two or
21 more unrelated adults who reside in such facility,
22 and for whom one or both of the following is pro-
23 vided:

24 “(i) Nursing care services provided by, or
25 under the supervision of, a registered nurse, li-

1 censed practical nurse, or licensed nursing as-
2 sistant.

3 “(ii) Personal care services that assist resi-
4 dents with the activities of daily living, includ-
5 ing personal hygiene, dressing, bathing, eating,
6 toileting, ambulation, transfer, positioning, self-
7 medication, body care, travel to medical serv-
8 ices, essential shopping, meal preparation, laun-
9 dry, and housework.”.

10 (c) **AUTHORITY OF INSPECTORS GENERAL.**—Nothing
11 in this Act affects the authority of the Inspectors General
12 of the Department of Veterans Affairs, the Department
13 of Defense, and other health care agencies under the In-
14 spector General Act of 1978 to conduct investigations, au-
15 dits, inspections, and evaluations of programs and oper-
16 ations of their respective agencies, including health care
17 programs and operations.

18 **SEC. 11408. RECOVERY OF MEDICARE OVERPAYMENTS**
19 **FROM BANKRUPT PROVIDERS.**

20 (a) **MEDICARE PART A.**—Section 1815(d) (42 U.S.C.
21 1395g(d)) is amended by adding at the end the following
22 sentence: “Amounts due to the program under this part
23 are not dischargeable under any title of the Bankruptcy
24 Code (11 U.S.C. 101 et seq.).”.

1 (b) MEDICARE PART B.—Section 1833(j) (42 U.S.C.
2 13951(j)) is amended by adding at the end the following
3 sentence: “Amounts due to the program under this part
4 are not dischargeable under any title of the Bankruptcy
5 Code (11 U.S.C. 101 et seq.).”.

6 **SEC. 11409. GRANTS TO STATES TO REVOKE LICENSES OF**
7 **UNQUALIFIED PROVIDERS.**

8 The Secretary of Health and Human Services is au-
9 thorized to make grants to States for activities necessary
10 to revoke the licenses, certification, or other State author-
11 ization of health care professionals and entities determined
12 to be unqualified for such authorization on the basis of
13 exclusion from Federal health care programs under sec-
14 tion 1128 or 1128A or for any other reason.

15 **SEC. 11410. AUTHORIZATION FOR INTERCEPTION OF WIRE,**
16 **ORAL OR ELECTRONIC COMMUNICATIONS.**

17 (a) Section 2516(1)(c) of title 18, United States
18 Code, is amended—

19 (1) by inserting “section 226 (bribery and graft
20 in connection with health care), section 227 (illegal
21 remunerations,” after “section 224 (bribery in sport-
22 ing contests),”; and

23 (2) by inserting “section 1347 (health care
24 fraud),” after “section 1344 (relating to bank
25 fraud),”.

1 (b) DEFINITIONS.—Section 1961(1) of title 18, Unit-
2 ed States Code, is amended—

3 (1) by inserting “sections 226 and 227 (relating
4 to bribery and graft, and illegal remuneration in
5 connection with health care),” after “section 224
6 (relating to sports bribery),”;

7 (2) by inserting “section 669 (relating to theft
8 or embezzlement in connection with health care),”
9 after “section 664 (relating to embezzlement from
10 pension and welfare funds),”; and

11 (3) by inserting “section 1347 (relating to
12 health care fraud),” after “section 1344 (relating to
13 financial institution fraud),”.

14 **PART 2—RESOURCES FOR ANTI-FRAUD**
15 **ACTIVITIES**

16 **SEC. 11421. HEALTH CARE FINANCING ADMINISTRATION**
17 **AND HHS INSPECTOR GENERAL FUNDING.**

18 (a) FINDINGS AND STATEMENT OF PURPOSE.—

19 (1) FINDINGS.—The Congress finds that—

20 (A) a significant amount of funds ex-
21 pended on the Medicare program are lost to
22 fraud, medically unnecessary services and other
23 abuse; and

24 (B) The Department of Health and
25 Human Services through activities of the Office

1 of Inspector General and Health Care Financ-
2 ing Administration is effective in combating
3 Medicare fraud and abuse and returning
4 misspent funds to the Federal Treasury.

5 (2) PURPOSE.—It is the purpose of this Act
6 to—

7 (A) protect, to the maximum extent prac-
8 ticable, the Medicare and Medicaid programs
9 from further losses due to fraud and abuse;

10 (B) test methods by which the savings that
11 these activities generate can be properly ac-
12 counted for when determining funding levels;
13 and

14 (C) ensure an adequate source of five-year
15 funding for HHS Medicare anti-fraud and
16 abuse activities.

17 (b) ESTABLISHMENT OF MEDICARE ANTI-FRAUD
18 AND ABUSE PROGRAM.—Title XI (42 U.S.C. 1301 et seq.)
19 is amended by adding at the end thereof the following new
20 part:

21 “PART C—MEDICARE ANTI-FRAUD AND ABUSE

22 PROGRAM

23 “PURPOSE

24 “SEC. 1171. The purpose of this part is to provide
25 funding for activities of the Office of Inspector General

1 related to preventing and detecting fraud and abuse in the
2 programs under title XVIII and determining the accuracy
3 and appropriateness of expenditures under such programs.

4 “FUNDING AVAILABLE

5 “SEC. 1172. (a) COVERED ANTI-FRAUD AND ABUSE
6 ACTIVITIES.—Funding from the trust funds established
7 under title XVIII shall be available, in accordance with
8 subsection (b), for activities conducted by the Inspector
9 General, either directly or by contract, pursuant to this
10 Act or the Inspector General Act of 1978, for the purposes
11 of—

12 “(1) Prosecuting matters related to the pro-
13 grams under title XVIII through criminal, civil, and
14 administrative proceedings.

15 “(2) Conducting investigations relating to such
16 programs.

17 “(3) Performing financial and performance au-
18 dits of programs and operations relating to the such
19 programs.

20 “(4) Performing inspections and other evalua-
21 tions relating to such programs.

22 “(5) Conducting provider and consumer edu-
23 cation activities regarding the requirements of this
24 title and title XVIII.

1 “(b) PAYMENTS FROM TRUST FUNDS.—Obligations
2 incurred by the Inspector General in carrying out the ac-
3 tivities designated in subsection (a) shall be paid from—

4 “(1) funds in the Federal Hospital Insurance
5 Trust Fund; and

6 “(2) funds in the Federal Supplementary Medi-
7 cal Insurance Trust Fund, in the amounts set forth
8 in subsection (c), allocated between those funds as
9 the Secretary shall deem fair and equitable after
10 taking into consideration the expenses attributable
11 to each of the programs under title XVIII. The Sec-
12 retary shall make such transfers of moneys between
13 those funds as may be appropriate to settle accounts
14 between them in cases where expenses properly pay-
15 able from one fund have been paid from the other
16 fund.

17 “(c) PAYMENT AMOUNTS.—Total amounts paid from
18 the Trust Funds in accordance with subsection (b) shall
19 equal—

20 “(1) \$130 million for fiscal year 1996;

21 “(2) \$181 million for fiscal year 1997;

22 “(3) \$204 million for fiscal year 1998;

23 “(4) \$223 million for fiscal year 1999; and

24 “(5) \$244 million for fiscal year 2000.”.

1 **SEC. 11422. ESTABLISHMENT OF THE MEDICARE BENE-**
2 **FICIARY INTEGRITY SYSTEM.**

3 (a) IN GENERAL.—Part C of title XVIII (42 U.S.C.
4 1395x et seq.) is amended by inserting after section 1889
5 the following:

6 “BENEFICIARY INTEGRITY SYSTEM

7 “SEC. 1890. (a) Obligations incurred for beneficiary
8 integrity system activities for each of fiscal years 1996
9 through 2000 shall be paid from funds in the Federal
10 Hospital Insurance Trust Fund and the Federal Supple-
11 mentary Medical Insurance Trust Fund, in the amounts
12 set forth in subsection (b), allocated between those funds
13 as the Secretary shall deem fair and equitable after taking
14 into consideration the expenses attributable to each of the
15 programs under this title. The Secretary shall make such
16 transfers or moneys between those funds as may be appro-
17 priate to settle accounts between them in cases where ex-
18 penses properly payable from one fund have been paid
19 from the other fund.

20 “(b) Total amounts paid from the Trust Funds in
21 accordance with subsection (a) shall equal—

22 “(1) \$430,000,000 for fiscal year 1996,

23 “(2) \$490,000,000 for fiscal year 1997,

24 “(3) \$550,000,000 for fiscal year 1998,

25 “(4) \$620,000,000 for fiscal year 1999, and

26 “(5) \$670,000,000 for fiscal year 2000.

1 “(c) For purposes of this section, beneficiary integ-
2 rity system activities consist of the following:

3 “(1) Review of activities of providers of services
4 or other persons in connection with this title, includ-
5 ing medical and utilization review and fraud review.

6 “(2) Audit of cost reports.

7 “(3) Determination as to whether payment
8 should not be, or should not have been, made under
9 this title by reason of section 1862(b), and recovery
10 of payments that should not have been made.

11 “(4) Education of providers of services, bene-
12 ficiaries, and other persons with respect to payment
13 integrity and beneficiary integrity system issues.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 subsection (a) applies to obligations incurred after fiscal
16 year 1995.

17 **SEC. 11423. GOVERNMENT-WIDE ANTI-FRAUD REINVEST-**
18 **MENT FUND.**

19 (a) ESTABLISHMENT.—

20 (1) IN GENERAL.—There is hereby established
21 the Health Care Fraud and Abuse Control Account.
22 The Health Care Fraud and Abuse Control Account
23 shall consist of—

24 (A) such gifts and bequests as may be
25 made as provided in subparagraph (B);

1 (B) such amounts as may be deposited in
2 the Health Care Fraud and Abuse Control Ac-
3 count as provided in title XI of the Social Secu-
4 rity Act; and

5 (C) such amounts as are transferred to the
6 Health Care Fraud and Abuse Control Account
7 under paragraph (3), but in no year shall more
8 than \$10 million be transferred or otherwise de-
9 posited to the Health Care Fraud and Abuse
10 Control Account.

11 (2) AUTHORIZATION TO ACCEPT GIFTS.—The
12 Health Care Fraud and Abuse Control Account is
13 authorized to accept on behalf of the United States
14 money gifts and bequests made unconditionally to
15 the Health Care Fraud and Abuse Control Account
16 for the benefit of the Health Care Fraud and Abuse
17 Control Program or any activity financed through
18 the Health Care Fraud and Abuse Control Account,
19 but not to exceed \$10 million.

20 (3) TRANSFER OF AMOUNTS.—The Secretary of
21 the Treasury shall transfer to the Health Care
22 Fraud and Abuse Control Account, under rules simi-
23 lar to the rules in section 9601 of the Internal Reve-
24 nue Code of 1986, an amount equal to the sum of
25 the following:

1 (A) Civil monetary penalties and assess-
2 ments recovered (including voluntary settlement
3 agreements) under titles XI, XVIII, and XIX of
4 the Social Security Act (except as otherwise
5 provided by law); the Program Fraud Civil
6 Remedies Act (31 U.S.C. 3801 et seq.) and
7 other civil monetary penalties and assessments
8 imposed in health care cases.

9 (B) Penalties and damages otherwise cred-
10 itable to Miscellaneous Receipts, Treasury, ob-
11 tained (including voluntary settlement agree-
12 ments) under the False Claims Act (31 U.S.C.
13 3729 et seq.), in cases involving claims related
14 to the provision of health care items and serv-
15 ices (other than funds awarded to a relator or
16 for the damages sustained by the health plan
17 because of the acts governed by section 3729).

18 (b) GENERAL USE OF FUNDS.—

19 (1) IN GENERAL.—Amounts in the Health Care
20 Fraud and Abuse Control Account shall be paid, at
21 the discretion jointly of the Attorney General and
22 the Secretary of Health and Human Services (acting
23 through the Inspector General of the Department of
24 Health and Human Services) to cover the costs (in-
25 cluding equipment, salaries and benefits, and travel

1 and training) of activities designed to prevent and
2 detect health care fraud and abuse, and to promote
3 economy and efficiency in Federal health care pro-
4 grams, such as health care fraud investigations, au-
5 dits, and inspections, including the costs of—

6 (A) prosecuting health care matters
7 (through criminal, civil, and administrative pro-
8 ceedings);

9 (B) investigations;

10 (C) financial and performance audits of
11 health care programs and operations;

12 (D) inspections and other evaluations; and

13 (E) provider and consumer education re-
14 garding compliance with the provisions of this
15 title.

16 (2) ERISA PLANS.—Any recoveries in connec-
17 tion with an employee welfare benefit plan as de-
18 fined in section 3 of the Employee Retirement In-
19 come Security Act of 1974 (18 U.S.C. 1002) shall
20 first be used to make whole participants and bene-
21 ficiaries of the employee welfare benefit plan.

22 (3) FUNDS USED TO SUPPLEMENT AGENCY AP-
23 PROPRIATIONS.—It is intended that disbursements
24 made from the Health Care Fraud and Abuse con-
25 trol Account be fairly apportioned among all Federal

1 health care agencies and be used to increase and not
2 supplant the recipient agency's appropriated operat-
3 ing budget.

4 (4) ANNUAL REPORT.—The Secretary and the
5 Attorney General shall submit jointly an annual re-
6 port to Congress on the amount of revenue which is
7 generated and disbursed by the Health Care Fraud
8 and Abuse Control Account in each fiscal year.

9 **PART 3—AMENDMENTS TO CRIMINAL LAW**

10 **SEC. 11431. HEALTH CARE FRAUD.**

11 IN GENERAL.—

12 (1) FINES AND IMPRISONMENT FOR HEALTH
13 CARE FRAUD VIOLATIONS.—Chapter 63 of title 18,
14 United States Code, is amended by adding at the
15 end the following new section:

16 **“§ 1347. Health care fraud**

17 “(a) Whoever knowingly and willfully executes, or at-
18 tempts to execute, a scheme or artifice—

19 “(1) to defraud any health plan or other per-
20 son, in connection with the delivery of or payment
21 for health care benefits, items, or services; or

22 “(2) to obtain, by means of false or fraudulent
23 pretenses, representations, or promises, any of the
24 money or property owned by, or under the custody
25 or control of, any health plan, or person in connec-

1 tion with the delivery of or payment for health care
2 benefits, items, and services;
3 shall be fined under this title or imprisoned not more than
4 10 years, or both. If the violation results in serious bodily
5 injury (as defined in section 1365(g)(3) of this title), such
6 person may be imprisoned for any term of years.

7 “(b) For purposes of this section, the term ‘health
8 plan means a plan or program that provides health bene-
9 fits, whether directly, through insurance, or otherwise, and
10 includes—

11 “(1) a policy of health insurance;

12 “(2) a contract of a service benefit organiza-
13 tion;

14 “(3) a membership agreement with a health
15 maintenance organization or other prepaid health
16 plan; and

17 “(4) an employee welfare benefit plan or a mul-
18 tiple employer welfare arrangement (as those terms
19 are defined in section 3 of the Employee Retirement
20 Income Security Act of 1974 (29 U.S.C. 1002).”.

21 (2) CLERICAL AMENDMENT.—The table of sec-
22 tions at the beginning of chapter 63 of title 18,
23 United States Code, is amended by adding at the
24 end the following:

“1347. Health care fraud.”.

1 **SEC. 11432. FORFEITURES FOR FEDERAL HEALTH CARE OF-**
2 **FENSES.**

3 IN GENERAL.—Section 982(a) of title 18, United
4 States Code, is amended by adding after paragraph (5)
5 the following new paragraph:

6 “(6)(A) the court, in imposing sentence on a
7 person convicted of a Federal health care offense,
8 shall order the person to forfeit property, real or
9 personal, that constitutes or is derived, directly or
10 indirectly, from proceeds traceable to the commission
11 of the offense.

12 “(B) For purposes of this paragraph, the term
13 ‘Federal health care offense’ means a violation of, or
14 a criminal conspiracy to violate—

15 “(i) section 1347 of this title;

16 “(ii) section 1128B of the Social Security
17 Act;

18 “(iii) sections 287, 371, 664, 666, 1001,
19 1027, 1341, 1343, 1920, of 1954 of this title
20 if the violation or conspiracy relates to health
21 care fraud; or

22 “(iv) section 501 or 511 of the Employee
23 Retirement Income Security Act of 1974, if the
24 violation or conspiracy relates to health care
25 fraud.”.

1 **SEC. 11433. INJUNCTIVE RELIEF RELATING TO FEDERAL**
2 **HEALTH CARE OFFENSES.**

3 (a) IN GENERAL.—Section 1345(a)(1) of title 18,
4 United States Code, is amended—

5 (1) by striking “or” at the end of subparagraph

6 (A);

7 (2) by inserting “or” at the end of subpara-
8 graph (B); and

9 (3) by adding at the end the following new sub-
10 paragraph:

11 “(C) committing or about to commit a
12 Federal health care offense (as defined in sec-
13 tion 982(a)(6)(B) of this title);”.

14 (b) FREEZING OF ASSETS.—Section 1345(a)(2) of
15 title 18, United States Code, is amended by inserting “or
16 a Federal health care offense (as defined in section
17 982(a)(6)(B))” after “title”.

18 **SEC. 11434. GRAND JURY DISCLOSURE.**

19 Section 3322 of title 18, United States Code, is
20 amended—

21 (1) by redesignating subsections (c) and (d) as
22 subsections (d) and (e), respectively; and

23 (2) by inserting after subsection (b) the follow-
24 ing new subsection:

1 “(e) A person who is privy to grand jury infor-
2 mation concerning a Federal health care offense (as de-
3 fined in section 982(a)(6)(B))—

4 “(1) received in the course of duty as an attor-
5 ney for the Government; or

6 “(2) disclosed under rule 6(a)(3)(A)(ii) of the
7 Federal Rules of Criminal Procedure;
8 may disclose that information to an attorney for the
9 Government to use in any investigation or civil pro-
10 ceeding relating to health care fraud.”.

11 **SEC. 11435. FALSE STATEMENTS.**

12 (a) IN GENERAL.—Chapter 47 of title 18, United
13 States Code, is amended by adding at the end the follow-
14 ing new section:

15 **“§ 1033. False statements relating to health care mat-
16 ters**

17 “(a) Whoever, in any matter involving a health plan,
18 knowingly and willfully falsifies, conceals, or covers up by
19 any trick, scheme, or device a material fact, or makes any
20 false, fictitious, or fraudulent statements or representa-
21 tions, or makes or uses any false writing or document
22 knowing the same to contain any false, fictitious, or fraud-
23 ulent statement or entry, shall be fined under this title
24 or imprisoned not more than 5 years, or both.

1 “(b) For purposes of this section, the term ‘health
2 plan’ has the meaning given such term in section
3 1347(b).”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 at the beginning of chapter 47 of title 18, United States
6 Code, is amended by adding at the end the following:

“1033. False statements relating to health care matters.”.

7 **SEC. 11436. OBSTRUCTION OF CRIMINAL INVESTIGATIONS,**
8 **AUDITS OR INSPECTIONS OF FEDERAL**
9 **HEALTH CARE OFFENSES.**

10 (a) IN GENERAL.—Chapter 73 of title 18, United
11 States Code, is amended by adding at the end the follow-
12 ing new section:

13 **“§ 1518. Obstruction of criminal investigations, audits**
14 **or inspections of Federal health care of-**
15 **fenses.**

16 “(a) IN GENERAL.—Whoever willfully prevents, ob-
17 structs, misleads, delays or attempts to present, obstruct,
18 mislead, or delay the communication of information or
19 records relating to a Federal health care offense to a Fed-
20 eral agent or employee involved in the investigation, audit,
21 inspection or other related activity shall be fined under
22 this title or imprisoned not more than 5 years, or both.

23 “(b) FEDERAL HEALTH CARE OFFENSE.—As used
24 in this section the term ‘Federal health care offense’ has

1 the same meaning given such term in section 982(a)(6)(B)
2 of this title.

3 “(c) **CRIMINAL INVESTIGATOR**.—As used in this sec-
4 tion the term ‘criminal investigator’ means any individual
5 duly authorized by a department, agency, or armed force
6 of the United States to conduct or engage in investigations
7 for prosecutions for violations of health care offenses.”.

8 (b) **CLERICAL AMENDMENT**.—The table of sections
9 at the beginning of chapter 73 of title 18, United States
10 Code, is amended by adding at the end the following:

“1518. Obstruction of Criminal Investigations, Audits, or Inspections of Federal
Health Care Offenses.”.

11 **SEC. 11437. THEFT OR EMBEZZLEMENT.**

12 (a) **IN GENERAL**.—Chapter 31 of title 18, United
13 States Code, is amended by adding at the end the follow-
14 ing new section: “§ 669. Theft or embezzlement in connec-
15 tion with health care.

16 “(a) **IN GENERAL**.—Whoever willfully embezzles,
17 steals, or otherwise without authority willfully and unlaw-
18 fully converts to the use of any person other than the
19 rightful owner, or intentionally misapplies any of the mon-
20 eys, funds, securities, premiums, credits, property, or
21 other assets of a health plan, shall be fined under this
22 title or imprisoned not more than 10 years, or both.

1 “(b) HEALTH PLAN.—As, used in this section the
2 term ‘health plan’ has the meaning given such term in
3 section 1347(b).”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 at the beginning of chapter 31 of title 18, United States
6 Code, is amended by adding at the end the following:

“669. Theft or Embezzlement in Connection with Health care.”.

7 **SEC. 11438. LAUNDERING OF MONETARY INSTRUMENTS.**

8 Section 1956(c)(7) of title 18, United States Code,
9 is amended by adding at the end the following new sub-
10 paragraph:

11 “(F) Any act or activity constituting an offense
12 involving a Federal health care offense as that term
13 is defined in section 982(a)(6)(B) of this title.”.

14 **SEC. 11439. AUTHORIZED INVESTIGATIVE DEMAND PROCE-**
15 **DURES.**

16 (a) IN GENERAL.—Chapter 233 of title 18, United
17 States Code, is amended by adding after section 3485 the
18 following new section:

19 **“§ 3486. Authorized investigative demand procedures.**

20 “(a) AUTHORIZATION.—

21 “(1) In any investigation relating to functions
22 set forth in paragraph (2), the Attorney General or
23 designee may issue in writing and cause to be served
24 a subpoena compelling production of any records (in-
25 cluding any books, papers, documents, electronic

1 media, or other objects or tangible things), which
2 may be relevant to an authorized law enforcement
3 inquiry, that a person or legal entity may possess or
4 have care, custody, or control. A custodian of
5 records may be required to give testimony concern-
6 ing the production and authentication of such
7 records. The production of records may be required
8 from any place in any State or in any territory, or
9 other place subject to the jurisdiction of the United
10 States at any designated place; except that such pro-
11 duction shall not be required more than 500 miles
12 distant from the place where the subpoena is served.
13 Witnesses summoned under this section shall be paid
14 the same fees and mileage that are paid witnesses
15 in the courts of the United States. A subpoena re-
16 quiring the production of records shall describe the
17 objects required to be produced and prescribe a re-
18 turn date within a reasonable period of time within
19 which the objects can be assembled and made avail-
20 able.

21 “(2) Investigative demands utilizing an admin-
22 istrative subpoena are authorized for any investiga-
23 tion with respect to any act or activity constituting
24 or involving health care fraud, including a scheme or
25 artifice—

1 “(A) to defraud any health plan or other
2 person, in connection with the delivery of or
3 payment for health care benefits, items, or serv-
4 ices; or

5 “(B) to obtain, by means of false or fraud-
6 ulent pretenses, representations, or promises,
7 any of the money or property owned by, or
8 under the custody or control or, any health
9 plan, or person in connection with the delivery
10 of or payment for health care benefits, items, or
11 services.

12 “(b) SERVICE.—A subpoena issued under this section
13 may be served by any person designated in the subpoena
14 to serve it. Service upon a natural person may be made
15 by personal delivery of the subpoena to such person. Serv-
16 ice may be made upon a domestic or foreign association
17 which is subject to suit under a common name, by deliver-
18 ing the subpoena to an officer, to a managing or general
19 agent, or to any other agency authorized by appointment
20 or by law to receive service of process. The affidavit of
21 the person serving the subpoena entered on a true copy
22 thereof by the person serving it shall be proof of service.

23 “(c) ENFORCEMENT.—In the case of contumacy by
24 or refusal to obey a subpoena issued to any person, the
25 Attorney General may invoke the aid of any court of the

1 United States within the Jurisdiction of which the inves-
2 tigation is carried on or of which the subpoenaed person
3 is an inhabitant, or in which such person carries on busi-
4 ness or may be found, to compel compliance with the sub-
5 poena. The court may issue an order requiring the subpoe-
6 naed person to appear before the Attorney General to
7 produce records, if so ordered, or to give testimony touch-
8 ing the matter under investigation. Any failure to obey
9 the order of the court may be punished by the court as
10 a contempt thereof. All process in any such case may be
11 served in any Judicial district in which such person may
12 be found.

13 “(d) IMMUNITY FROM CIVIL LIABILITY.—Notwith-
14 standing any Federal, State, or local law, any person, in-
15 cluding officers, agents, and employees receiving a sub-
16 poena under this section, who complies in good faith with
17 the subpoena and thus produces the materials sought,
18 shall not be liable in any court of any State or the United
19 States to any customer or other persons for such produc-
20 tion or for nondisclosure of that production to the cus-
21 tomer.

22 “(e) USE IN ACTION AGAINST INDIVIDUALS.—

23 “(1) Health information about an individual
24 that is disclosed under this section may not be used
25 in, or disclosed to any person for use in, any admin-

1 istrative, civil, or criminal action or investigation di-
2 rected against the individual who is the subject of
3 the information unless the action or investigation
4 arises out of and is directly related to receipt of
5 health care or payment for health care or action in-
6 volving a fraudulent claim related to health; or if au-
7 thorized by an appropriate order of a court of com-
8 petent jurisdiction, granted after application showing
9 good cause therefore.

10 “(2) In assessing good cause, the court shall
11 weigh the public interest and the need for disclosure
12 against the injury to the patient, to the physician-
13 patient relationship, and to the treatment services.

14 “(3) Upon the granting of such order, the
15 court, in determining the extent to which any dislo-
16 sure of all or any part of any record is necessary,
17 shall impose appropriate safeguards against unau-
18 thorized disclosure.

19 “(f) HEALTH PLAN.—As used in this section the
20 term ‘health plan’ has the meaning given such term in
21 section 1347(b).”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 for chapter 223 of title 18, United States Code, is amend-
24 ed by inserting after the item relating to section 3405 the

1 following new item: § 3486. Authorized investigative de-
2 mand procedures”.

3 (c) CONFORMING AMENDMENT.—Section
4 1510(b)(3)(B) of title 18, United States Code, is amended
5 by inserting “or a Department of Justice subpoena (issued
6 under section 3486),” after “subpoena”.

7 **PART 4—MEDICARE IMPROVEMENTS**

8 **Subpart A—Coordination of Benefits**

9 **SEC. 11441. CLARIFICATION OF TIME AND FILING LIMITA-** 10 **TIONS.**

11 (a) IN GENERAL.—Section 1862(b)(2)(B) (42 U.S.C.
12 1395y(b)(2)(B)) is amended by adding at the end of the
13 following:

14 “(v) TIME, FILING, AND RELATED PROVI-
15 SIONS UNDER PRIMARY PLAN.—Requirements
16 under a primary plan as to the filing of a claim,
17 time limitations for the filing of a claim, infor-
18 mation not maintained by the Secretary, or no-
19 tification or pre-admission review, shall not
20 apply to a claim by the United States under
21 clause (ii) or (iii).”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) applies to items and services furnished after
24 1990.

1 **SEC. 11442. CLARIFICATION OF LIABILITY OF THIRD PARTY**
2 **ADMINISTRATORS.**

3 (a) IN GENERAL.—Section 1862(b)(2)(B)(ii) (42
4 U.S.C. 1395(b)(2)(B)(ii)) is amended by inserting “, or
5 which determines claims under the primary plan” after
6 “primary plan”.

7 (b) CLAIMS BETWEEN PARTIES OTHER THAN THE
8 UNITED STATES.—Section 1862(b)(2)(B) (42 U.S.C.
9 1395y(b)(2)(B)) (as amended by section 11441(a) of this
10 Act) is further amended by adding at the end the follow-
11 ing:

12 “(vi) CLAIMS BETWEEN PARTIES OTHER THAN
13 THE UNITED STATES.—A claim by the United States
14 under clause (ii) or (iii) shall not preclude claims be-
15 tween other parties.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 the previous subsections apply to items and services fur-
18 nished after 1990.

19 **SEC. 11443. CLARIFICATION OF PAYMENT AMOUNTS TO**
20 **MEDICARE.**

21 (a) IN GENERAL.—Section 1862(b)(2)(B)(i) (42
22 U.S.C. 1395y(b)(2)(B)(i)) is amended to read as follows:

23 “(i) REPAYMENT REQUIRED.—

24 “(I) Any payment under this title, with re-
25 spect to any item or service for which payment
26 by a primary plan is required under the preced-

1 ing provisions of this subsection, shall be condi-
2 tioned on reimbursement to the appropriate
3 Trust Fund established by this title when notice
4 or other information is received that payment
5 for that item or service has been or should have
6 been made under those provisions. If reimburse-
7 ment is not made to the appropriate Trust
8 Fund before the expiration of the 60-day period
9 that begins on the date such notice or other in-
10 formation is received, the Secretary may charge
11 interest (beginning with the date on which the
12 notice or other information is received) on the
13 amount of the reimbursement until reimburse-
14 ment is made (at a rate determined by the Sec-
15 retary in accordance with regulations of the
16 Secretary of the Treasury applicable to charges
17 for late payments).

18 “(II) The amount owned by a primary
19 plan under the first sentence of subclause (I) is
20 the lesser of the full primary payment required
21 (if that amount is readily determinable) and the
22 amount paid under this title for that item or
23 service.”.

24 (b) CONFORMING AND TECHNICAL AMENDMENTS.—

1 (1) Subparagraphs (A)(i)(I) and (B)(i) of sec-
2 tion 1862(b)(1) (42 U.S.C. 1395y(b)(1)) are each
3 amended by inserting “(or eligible to be covered)”
4 after “covered”.

5 (2) Section 1862(b)(1)(C)(ii) (42 U.S.C.
6 1395y(b)(1)(C)(ii)) is amended by striking “covered
7 by such plan”.

8 (3) The matter in section 1862(b)(2)(A) (42
9 U.S.C. 1395y(b)(2)(A)) preceding clause (i) is
10 amended by striking “, except as provided in sub-
11 paragraph (B),”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 the previous subsections apply to items and services fur-
14 nished after 1990.

15 **SEC. 11444. CONDITIONS FOR DOUBLE DAMAGES.**

16 (a) IN GENERAL.—Section 1862(b)(2)(B)(ii) (42
17 U.S.C. 1395y(b)(2)(B)(ii)) is amended—

18 (1) by striking “, in accordance with paragraph
19 (3)(A)”, and

20 (2) by inserting “, unless the entity dem-
21 onstrates that it did not know, and could not have
22 known, of its obligation to pay” after “against that
23 entity.”

1 (b) CONFORMING AMENDMENT.—Section
2 1862(b)(3)(A) is amended by striking “(or appropriate re-
3 imbursement)”.

4 **SEC. 11445. REPEAL OF EXCISE TAX.**

5 (a) IN GENERAL.—Chapter 47 of the Internal Reve-
6 nue Code of 1986 (26 U.S.C. 5000) is repealed.

7 (b) CONFORMING AMENDMENT TO THE INTERNAL
8 REVENUE CODE OF 1986.—The table of chapters of sub-
9 title D of the Internal Revenue Code of 1986 (26 U.S.C.
10 4001 et seq.) is amended by striking the listing for chapter
11 47.

12 (c) CONFORMING AMENDMENTS TO THE SOCIAL SE-
13 CURITY ACT.—

14 (1) Section 1862(b)(1)(A) (42 U.S.C.
15 1395y(b)(1)(A)) is amended by striking clause (v).

16 (2) The matter in section 1862(b)(1)(C) (42
17 U.S.C. 1395y(b)(1)(C)) preceding clause (i) is
18 amended by striking “plan (as defined in subpara-
19 graph (A)(v))—” and inserting “plan—”.

20 (3) Section 1862(b)(1)(E) (42 U.S.C.
21 1395y(b)(1)(E)) is amended by adding at the end
22 the following:

23 “(iv) GROUP HEALTH PLAN DEFINED.—

24 The term ‘group health plan’ means a plan (in-
25 cluding a self-insured plan) of, or contributed to

1 by, an employer or employee organization to
2 provide health care (directly or otherwise) to
3 the employees, former employees, the employer,
4 others associated or formerly associated with
5 the employer in a business relationship, or their
6 families.”.

7 (4) Section 1862(b)(3) (42 U.S.C. 1395y(b)(3))
8 is amended—

9 (A) by striking subparagraph (B), and
10 (B) by redesignating subparagraph (C) as
11 (B).

12 (5) Subparagraph (A) of the first sentence of
13 section 1837(i)(1) (42 U.S.C. 1395p(i)(1)), subpara-
14 graph (B) of the first sentence of section 1837(i)(2)
15 (42 U.S.C. 1395p(i)(2)), section 1837(i)(3)(A) (42
16 U.S.C. 1395p(i)(3)(A)), and clause (2) of the second
17 sentence of section 1839(b) (42 U.S.C. 1395r(b)),
18 are each amended by striking “1862(b)(1)(A)(v)”
19 and inserting “1862(b)(1)(E)(iv)”.

20 (d) EFFECTIVE DATE.—The amendment made by
21 subsection (a) applies, with respect to the Internal Reve-
22 nue Code of 1986, to expenses incurred after 1994.

1 **SEC. 11446. INFORMATION REQUIREMENTS.**

2 (a) INFORMATION FROM GROUP HEALTH PLANS.—
3 Section 1862(b) (42 U.S.C. 1395y(b)) is amended by add-
4 ing at the end the following:

5 “(7) INFORMATION FROM GROUP HEALTH
6 PLANS.—

7 “(A) Provision of information by group
8 health plans.—The administrator of a group
9 health plan (other than a plan exempt, under
10 paragraph (1)(E)(v), from the requirements of
11 paragraph (1)) shall provide to the Secretary
12 any or all of the information elements listed in
13 subparagraph (C), and in such manner and at
14 such times (but not more frequently than four
15 times per year), as the Secretary may specify,
16 with respect to each individual covered under
17 the plan and entitled to benefits under this
18 title.

19 “(B) PROVISION OF INFORMATION BY EM-
20 PLOYERS AND EMPLOYEE ORGANIZATIONS.—An
21 employer (or employee organization) that main-
22 tains or participates in a group health plan
23 (other than a plan exempt, under paragraph
24 (1)(E)(v), from the requirements of paragraph
25 (1)) shall provide to the administrator of the
26 plan any or all of the information elements list-

1 ed in subparagraph (C), and in such manner
2 and at such times (but not more frequently
3 than four times per year), as the Secretary may
4 specify, with respect to each individual covered
5 under the plan and entitled to benefits under
6 this title.

7 “(C) INFORMATION ELEMENTS TO BE PRO-
8 VIDED.—The information elements to be pro-
9 vided under subparagraph (A) or (B) are:

10 “(i) ELEMENTS CONCERNING THE IN-
11 DIVIDUAL.—

12 “(I) The individual’s name.

13 “(II) The individual’s date of
14 birth.

15 “(III) The individual’s sex.

16 “(IV) The individual’s social se-
17 curity insurance number.

18 “(V) The number assigned by the
19 Secretary to the individual for claims
20 under this title.

21 “(VI) The family relationship of
22 the individual to the person who has
23 current or former employment status
24 with the employer.

1 “(ii) ELEMENTS CONCERNING THE
2 FAMILY MEMBER WITH CURRENT OR
3 FORMER EMPLOYMENT STATUS.—

4 “(I) The name of the person in
5 the individual’s family who has cur-
6 rent or former employment status
7 with the employer.

8 “(II) That person’s social secu-
9 rity insurance number.

10 “(III) The number or other iden-
11 tifier assigned by the plan to that per-
12 son.

13 “(IV) The periods of coverage for
14 that person under the plan.

15 “(V) The employment status of
16 that person (current or former) dur-
17 ing those periods of coverage.

18 “(VI) The classes (of that per-
19 son’s family members) covered under
20 the plan.

21 “(iii) PLAN ELEMENTS.—

22 “(I) The nature of the items and
23 services covered under the plan.

1 “(II) The name and address to
2 which claims under the plan are to be
3 sent.

4 “(iv) ELEMENTS CONCERNING THE
5 EMPLOYER.—

6 “(I) The employer’s name.

7 “(II) The employer’s address.

8 “(III) The employer identifica-
9 tion number of the employer.

10 “(D) USE OF IDENTIFIERS.—The adminis-
11 trator of a group health plan shall utilize an
12 identifier for the plan (that the Secretary may
13 furnish) in providing information under sub-
14 paragraph (A) and in other transactions, as
15 may be specified by the Secretary, related to
16 the provisions of this subsection.

17 “(E) PENALTY FOR NONCOMPLIANCE.—
18 Any entity that knowingly and willfully fails to
19 comply with a requirement imposed by the pre-
20 vious subparagraphs shall be subject to a civil
21 money penalty not to exceed \$1000 for each in-
22 cident of such failure. The provisions of section
23 1128A (other than subsections (a) and (b))
24 shall apply to a civil money penalty under the
25 previous sentence in the same manner as those

1 provisions apply to a penalty or proceeding
2 under section 1128A(a).”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) is effective 180 days after the date of enact-
5 ment of this Act.

6 **SEC. 11447. TECHNICAL CHANGES CONCERNING MINIMUM**
7 **SIZES OF GROUP HEALTH PLANS.**

8 (a) CONSOLIDATION OF REQUIREMENTS.—

9 (1) Section 1862(b)(1)(A) (42 U.S.C.
10 1395y(b)(1)(A)) (as amended by section 11443 of
11 this Act) is further amended—

12 (A) by striking clauses (ii) and (iii), and

13 (B) by renumbering clause (iv) as (ii).

14 (2) Section 1862(b)(1)(B) (42 U.S.C.
15 1395y(b)(1)(B)) is amended—

16 (A) in clause (i), by striking “large group
17 health plan (as defined in clause (iv))” and in-
18 serting “group health plan”, and

19 (B) by striking clause (iv).

20 (3) Section 1862(b)(1)(E) (42 U.S.C.
21 1395y(b)(1)(E)) (as amended by section 405(c)(3)
22 of this Act) is further amended by adding at the end
23 the following:

24 “(v) EXCLUSION OF GROUP HEALTH
25 PLANS OF SMALL AND MEDIUM EMPLOYERS.—

1 “(I) Subparagraph (A) shall not apply
2 to a group health plan unless the plan cov-
3 ers employees of at least one employer that
4 has 20 or more employees on at least 50
5 percent of its business days in each of 20
6 or more calendar weeks in the current or
7 preceding calendar year.

8 “(II) Subparagraph (B) shall not
9 apply to a group health plan unless the
10 plan covers employees of at least one em-
11 ployer that has 100 or more employees on
12 at least 50 percent of its business days in
13 each of 20 or more calendar weeks in the
14 current or preceding calendar year.”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) The second sentence of section
17 1862(b)(2)(A) (42 U.S.C. 1395y(b)(2)(A)) is
18 amended by striking “or large group health plan”.

19 (2) Section 1862 (b)(3)(C) (42 U.S.C.
20 1395y(b)(3)(C)) is amended—

21 (A) in the heading, by striking “or a large
22 group health plan”, and

23 (B) in the first sentence, by striking “or a
24 large group health plan”.

1 (3)(A) Subparagraph (A) of the first sentence
2 of section 1837(i)(1) (42 U.S.C. 1395p(i)(1)) is
3 amended by striking “(or the individual’s spouse’s)
4 current employment status” and inserting “current
5 employment status (or the current employment sta-
6 tus of a family member of the individual).”.

7 (B) Section 1837(i)(1) (42 U.S.C. 1395p(i)(1))
8 is amended by striking the second sentence.

9 (4)(A) Subparagraph (b) of the first sentence of
10 section 1837(i)(2) (42 U.S.C. 1395p(i)(2)) is
11 amended by striking “(or the individual’s spouse’s)
12 current employment status” and inserting “current
13 employment status (or the current employment sta-
14 tus of a family member of the individual).”.

15 (B) Section 1837(i)(2) (42 U.S.C. 1395p(i)(2))
16 is amended by striking the second sentence.

17 (5) Section 1837(i)(3) (42 U.S.C. 1395p(i)(3))
18 is amended—

19 (A) by striking subparagraph (b), and

20 (B) by striking “(3)(A)” and inserting
21 “(3)”.

22 (6) Clause (2) of the second sentence of section
23 1839(b) (42 U.S.C. 1395r(b)) is amended by strik-
24 ing “by reason of the individual’s (or the individual’s
25 spouse’s) current employment status or months dur-

1 ing which the individual has not attained the age of
2 65 and for which the individual can demonstrate
3 that the individual was enrolled in a large group
4 health plan”.

5 **Subpart B—Contractor Reform**

6 **SEC. 11451. INCREASED FLEXIBILITY IN CONTRACTING FOR**
7 **MEDICARE CLAIMS PROCESSING.**

8 (a) CARRIERS TO INCLUDE ENTITIES THAT ARE NOT
9 INSURANCE COMPANIES.—

10 (1) The matter in section 1842(a) (42 U.S.C.
11 1395u(a)) preceding paragraph (1) is amended by
12 striking “with carriers” and inserting “with agencies
13 and organizations (referred to as carriers)”.

14 (2) Section 1842(f) (42 U.S.C. 1394u(f)) is re-
15 pealed.

16 (b) CHOICE OF FISCAL INTERMEDIARIES BY PROVID-
17 ERS OF SERVICES; SECRETARIAL FLEXIBILITY IN ASSIGN-
18 ING FUNCTIONS TO INTERMEDIARIES AND CARRIERS.—

19 (1) Section 1816 (42 U.S.C. 1395h) is amended
20 by striking everything after the heading but before
21 subsection (b) and inserting the following:

22 “SEC. 1816. (a)(1) The Secretary may enter into con-
23 tracts with agencies or organizations to reform any or all
24 of the following functions, or parts of those functions (or,

1 to the extent provided in a contract, to secure performance
2 thereof by other organizations):

3 “(A) determine (subject to the provisions of sec-
4 tion 1878 and to such review by the Secretary as
5 may be provided for the contracts) the amount of
6 the payments required pursuant to this part to be
7 made to providers of services,

8 “(B) make payments described in subparagraph
9 (A),

10 “(C) provide consultative services to institutions
11 or agencies to enable them to establish and maintain
12 fiscal records necessary for purposes of this part and
13 otherwise to qualify as providers of services,

14 “(D) serve as a center for, and communicate to
15 individuals entitled to benefits under this part and to
16 providers of services, any information or instructions
17 furnished to the agency or organization by the Sec-
18 retary, and serve as a channel of communication
19 from individuals entitled to benefits under this part
20 and from providers of services to the Secretary,

21 “(E) make such audits of the records of provid-
22 ers of services as may be necessary to insure that
23 proper payments are made under this part,

24 “(F) perform the functions described by sub-
25 section (d), and

1 “(G) perform such other functions as are nec-
2 essary to carry out the purposes of this part.

3 “(2) As used in this title and title XI, the term ‘fiscal
4 intermediary’ means an agency or organization with a con-
5 tract under this section.”.

6 (2) Subsections (d) and (e) of section 1816 (42
7 U.S.C. 1395h) are amended to read as follows:

8 “(d) Each provider of services shall have a fiscal
9 intermediary that—

10 “(1) acts as a single point of contact for the
11 provider of services under this part,

12 “(2) makes its services sufficiently available to
13 meet the needs of the provider of services, and

14 “(3) is responsible and accountable for arrang-
15 ing the resolution of issues raised under this part by
16 the provider of services.

17 “(e)(1)(A) The Secretary shall, at least every five
18 years, permit each provider of services (other than a home
19 health agency or a hospice program) to choose an agency
20 or organization (from at least three proposed by the Sec-
21 retary, of which at least one shall have an office in the
22 geographic area of the provider of services, except as pro-
23 vided by subparagraph (B)(ii)(II)) as the fiscal
24 intermediary under subsection (d) for the provider of serv-
25 ices. If a contract with that fiscal intermediary is discon-

1 tinued, the Secretary shall permit the provider of services
2 to choose under the same conditions from three other
3 agencies or organizations

4 “(B)(i) The Secretary, in carrying out subparagraph
5 (A), shall permit a group of hospitals (or a group of an-
6 other class of providers other than home health agencies
7 or hospice programs) under common ownership by, or con-
8 trol of, a particular entity to choose one agency or organi-
9 zation (from at least three proposed by the Secretary) as
10 the fiscal intermediary under subsection (d) for all the
11 providers in that group if the conditions specified in clause
12 (ii) are met

13 “(ii) the conditions for clause (i) to apply are that—

14 “(I) the group includes all the providers or
15 services of that class that are under common owner-
16 ship by, or control of, that particular entity, and

17 “(II) all the providers of services in that group
18 agree that none of the agencies or organizations pro-
19 posed by the Secretary is required to have an office
20 in any particular geographic area.

21 “(2) The Secretary, in evaluating the performance of
22 a fiscal intermediary, shall solicit comments from provid-
23 ers of services.”.

24 (3)(A) Section 1816(b)(1)(A) (42 U.S.C.
25 1395h(b)(1)(A)) is amended by striking “after ap-

1 plying the standards, criteria, and procedures” and
2 inserting “after evaluating the ability of the agency
3 or organization to fulfill the contract performance
4 requirements”.

5 (B) The first sentence of section 1816(f)(1) (42
6 U.S.C. 1395h(f)(1)) is amended—

7 (i) by striking “develop standards, criteria,
8 and procedures” and inserting “, after public
9 notice and opportunity for comment, develop
10 contract performance requirements”, and

11 (ii) by striking “, and the Secretary shall
12 establish standards and criteria with respect to
13 the efficient and effective administration of this
14 part”.

15 (C) The second sentence of section
16 1842(b)(2)(A) (42 U.S.C. 1395u(b)(2)(A)) is
17 amended to read as follows: “The Secretary shall,
18 after public notice and opportunity for comment, de-
19 velop contract performance requirements for the effi-
20 cient and effective performance of contract obliga-
21 tions under this section.”.

22 (D) Section 1842(b)(2)(A) (42 U.S.C.
23 1395u(b)(2)(A)) is amended by striking the third
24 sentence.

1 (E) The matter in section 1842(b)(2)(B) (42
2 U.S.C. 1395u(b)(2)(B)) preceding clause (i) is
3 amended by striking “establish standards” and in-
4 serting “develop contract performance require-
5 ments”.

6 (F) Section 1842(b)(2)(D) (42 U.S.C.
7 1395u(b)(2)(D)) is amended by striking “standards
8 and criteria” each place it occurs and inserting
9 “contract performance requirements”.

10 (4)(A) The matter in section 1816(b) (42
11 U.S.C. 1395h(b)) preceding paragraph (1) is amend-
12 ed by striking “an agreement” and inserting “a con-
13 tract”.

14 (B) Paragraphs (1)(B) and (2)(A) of section
15 1816(b) (42 U.S.C. 1395h(b)) are each amended by
16 striking “agreement” and inserting “contract”.

17 (C) The first sentence of section 1816(c)(1) (42
18 U.S.C. 1395h(c)(1)) is amended by striking “An
19 agreement” and inserting “A contract”.

20 (D) The last sentence of section 1816(c)(1) (42
21 U.S.C. 1395h(c)(1)) is amended by striking “an
22 agreement” and inserting “a contract”.

23 (E) The matter in section 1816(c)(2)(A) (42
24 U.S.C. 1395h(c)(2)(A)) preceding clause (i) is

1 amended by striking “agreement” and inserting
2 “contract”.

3 (F) Section 1816(c)(3)(A) (42 U.S.C.
4 1395h(c)(3)(A)) is amended by striking “agree-
5 ment” and inserting “contract”.

6 (G) The first sentence of section 1816(f)(1) (42
7 U.S.C. 1395h(f)(1)) is amended by striking “an
8 agreement” and inserting “a contract”.

9 (H) Section 1816(h) (42 U.S.C. 1395h(h)) is
10 amended—

11 (i) by striking “An agreement” and insert-
12 ing “A contract”, and

13 (ii) by striking “the agreement” each place
14 it occurs and inserting “the contract”.

15 (I) Section 1816(i)(1) (42 U.S.C. 1395h(i)(1))
16 is amended by striking “an agreement” and insert-
17 ing “a contract”.

18 (J) Section 1816(j) (42 U.S.C. 1395(j)) is
19 amended by striking “An agreement” and inserting
20 “A contract”.

21 (K) Section 1816(k) (42 U.S.C. 1395h(k)) is
22 amended by striking “An agreement” and inserting
23 “A contract”.

1 (L) The matter in section 1842(a) (42 U.S.C.
2 1395u(a)) preceding paragraph (1) is amended by
3 striking “agreements” and inserting “contracts”.

4 (M) Section 1842(h)(3)(A) (42 U.S.C.
5 1395u(h)(3)(A)) is amended by striking “an agree-
6 ment” and inserting “a contract”.

7 (5) Section 1816(f)(1) (42 U.S.C. 1395h(f)(1))
8 is amended by striking the second sentence.

9 (6)(A) The matter in section 1816(c)(2)(A) (42
10 U.S.C. 1395h(c)(2)(A)) preceding clause (i) is
11 amended by inserting “that provides for making
12 payments under this part” after “this section”.

13 (B) Section 1816(c)(3)(A) (42 U.S.C.
14 1395h(c)(3)(A)) is amended by inserting “that pro-
15 vides for making payments under this part” after
16 “this section”.

17 (C) Section 1816(k) (42 U.S.C. 1395h(k)) is
18 amended by inserting “(as appropriate)” after “sub-
19 mit”.

20 (D) The matter in section 1842(a) (42 U.S.C.
21 1395u(a)) preceding paragraph (1) is amended by
22 striking “some or all of the following functions” and
23 inserting “any or all of the following functions, or
24 parts of those functions”.

1 (E) The first sentence of section 1842(b)(2)(C)
2 (42 U.S.C. 1395u(b)(2)(C)) is amended by inserting
3 “(as appropriate)” after “carriers”.

4 (F) The matter preceding subparagraph (A) in
5 the first sentence of section 1842(b)(3) (42 U.S.C.
6 1395u(b)(3)) is amended by inserting “(as appro-
7 priate)” after “contract”.

8 (G) The matter in section 1842(b)(7)(A) (42
9 U.S.C. 1395u(b)(7)(A)) preceding clause (i) is
10 amended by striking “the carrier” and inserting “a
11 carrier”.

12 (H) The matter in section 1842(b)(11)(A) (42
13 U.S.C. 1395u(b)(11)(A)) preceding clause (i) is
14 amended by inserting “(as appropriate)” after “each
15 carrier”.

16 (I) The first sentence of section 1842(h)(2) (42
17 U.S.C. 1395u(b)(2)) is amended by inserting “(as
18 appropriate)” after “shall”.

19 (J) Section 1842(h)(5)(A) (42 U.S.C.
20 1395u(h)(5)(A)) is amended by inserting “(as appro-
21 priate)” after “carrier”.

22 (7)(A) Section 1816(e)(2)(C) (42 U.S.C.
23 1395h(e)(2)(C)) is amended by striking “hospital,
24 rural primary care hospital, skilled nursing facility,
25 home health agency hospice program, comprehensive

1 outpatient rehabilitation facility, or rehabilitation
2 agency” and inserting “* * * of services”.

3 (B) The matter in section 1816(j) (42 U.S.C.
4 1395(j)) preceding paragraph (1) is amended by
5 striking “for home health services, extended care
6 services, or post-hospital extended care services”.

7 (8) Section 1842(a)(3) (42 U.S.C. 1395u(a)(3))
8 is amended by inserting “(to and from individuals
9 enroll under this part and to and from physicians
10 and other entities that furnish items and services)”
11 after “communication”.

12 (c) ELIMINATION OF SPECIAL PROVISIONS FOR TER-
13 MINATIONS OF CONTRACTS.—

14 (1) The matter in section 1816(b) (42 U.S.C.
15 1395h(b)) preceding paragraph (1) is amended by
16 striking “or renew”.

17 (2) The last sentence of section 1816(c)(1) (42
18 U.S.C. 1395h(c)(1)) is amended by striking “or re-
19 newing”.

20 (3) Section 1816(f)(1) (42 U.S.C. 1395h(f)(1))
21 is amended by striking “, renew, or terminate” and
22 “, whether the Secretary should assign or reassign
23 a provider of services to an agency or organization,”.

24 (4) Section 1816(g) (42 U.S.C. 1395h(g)) is re-
25 pealed.

1 (5) The last sentence of section 1842(b)(2)(A)
2 (42 U.S.C. 1395u(b)(2)(A)) is amended by striking
3 “or renewing”.

4 (6) Section 1842(b) (42 U.S.C. 1395u(b)) is
5 amended by striking paragraph (5).

6 (d) REPEAL OF FISCAL INTERMEDIARY REQUIRE-
7 MENTS THAT ARE NOT COST-EFFECTIVE.—Section
8 1816(f)(2) (42 U.S.C. 1395h(f)(2)) is amended to read
9 as follows:

10 “(2) The contract performance requirements devel-
11 oped under paragraph (1) shall include, with respect to
12 claims for services furnished under this part by any pro-
13 vider of services other than a hospital, whether such agen-
14 cy or organization is able to process 75 percent of recon-
15 siderations within 60 days and 90 percent of reconsider-
16 ations within 90 days.”.

17 (e) REPEAL OF COST REIMBURSEMENT REQUIRE-
18 MENTS.—

19 (1) The first sentence of section 1816(c)(1) (42
20 U.S.C. 1395h(c)(1)) is amended—

21 (A) by striking the comma after “appro-
22 priate” and inserting “and”, and

23 (B) by striking everything after “sub-
24 section (a)” up to the period.

1 (2) Section 1816(c)(1) (42 U.S.C. 1395h(c)(1))
2 is further amended by striking the second and third
3 sentences.

4 (3) The first sentence of section 1842(c)(1)(A)
5 (42 U.S.C. 1395u(c)(1)(A)) is amended—

6 (A) by striking “shall provide” the first
7 place it occurs and inserting “may provide”,
8 and

9 (B) by striking everything after “this
10 part” up to the period.

11 (4) Section 1842(c)(1) (42 U.S.C. 1395u(c)(1))
12 is further amended by striking the remaining sen-
13 tences.

14 (5) Section 2326(a) of the Deficit Reduction
15 Act of 1984 (42 U.S.C. 1395h nt) is repealed.

16 (f) COMPETITION REQUIRED FOR NEW CONTRACTS
17 AND IN CASES OF POOR PERFORMANCE.—

18 (1) Section 1816(c) (42 U.S.C. 1395h(c)) is
19 amended by adding at the end the following:

20 “(4)(A) A contract with a fiscal intermediary under
21 this section may be renewed from term to term without
22 regard to any provision of law requiring competition if the
23 fiscal intermediary has met or exceeded the performance
24 requirements established in the current contract.

1 “(B) Functions may be transferred among fiscal
2 intermediaries without regard to any provision of law re-
3 quiring competition.”.

4 (2) Section 1842(b) (42 U.S.C. 1395u(b)) is
5 amended by striking everything before paragraph (2)
6 and inserting the following:

7 “(b)(1)(A) A contract with a carrier under subsection
8 (a) may be renewed from term to term without regard to
9 any provision of law requiring competition if the carrier
10 has met or exceeded the performance requirements estab-
11 lished in the current contract.

12 “(B) Functions may be transferred among carriers
13 without regard to any provision of law requiring competi-
14 tion.”.

15 (g) WAIVER OF COMPETITIVE REQUIREMENTS FOR
16 INITIAL CONTRACTS.—

17 (1) Contracts whose periods begin during the
18 one year period that begins on the first day of the
19 fourth calendar month that begins after the date of
20 enactment of this Act may be entered into under
21 section 1816(a) of the Social Security Act (42
22 U.S.C. 1395h(a)) without regard to any provision of
23 law requiring competition.

24 (2) The amendments made by subsection (f)
25 apply to contracts whose periods begin after the end

1 of the one year period specified in paragraph (1) of
2 this subsection.

3 (h) EFFECTIVE DATES.—

4 (1) The amendments made by subsection (c)
5 apply to contracts whose periods end at, or after, the
6 end of the third calendar month that begins after
7 the date of enactment of this Act.

8 (2) The amendments made by subsections (a),
9 (b), (d), and (e) apply to contracts whose periods
10 begin after the third calendar month that begins
11 after the date of enactment of this Act.

12 **Subpart C—Provisions Relating to Part B of**
13 **Medicare**

14 **SEC. 11461. REPLACEMENT OF REASONABLE CHARGE**
15 **METHODOLOGY BY FEE SCHEDULES.**

16 (a) IN GENERAL.—The matter in section 1833(a)(1)
17 (42 U.S.C. 13951(a)(1)) preceding clause (A) is amended
18 by striking “the reasonable charges for the services” and
19 inserting “the lesser of the actual charges for the services
20 and the amounts determined by the applicable fee sched-
21 ules developed by the Secretary for the particular serv-
22 ices”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 1833(a)(1) (42 U.S.C. 13951(a)(1))
25 is amended—

1 (A) in clause (A), by striking “reasonable
2 charges for” and inserting “payment bases oth-
3 erwise applicable to”,

4 (B) in clause (B), by striking “reasonable
5 charges” and inserting “fee schedule amounts”,
6 and

7 (C) by inserting after clause (F) the fol-
8 lowing: “(G) with respect to services described
9 in clause (i), (ii), or (iv) of section
10 1861(s)(2)(K) (relating to physician assistants
11 and nurse practitioners), the amounts paid shall
12 be 80 percent of the lesser of the actual charge
13 for the services and the applicable amount de-
14 termined under subclause (I) of (II) of section
15 1842(b)(12)(A)(ii),”.

16 (2) Section 1833(a)(2) (42 U.S.C. 1395l(a)(2))
17 is amended—

18 (A) in the matter in subparagraph (B) pre-
19 ceding clause (i), by striking “(C), (D),” and
20 inserting “(D),” and

21 (B) by striking subparagraph (C).

22 (3) Section 1833(l) (42 U.S.C. 1395l(l)) is
23 amended—

24 (A) in paragraph (3)—

25 (i) by striking subparagraph (B), and

1 (ii) by striking “(3)(A)” and inserting
2 “(3)”, and
3 (B) by striking paragraph (6).

4 (4) The heading to section 1834(g)(1)(A)(ii)
5 (42 U.S.C. 1395m(g)(1)(A)(ii)) is amended by strik-
6 ing “Reasonable charges for professional” and in-
7 serting “Professional”.

8 (5) Section 1842(a) (42 U.S.C. 1395u(a)) is
9 amended—

10 (A) in the matter preceding paragraph (1),
11 by striking “reasonable charge” and inserting
12 “fee schedule”, and

13 (B) in paragraph (1)(A), by striking “rea-
14 sonable charge” and inserting “other”.

15 (6)(A) The matter preceding clause (i) in sub-
16 paragraph (B) of the first sentence of section
17 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended by
18 striking everything after “assure that,” and insert-
19 ing the following: “where payment under this part
20 for a service is on a basis other than a cost basis,
21 such payment will (except as otherwise provided in
22 section 1870(f)) be made—”.

23 (B) Subparagraph (B)(ii)(I) of the first sen-
24 tence of section 1842(b)(3) (42 U.S.C. 1395u(b)(3))
25 is amended to read as follows: “(I) the amount de-

1 terminated by the applicable payment basis under this
2 part is the full charge for the service.”.

3 (C) Section 1842(b)(3) (42 U.S.C.
4 1395u(b)(3)) is amended by striking the second,
5 third, fourth, fifth, sixth, eighth, and ninth sentences.

6 (7)(A) Section 1842(b)(4) (42 U.S.C.
7 1395u(b)(4)) is amended to read as follows:

8 “(4) In the case of an enteral or parenteral
9 pump that is furnished on a rental basis during a
10 period of medical need—

11 “(A) monthly rental payments shall not be
12 made under this part for more than 15 months
13 during that period, and

14 “(B) after monthly rental payments have
15 been made for 15 months during that period,
16 payment under this part shall be made for
17 maintenance and servicing of the pump in such
18 amounts as the Secretary determines to be rea-
19 sonable and necessary to ensure the proper op-
20 eration of the pump.”.

21 (B) Section 6112(b) (42 U.S.C. 1395m nt) of
22 the Omnibus Reconciliation Act of 1989 is repealed.

23 (8) Section 1842(b)(7) (42 U.S.C. 1395u(b)(7))
24 is amended—

1 (A) in the matter in subparagraph (D)(i)
2 preceding subclause (I), by striking “, to the ex-
3 tent that such payment is otherwise allowed
4 under this paragraph,”,

5 (B) in subparagraph (D)(ii), by striking
6 “subparagraph” and inserting “paragraph”,

7 (C) by striking “(7)(A) In the case of”
8 through the end of subparagraph (C).

9 (D) by striking “(D)(i)” and inserting
10 “(7)(A)”,

11 (E) by redesignating clauses (ii) and (iii)
12 as subparagraphs (B) and (C), respectively, and

13 (F) by redesignating subclauses (I), (II),
14 and (III), of subparagraph (A) (as redesignated
15 by subparagraph (D) of this paragraph) as
16 clauses (i), (ii), and (iii), respectively.

17 (9)(A) Section 1842(b) (42 U.S.C. 1395u(b)) is
18 amended by striking paragraphs (8) and (9).

19 (B) The first sentence of section
20 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is
21 amended by striking everything after “is authorized
22 to” up to the period and inserting the following:
23 “describe by regulation the factors to be used in de-
24 termining the cases (of particular items) in which
25 the application of this subsection results in the de-

1 termination of an amount that, by reason of its
2 being grossly excessive or grossly deficient, is not in-
3 herently reasonable, and to provide in those cases
4 for the factors that will be considered in establishing
5 an amount that is realistic and equitable”.

6 (10) Section 1842(b)(10) (42 U.S.C.
7 1395u(b)(10)) is repealed.

8 (11) Section 1842(b)(11) (42 U.S.C.
9 1395u(b)(11)) is amended—

10 (A) by striking subparagraphs (B) through
11 (D),

12 (B) by striking “(11)(A)” and inserting
13 “(11)”, and

14 (C) by redesignating clauses (i) and (ii) as
15 subparagraphs (A) and (B), respectively.

16 (12) Section 1842(b)(12)(A)(ii) (42 U.S.C.
17 1395u(b)(12)(A)(ii)) is amended—

18 (A) in the matter preceding subclause (I),
19 by striking “prevailing charges determined
20 under paragraph (3)” and inserting “the
21 amounts determined under section
22 1833(a)(1)(G)”, and

23 (B) in subclause (II), by striking “prevail-
24 ing charge rate” and all that follows up to the
25 period and inserting “fee schedule amount spec-

1 ified in section 1848 for such services per-
2 formed by physicians”.

3 (13) Paragraphs (14) through (17) of section
4 1842(b) (42 U.S.C. 1395u(b)) are repealed.

5 (14)(A) Section 1842(b)(18)(A) (42 U.S.C.
6 1395u(b)(18)(A)) is amended by striking “reason-
7 able charge or”.

8 (B) Paragraph (18) of section 1842(b) (42
9 U.S.C. 1395u(b)) is renumbered as paragraph (14).

10 (15)(A) The matter in section 1842(j) (42
11 U.S.C. 1395u(j)) preceding paragraph (2) is amend-
12 ed to read as follows:

13 “(j)(1) See subsections (k), (l), (m), (n), and (p) as
14 to the cases in which sanctions may be applied under para-
15 graph (2).”.

16 (B) Section 1842(j)(4) (42 U.S.C. 1395u(j)(4))
17 is amended by striking “under paragraph (1)”.

18 (16) Section 1842(n)(1)(A) (42 U.S.C.
19 1395u(n)(1)(A)) is amended by striking “reasonable
20 charge (or other applicable limit)” and inserting
21 “other applicable limit”.

22 (17) Section 1842(q) 42 U.S.C. 1395u(q) is
23 amended—

24 (A) by striking paragraph (1)(B), and

1 (B) by striking “(q)(1)(A)” and inserting
2 “(q)(1)”.

3 (18) Section 1845(b)(1) (42 U.S.C. 1395w-
4 1(b)(1) is amended by striking “adjustments to the
5 reasonable charge levels for physicians’ services rec-
6 ognized under section 1842(b) and”.

7 (19) Section 1848(i)(3) (42 U.S.C. 1395w-
8 4(i)(3)) is repealed.

9 (20) Clause (ii) of the first sentence of section
10 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A) is amend-
11 ed by striking “reasonable charges” through “pro-
12 vider)” and inserting “amount customarily charged
13 for such items and services by such provider”.

14 (21) Section 1881(b)(3)(A) (42 U.S.C.
15 1395rr(b)(3)(A)) is amended by striking “a reason-
16 able charge” through “section 1848)” and inserting
17 “the basis described in section 1848”.

18 (22) Section 9340 of the Omnibus Budget Rec-
19 onciliation Act of 1986 (42 U.S.C. 1395u nt) is re-
20 pealed.

21 (c) EFFECTIVE DATES.—The amendments made by
22 the preceding subsections, to the extent they substitute fee
23 schedules for reasonable charges, apply to particular serv-
24 ices as of the date specified by the Secretary of Health
25 and Human Services.

1 (d) INITIAL BUDGET NEUTRALITY.—The Secretary,
2 in developing a fee schedule for particular services (under
3 the amendments made by subsections (a) and (b)), shall
4 set amounts for the first year period to which the fee
5 schedule applies at a level such that the total payments
6 under title XVIII of the Social Security Act (42 U.S.C.
7 1395 et seq.) for those services for that year period shall
8 be approximately equal to the estimated total payments
9 if those amendments had not been made.

10 **SEC. 11462. APPLICATION OF INHERENT REASONABLENESS**
11 **TO SURGICAL DRESSINGS.**

12 Section 1834(i) (42 U.S.C. 1395m(i)) is amended by
13 adding at the end the following:

14 “(3) ADJUSTMENT FOR INHERENT REASON-
15 ABLENESS.—The provisions of subsection (a)(10)(B)
16 shall also apply to surgical dressings.”.

17 **SEC. 11463. APPLICATION OF COMPETITIVE ACQUISITION**
18 **PROCESS TO CERTAIN PART B ITEMS AND**
19 **SERVICES.**

20 (a) GENERAL RULE.—Part B of title XVIII (42
21 U.S.C. 1395j et seq.) is amended by inserting after section
22 1846 the following:

23 “COMPETITIVE ACQUISITION OF ITEMS AND SERVICES
24 “SEC. 1847. (a) ESTABLISHMENT OF BIDDING
25 AREAS.—

1 “(1) IN GENERAL.—The Secretary shall estab-
2 lish competitive acquisition areas for the purposes of
3 awarding contracts for the furnishing under this
4 part of the items and services described in sub-
5 section (c) after 1995. The Secretary may establish
6 different competitive acquisition areas under this
7 subsection for different classes of items and services
8 under this part.

9 “(2) CRITERIA FOR ESTABLISHMENT.—The
10 competitive acquisition areas established under para-
11 graph (1) shall—

12 “(A) initially be, or be within, metropolitan
13 statistical areas, and

14 “(B) be chosen based on the availability
15 and accessibility of entities able to furnish
16 items and services, and the probable savings to
17 be realized by the use of competitive bidding in
18 the furnishing of items and services in the area.

19 “(b) AWARDING OF CONTRACTS IN AREAS.—

20 “(1) IN GENERAL.—The Secretary shall con-
21 duct a competition among individuals and entities
22 supplying items and services under this part for
23 each competitive acquisition area established under
24 subsection (a) for each class of items and services.

1 “(2) CONDITIONS FOR AWARDING CONTRACT.—

2 The Secretary may not award a contract to any en-
3 tity under the competition conducted pursuant to
4 paragraph (1) to furnish an item or service under
5 this part unless the Secretary finds that the entity
6 meets quality standards specified by the Secretary
7 for the furnishing of the item or service.

8 “(3) CONTENTS OF CONTRACT.—A contract en-
9 tered into with an entity under the competition con-
10 ducted pursuant to paragraph (1) shall specify (for
11 all of the items and services within a class)—

12 “(A) the quantity of items and services the
13 entity shall provide; and

14 “(B) such other terms and conditions as
15 the Secretary may require.

16 “(c) SERVICES DESCRIBED.—The items and services
17 to which the provisions of this section shall apply are as
18 follows:

19 “(1) Magnetic resonance imaging tests and
20 computerized axial tomography scans, including phy-
21 sician’s interpretation of the results of such tests
22 and scans.

23 “(2) Enteral and parenteral nutrients, supplies,
24 and equipment.

1 “(3) Such other items as the Secretary may
2 specify.”.

3 (b) ITEMS AND SERVICES TO BE FURNISHED ONLY
4 THROUGH COMPETITIVE ACQUISITION.—Section 1862(a)
5 (42 U.S.C. 1395y(a)) is amended—

6 (1) by striking “or” at the end of paragraph
7 (14),

8 (2) by striking the period at the end of para-
9 graph (15) and inserting “; or”, and

10 (3) by inserting after paragraph (15) the fol-
11 lowing:

12 “(16) where such expenses are for an item or
13 service furnished in a competitive acquisition area
14 (as established by the Secretary under section
15 1847(a)) by an entity other than an entity with
16 which the Secretary has entered into a contract
17 under section 1847(b) for the furnishing of such an
18 item or service in that area, unless the Secretary
19 finds that such expenses were incurred in a case of
20 urgent need.”.

21 (c) REDUCTION IN PAYMENT AMOUNTS IF COMPETI-
22 TIVE ACQUISITION FAILS TO ACHIEVE MINIMUM REDUC-
23 TION IN PAYMENTS.—Notwithstanding any provision of
24 title XVIII of the Social Security Act (42 U.S.C. 1395
25 et seq.), if the establishment of competitive acquisition

1 areas under section 1847 of that Act (as added by this
2 part) and the furnishing of items and services under that
3 section during 1997 does not result in a reduction of at
4 least 15 percent in the projected payment amounts that
5 would apply to a class of items or services under part B
6 of that title (42 U.S.C. 1395j et seq.) if that class of items
7 or services were not to be furnished under that section
8 1997, the Secretary shall reduce for that year the payment
9 amounts for that class of items and services by the per-
10 centage the Secretary determines necessary to result in
11 that reduction for that year (and those reduced amounts
12 shall be considered the full payment amounts for that year
13 in calculating payment amounts for future years).

14 (d) **EFFECTIVE DATE.**—The amendments made by
15 subsections (a) and (b) apply to items and services fur-
16 nished under part B of title XVIII of the Social Security
17 Act (42 U.S.C. 1395j et seq.) after 1995.

18 **SEC. 11464. APPLICATION OF COMPETITIVE ACQUISITION**

19 **PROCESS TO LABORATORY SERVICES.**

20 (a) **IN GENERAL.**—Section 1847(c), as added by sec-
21 tion 11463(a) of this Act, is amended by renumbering
22 paragraph (4) as (5) and inserting after paragraph (3)
23 the following:

24 “(4) Clinical diagnostic laboratory tests.”.

1 (b) REDUCTION IN PAYMENT AMOUNTS IF COMPETI-
2 TIVE ACQUISITION FAILS TO ACHIEVE MINIMUM REDUC-
3 TION IN PAYMENTS.—See section 11463(c) for provisions
4 that address reductions in payment amounts.

5 (c) EFFECTIVE DATE.—The amendment made by
6 subsection (a) applies to tests furnished under part B of
7 title XVIII of the Social Security Act (42 U.S.C. 1395j
8 et seq.) after 1995.

9 **SEC. 11465. CHANGES IN PAYMENTS FOR CLINICAL LAB-**
10 **ORATORY TESTS.**

11 (a) IN GENERAL.—Section 1833(h)(2)(A)(iii) (42
12 U.S.C. 1395l(h)(2)(A)(iii)) is amended—

13 (1) by striking the clause designation “(iii)”
14 and inserting “(iii)(I)”, and

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

16 “(II) In lieu of the fees established under subclause
17 I, the Secretary may pay for tests classified as automated
18 tests on the basis of a nationally uniform fee for a group
19 of tests (of whatever number) performed together.

20 “(III) The Secretary shall pay for tests for amylase,
21 apolipoprotein A, apolipoprotein B, creatine kinase,
22 gamma glutamyl transferase, iron, lipase, magnesium,
23 thyroxine, triglyceride, or triiodothyronine uptake on the
24 same basis as the Secretary pays for other tests classified
25 as automated tests.

1 “(IV) The Secretary may, from time to time, reclass-
2 sify specific tests as automated or not automated, based
3 on the volume of a test and the relative frequency by which
4 the test is performed on automated equipment.”.

5 (b) EFFECTIVE DATE AND INITIAL PAYMENT LEV-
6 ELS.—

7 (1) The amendments made by subsection (a)
8 apply to tests performed after 1995.

9 (2) If the Secretary sets a nationally uniform
10 fee under subclause (II) of section 1833(h)(2)(A)(iii)
11 of the Social Security Act (42 U.S.C.
12 1395(h)(2)(A)(iii)), such a fee shall be initially es-
13 tablished so that estimated aggregate payments
14 under such fee shall equal the estimated aggregate
15 amounts that would otherwise have been payable for
16 the tests under subclause (I).

17 **Subpart D—Provisions Relating to Parts A**
18 **and B of Medicare**

19 **SEC. 11471. DISCLOSURE OF TAXPAYER IDENTIFYING NUM-**
20 **BERS AND OTHER INFORMATION.**

21 (a) PROVIDERS OF SERVICES AND CERTAIN OTHER
22 ENTITIES.—Section 1124 (42 U.S.C. 1320a–3) is amend-
23 ed by adding at the end of the following:

24 “(c) The Secretary may also require a disclosing en-
25 tity to supply the Secretary with the taxpayer identifying

1 number (TIN) of the disclosing entity, of any person con-
2 cerning whom information is to be supplied under sub-
3 section (a), or of any other disclosing entity listed under
4 subsection (b).”.

5 (b) ENTITIES THAT FURNISH ITEMS AND SERVICES
6 UNDER PART B.—

7 (1) Section 1124A(c)(1) (42 U.S.C. 1320a-
8 3a(c)(1)) is amended by striking “on an assignment-
9 related basis”.

10 (2) Section 1124A(a) (42 U.S.C. 1320a-3a(a))
11 is amended—

12 (A) by striking “and” at the end of para-
13 graph (1),

14 (B) by striking the period at the end of
15 paragraph (2) and adding ”; and”, and

16 (C) by adding at the end the following:

17 “(3) on the identity of each individual described
18 in section 1866(a)(1)(D).”.

19 (3) Section 1124A (42 U.S.C. 1320a-3a) is
20 amended—

21 (A) by redesignating subsection (c) as (d),
22 and

23 (B) by inserting after subsection (b) the
24 following:

1 “(d) The Secretary may also require a disclosing part
2 B provider to provide the Secretary with the taxpayer
3 identifying number (TIN) of the disclosing part B pro-
4 vider, of any person concerning whom information is to
5 be supplied under subsection (a)(1), and of any managing
6 employee or entity listed under subsection (a)(2).”.

7 (c) VERIFICATION OF TINs WITH THE SECRETARY
8 OF THE TREASURY.—Section 6103(m) of the Internal
9 Revenue Code of 1986 (26 U.S.C. 6103(m)) is amended
10 by adding at the end the following:

11 “(8) Individuals and other entities involved in
12 furnishing health care items and services under Fed-
13 eral (or federally supported) programs.—Upon writ-
14 ten request by the Secretary of Health and Human
15 Services, the Secretary shall disclose to the Sec-
16 retary of Health and Human Services the name of
17 each person or entity whose TIN has been obtained
18 under section 1124(c) or 1124A(d) of the Social Se-
19 curity Act.”.

20 **SEC. 11472. USE OF WAGE INDEX FOR AREA IN WHICH**
21 **HOME HEALTH SERVICES ARE FURNISHED.**

22 (a) IN GENERAL.—Section 1861(v)(1)(L)(iii) (42
23 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking “the
24 home health agency is located” and inserting “services are
25 furnished”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) applies to services furnished after 1996.

3 CHANGES TO ADMINISTRATION BILL

4 (1) SNF PPS (Section 11113): Advance effective
5 date by one year to October 1, 1997. Interim PPS con-
6 tained in Section 11112 would apply between October 1,
7 1996 and September 30, 1997.

8 (2) Medical Education (Section 11105): Delete all
9 but subsections (a)(1) and (b)(1). The only thing that re-
10 mains is the freeze on interns and residents at the hos-
11 pital-specific level in the aggregate and for non-primary
12 care slots, for both Medicare IME and GME payments.
13 Plus the 2 proposals on the attached sheet.

14 (3) AAPCC Add-Ons (Section 11115): Change sub-
15 section (c) (new section 1886(d)(11)(F)) to payback of
16 100 percent of IME, GME and DSH (rather than 75 per-
17 cent), effective 1/1/98. See change in removal of add-ons
18 in managed care section.

19 (4) Oxygen (Section 11126): Delete Section 11126
20 from Administration bill. Substitute Section 8233 from
21 H.R. 2530 (the Coalition bill).

22 (5) Rural Provisions: Keep Section 11116 (Sole Com-
23 munity Hospitals) and Section 11117 (Rural Primary
24 Care Hospital Program). Add Section 7021 (Rural Refer-
25 ral Center), Section 7024 (PA/NP), Section 7025
26 (Telemedicine). Section 7026 (Rural Health Outreach

1 Grants), Section 7028 (DSH threshold) from the Senate
2 Democratic Plan (printed in the Congressional Record on
3 Nov. 1).

4 (6) Managed Care: See attachment.

5 (7) Preventive benefits demonstration program sun-
6 sets in 2001 unless the Secretary determines these bene-
7 fits are cost-effective.

8 ADDITIONAL GMF PROPOSALS

9 Medical Education: Add provision from Administra-
10 tion package to allow hospitals to count residents in non-
11 hospital settings for purposes of their IME adjustment as
12 long as their resident-to-bed ratio does not increase, effec-
13 tive 7/1/96.

14 Medical Education: Add provision from Administra-
15 tion package to allow DGME payments to be made to cer-
16 tain non-hospital settings when the non-hospital is paying
17 for the resident's salary in that setting, effective 7/1/96.

18 (c) UPGRADED DURABLE MEDICAL EQUIPMENT.—
19 Section 1834(a) (42 U.S.C. 1395m(a)) is amended by in-
20 serting after paragraph (15) the following new paragraph:

21 “(16) CERTAIN UPGRADED ITEMS.—

22 “(A) INDIVIDUAL'S RIGHT TO CHOOSE UP-
23 GRADED ITEM.—Notwithstanding any other
24 provision of law, effective on the date on which
25 the Secretary issues regulations under subpara-
26 graph (C), an individual may purchase or rent

1 from a supplier an item of upgraded durable
2 medical equipment for which payment would be
3 made under this subsection if the item were a
4 standard item.

5 “(B) PAYMENTS TO SUPPLIER.—In the
6 case of the purchase or rental of an upgraded
7 item under subparagraph (A)—

8 “(i) the supplier shall receive payment
9 under this subsection with respect to such
10 item as if such item were a standard item;
11 and

12 “(ii) the individual purchasing or
13 renting the item shall pay the supplier an
14 amount equal to the difference between the
15 supplier’s charge and the amount under
16 clause (i).

17 In no event may the supplier’s charge for an
18 upgraded item exceed the applicable fee sched-
19 ule amount (if any) for such item.

20 “(C) CONSUMER PROTECTION SAFE-
21 GUARDS.—The Secretary shall issue regulations
22 providing for consumer protection standards
23 with respect to the furnishing of upgraded
24 equipment under subparagraph (A). Such regu-
25 lations shall provide for—

1 was \$1.1 billion; the original proposal was repriced, based
2 on new information, at \$1.365 billion. The total cost esti-
3 mate, including this change, is \$1.355 billion, or estimated
4 lower costs of \$10 million over 7 years. (The combination
5 of sigmoidoscopy and air contrast barium enema cost
6 slightly less than colonoscopy.) Because HCFA expects a
7 small net savings, we do not anticipate this change would
8 affect CBO's estimate.

9 REGULATORY REFORM

10 CLIA compromise: The "Blue Dog" proposal would
11 exempt all physician office laboratories (POLs) from
12 CLIA requirements, except when they perform Pap smear
13 tests. An identical provision was deleted under the Byrd
14 rule from the Reconciliation Bill. This provision would
15 leave a majority of the nation's labs with no quality over-
16 sight at all. Various compromise proposals for reducing
17 CLIA burdens on POLs have been discussed on Capitol
18 Hill. One such compromise, drafted by Democrats on the
19 House Commerce Committee, would (1) remove the re-
20 quirement of biennial laboratory inspections, allowing as-
21 needed inspections based on criteria set by the Secretary;
22 (2) mandate that all routine inspections be announced;
23 and (3) reduce application requirements for CLIA certifi-
24 cates and remove biennial re-application requirements.
25 This change would reduce burdens related to inspections

1 and paperwork without compromising the quality of lab-
2 oratory testing.

3 Self-referral compensation exception: The Adminis-
4 tration bill includes no provision in this area; the Rec-
5 onciliation Bill would substantially weaken current protec-
6 tions.

7 This change, modeled after Mr. Stark's bill, would:

8 1. Add exceptions for shared facility services and for
9 capitated payments (if designated health services are in-
10 cluded).

11 2. Entirely exclude intraocular lens, eyeglasses, and
12 contact lenses from designated health services subject to
13 prohibitions.

14 3. Include DME and parenteral and enteral nutri-
15 ents, equipment and supplies in the exception for in-office
16 ancillary services.

17 4. Delineate the requirements for permissible com-
18 pensation arrangements, thus making the requirements
19 uniform for all arrangements.

20 5. Repeal the exception for physicians' services.

21 The "General Exceptions to both Ownership and
22 Compensation Arrangement Prohibitions" would then be:
23 (1) shared facility services (new); (2) in-office ancillary
24 services (including DME, parenteral and enteral nutrients,
25 equipment, and supplies) (altered); (3) pre-paid plans (un-

1 changed); (4) capitated payments (new); and (5) other
2 permissible exceptions (unchanged).

3 OTHER

4 OPD/PPS: Add a PPS for OPDs. In particular, in
5 FY 2002, establish a PPS that would be budget neutral
6 relative to what Medicare payments would have been in
7 2002 and also budget neutral relative to what total bene-
8 ficiary coinsurance would have been in 2002.

9 Hospice: Under current law, hospice care is excepted
10 from the package of services provided by risk plans. If
11 beneficiaries elect hospice care, Medicare makes payments
12 directly to the hospice, and the HMOs and CMPs receive
13 the full monthly capitation amount (less an amount paid
14 to the hospice for attending physician services). Thus, hos-
15 pices are not required to contract directly with HMOs and
16 CMPs. This technical change would retain the current
17 provision under the new authority for Medicare managed
18 care contracting.

19 SNF minimum data set: This change would require
20 the continuation of standardized resident assessments con-
21 tained in the minimum data set (MDS). The MDS data
22 is necessary for developing a case-mix adjustor for a SNF
23 PPS, proposed elsewhere in the bills. Current Congres-
24 sional proposals eliminate the requirement that this data
25 be collected by eliminating certain nursing home quality
26 standards.

1 Home health agency data for case mix system: This
2 change would allow the Secretary to mandate the collec-
3 tion of data that may be necessary to develop a case mix
4 adjustor for HH PPS. There is currently no requirement
5 that such data be collected.

6 Rural Primary Care Hospital Program (Sec. 11117
7 in President's bill)

8 (1) Sen. Baucus is seeking an extension of the MAF
9 demonstration project until 2002, such as the one that
10 was included in the Conference Agreement. Since our
11 Rural Primary Care Hospital (RPCH) expansion proposal
12 makes RPCHs much more similar to MAFs in all key as-
13 pects, we suggest grandfathering all MAFs as RPCHs as
14 of the date of implementation of the national program.
15 This would effectively make all MAFs permanent, so that
16 extensions of the MAF demonstration would no longer be
17 necessary.

18 Centers of excellence: This change would replace the
19 term "rebates" with "beneficiary incentives."

20 **TITLE V—WELFARE REFORM**

21 **SEC. 9000. AMENDMENT OF THE SOCIAL SECURITY ACT.**

22 Except as otherwise expressly provided, wherever in
23 this title an amendment or repeal is expressed in terms
24 of an amendment to, or repeal of, a section or other provi-

1 sion, the reference shall be considered to be made to a
2 section or other provision of the Social Security Act.

3 **Subtitle A—Temporary**
4 **Employment Assistance**

5 **SEC. 9101. STATE PLAN.**

6 (a) IN GENERAL.—Title IV (42 U.S.C. 601 et seq.)
7 is amended by striking part A and inserting the following:

8 “PART A—TEMPORARY EMPLOYMENT ASSISTANCE

9 **“SEC. 400. APPROPRIATION.**

10 “For the purpose of providing assistance to families
11 with needy children and assisting parents of children in
12 such families to obtain and retain private sector work to
13 the extent possible, and public sector or volunteer work
14 if necessary, through the Work First Employment Block
15 Grant program (hereafter in this title referred to as the
16 ‘Work First program’), there is hereby authorized to be
17 appropriated, and is hereby appropriated, for each fiscal
18 year a sum sufficient to carry out the purposes of this
19 part. The sums made available under this section shall be
20 used for making payments to States which have approved
21 State plans for temporary employment assistance.

1 part is residing with a relative other than a parent, the
2 State plan may require the relative to execute such a plan
3 as a condition of the family receiving such assistance.

4 “(c) LIMITATIONS ON ELIGIBILITY.—

5 “(1) LENGTH OF TIME.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraphs (B), (C), (D), and (E), the
8 State plan shall provide that the family of an
9 individual who, after attaining age 18 years (or
10 age 19 years, at the option of the State), has
11 received assistance under the plan for 60
12 months, shall no longer be eligible for cash as-
13 sistance under the plan.

14 “(B) HARDSHIP EXCEPTION.—With re-
15 spect to any family, the State plan shall not in-
16 clude in the determination of the 60-month pe-
17 riod under subparagraph (A) any month in
18 which—

19 “(i) at the option of the State, the
20 family includes an individual working 20
21 hours per week (or more, at the option of
22 the State);

23 “(ii) the family resides in an area
24 with an unemployment rate exceeding 8
25 percent; or

1 “(iii) the family is experiencing other
2 special hardship circumstances which make
3 it appropriate for the State to provide an
4 exemption for such month, except that the
5 total number of exemptions under this
6 clause for any month shall not exceed 15
7 percent of the number of families to which
8 the State is providing assistance under the
9 plan.

10 “(C) EXCEPTION FOR TEEN PARENTS.—
11 With respect to any family, the State plan shall
12 not include in the determination of the 60-
13 month period under subparagraph (A) any
14 month in which the parent—

15 “(i) is under age 18 (or age 19, at the
16 option of the State); and

17 “(ii) is making satisfactory progress
18 while attending high school or an alter-
19 native technical preparation school.

20 “(D) EXCEPTION FOR INDIVIDUALS EX-
21 EMPT FROM WORK REQUIREMENTS.—With re-
22 spect to any family, the State plan shall not in-
23 clude in the determination of the 60-month pe-
24 riod under subparagraph (A) any month in
25 which 1 or each of the parents—

1 “(i) is seriously ill, incapacitated, or
2 of advanced age;

3 “(ii)(I) except for a child described in
4 subclause (II), is responsible for a child
5 under age 1 year (or age 6 months, at the
6 option of the State), or

7 “(II) in the case of a second or subse-
8 quent child born during such period, is re-
9 sponsible for a child under age 3 months;

10 “(iii) is pregnant in the third tri-
11 mester; or

12 “(iv) is caring for a family member
13 who is ill or incapacitated.

14 “(E) EXCEPTION FOR CHILD-ONLY
15 CASES.—With respect to any child who has not
16 attained age 18 (or age 19, at the option of the
17 State) and who is eligible for assistance under
18 this part, but not as a member of a family oth-
19 erwise eligible for assistance under this part
20 (determined without regard to this paragraph),
21 the State plan shall not include in the deter-
22 mination of the 60-month period under sub-
23 paragraph (A) any month in which such child
24 has not attained such age.

1 “(F) OTHER PROGRAM ELIGIBILITY.—The
2 State plan shall provide that if a family is no
3 longer eligible for cash assistance under the
4 plan due to the imposition of the 60-month pe-
5 riod under subparagraph (A) or due to the im-
6 position of a penalty under subparagraph
7 (A)(ii) or (B)(ii) of section 403(e)(1)—

8 “(i) for purposes of determining eligi-
9 bility for any other Federal or federally as-
10 sisted program based on need, such family
11 shall continue to be considered eligible for
12 such cash assistance;

13 “(ii) for purposes of determining the
14 amount of assistance under any other Fed-
15 eral or federally assisted program based on
16 need, such family shall continue to be con-
17 sidered receiving such cash assistance; and

18 “(iii) the State may, at the option of
19 the State, after having assessed the needs
20 of the child or children of the family, pro-
21 vide for such needs with a voucher for such
22 family—

23 “(I) determined on the same
24 basis as the State would provide as-

1 sistance under the State plan to such
2 a family with 1 less individual,

3 “(II) designed appropriately to
4 pay third parties for shelter, goods,
5 and services received by the child or
6 children, and

7 “(III) payable directly to such
8 third parties.

9 “(2) TREATMENT OF INTERSTATE MIGRANTS.—

10 The State plan may apply to a category of families
11 the rules for such category under a plan of another
12 State approved under this part, if a family in such
13 category has moved to the State from the other
14 State and has resided in the State for less than 12
15 months.

16 “(3) INDIVIDUALS ON OLD-AGE ASSISTANCE OR
17 SSI INELIGIBLE FOR TEMPORARY EMPLOYMENT AS-
18 SISTANCE.—The State plan shall provide that no as-
19 sistance shall be furnished any individual under the
20 plan with respect to any period with respect to which
21 such individual is receiving old-age assistance under
22 the State plan approved under section 102 of title
23 I or supplemental security income under title XVI.

24 “(4) CHILDREN FOR WHOM FEDERAL, STATE,
25 OR LOCAL FOSTER CARE MAINTENANCE OR ADOP-

1 TION ASSISTANCE PAYMENTS ARE MADE.—A child
2 with respect to whom foster care maintenance pay-
3 ments or adoption assistance payments are made
4 under part E or under State or local law shall not,
5 for the period for which such payments are made, be
6 regarded as a needy child under this part, and such
7 child’s income and resources shall be disregarded in
8 determining the eligibility of the family of such child
9 for temporary employment assistance.

10 “(5) DENIAL OF ASSISTANCE FOR 10 YEARS TO
11 A PERSON FOUND TO HAVE FRAUDULENTLY MIS-
12 REPRESENTED RESIDENCE IN ORDER TO OBTAIN AS-
13 SISTANCE IN 2 OR MORE STATES.—The State plan
14 shall provide that no assistance will be furnished any
15 individual under the plan during the 10-year period
16 that begins on the date the individual is convicted in
17 Federal or State court of having made, a fraudulent
18 statement or representation with respect to the place
19 of residence of the individual in order to receive ben-
20 efits or services simultaneously from 2 or more
21 States under programs that are funded under this
22 part, title XIX, or the Food Stamp Act of 1977, or
23 benefits in 2 or more States under the supplemental
24 security income program under title XVI.

1 “(6) DENIAL OF ASSISTANCE FOR FUGITIVE
2 FELONS AND PROBATION AND PAROLE VIOLA-
3 TORS.—

4 “(A) IN GENERAL.—The State plan shall
5 provide that no assistance will be furnished any
6 individual under the plan for any period if dur-
7 ing such period the State agency has knowledge
8 that such individual is—

9 “(i) fleeing to avoid prosecution, or
10 custody or confinement after conviction,
11 under the laws of the place from which the
12 individual flees, for a crime, or an attempt
13 to commit a crime, which is a felony under
14 the laws of the place from which the indi-
15 vidual flees, or which, in the case of the
16 State of New Jersey, is a high mis-
17 demeanor under the laws of such State; or

18 “(ii) violating a condition of probation
19 or parole imposed under Federal or State
20 law.

21 “(B) EXCHANGE OF INFORMATION WITH
22 LAW ENFORCEMENT AGENCIES.—Notwithstand-
23 ing any other provision of law, the State plan
24 shall provide that the State shall furnish any
25 Federal, State, or local law enforcement officer,

1 upon the request of the officer, with the current
2 address of any recipient of assistance under the
3 plan, if the officer furnishes the agency with the
4 name of the recipient and notifies the agency
5 that—

6 “(i) such recipient—

7 “(I) is described in clause (i) or

8 (ii) of subparagraph (A); or

9 “(II) has information that is nec-

10 essary for the officer to conduct the

11 officer’s official duties; and

12 “(ii) the location or apprehension of

13 the recipient is within such officer’s official

14 duties.

15 “(d) DETERMINATION OF ELIGIBILITY.—

16 “(1) DETERMINATION OF NEED.—The State

17 plan shall provide that the State agency take into

18 consideration any income and resources of any indi-

19 vidual the State determines should be considered in

20 determining the need of the child or relative claim-

21 ing temporary employment assistance, subject to sec-

22 tion 407.

23 “(2) RESOURCE AND INCOME DETERMINA-

24 TION.—In determining the total resources and in-

1 come of the family of any needy child, the State plan
2 shall provide the following:

3 “(A) RESOURCES.—The State’s resource
4 limit, including a description of the policy deter-
5 mined by the State regarding any exclusion al-
6 lowed for vehicles owned by family members, re-
7 sources set aside for future needs of a child, in-
8 dividual development accounts, or other policies
9 established by the State to encourage savings.

10 “(B) FAMILY INCOME.—The extent to
11 which earned or unearned income is disregarded
12 in determining eligibility for, and amount of,
13 assistance.

14 “(C) CHILD SUPPORT.—The State’s policy,
15 if any, for determining the extent to which child
16 support received in excess of \$50 per month on
17 behalf of a member of the family is disregarded
18 in determining eligibility for, and the amount
19 of, assistance.

20 “(D) CHILD’S EARNINGS.—The treatment
21 of earnings of a child living in the home.

22 “(E) EARNED INCOME TAX CREDIT.—The
23 State agency shall disregard any refund of Fed-
24 eral income taxes made to a family receiving
25 temporary employment assistance by reason of

1 section 32 of the Internal Revenue Code of
2 1986 (relating to earned income tax credit) and
3 any payment made to such a family by an em-
4 ployer under section 3507 of such Code (relat-
5 ing to advance payment of earned income cred-
6 it).

7 “(3) VERIFICATION SYSTEM.—The State plan
8 shall provide that information is requested and ex-
9 changed for purposes of income and eligibility ver-
10 ification in accordance with a State system which
11 meets the requirements of section 1137.

12 **“SEC. 403. INDIVIDUAL RESPONSIBILITY PLAN.**

13 “(a) ASSESSMENT.—The State agency responsible
14 for administering the State plan shall make an initial as-
15 sessment of the skills, prior work experience, and employ-
16 ability of each applicant for, or recipient of, assistance
17 under the State plan who—

18 “(1) has attained 18 years of age; or

19 “(2) has not completed high school or obtained
20 a certificate of high school equivalency, and is not
21 attending secondary school.

22 “(b) INDIVIDUAL RESPONSIBILITY PLANS.—

23 “(1) IN GENERAL.—On the basis of the assess-
24 ment made under subsection (a) with respect to an
25 individual, the State agency, in consultation with the

1 individual, shall develop an individual responsibility
2 plan for the individual, which—

3 “(A) shall provide that participation by the
4 individual in job search activities shall be a con-
5 dition of eligibility for assistance under the
6 State plan approved under part A, except dur-
7 ing any period for which the individual is em-
8 ployed full-time in an unsubsidized job in the
9 private sector;

10 “(B) sets forth an employment goal for the
11 individual and a plan for moving the individual
12 immediately into private sector employment;

13 “(C) sets forth the obligations of the indi-
14 vidual, which may include a requirement that
15 the individual attend school, maintain certain
16 grades and attendance, keep school age children
17 of the individual in school, immunize children,
18 attend parenting and money management class-
19 es, or do other things that will help the individ-
20 ual become and remain employed in the private
21 sector;

22 “(D) may require that the individual enter
23 the State program established under part F, if
24 the caseworker determines that the individual
25 will need education, training, job placement as-

1 sistance, wage enhancement, or other services
2 to become employed in the private sector;

3 “(E) shall provide that the individual
4 must—

5 “(i) assign to the State any rights to
6 support from any other person the individ-
7 ual may have in such individual’s own be-
8 half or in behalf of any other family mem-
9 ber for whom the individual is applying for
10 or receiving assistance; and

11 “(ii) cooperate with the State—

12 “(I) in establishing the paternity
13 of a child born out of wedlock with re-
14 spect to whom assistance is claimed,
15 and

16 “(II) in obtaining support pay-
17 ments for the individual and for a
18 child with respect to whom such as-
19 sistance is claimed, or in obtaining
20 any other payments or property due
21 the individual or the child,

22 unless (in either case) the individual is found to
23 have good cause for refusing to cooperate as de-
24 termined by the State agency in accordance
25 with standards prescribed by the Secretary,

1 which standards shall take into consideration
2 the best interests of the child on whose behalf
3 assistance is claimed.

4 “(F) to the greatest extent possible shall
5 be designed to move the individual into what-
6 ever private sector employment the individual is
7 capable of handling as quickly as possible, and
8 to increase the responsibility and amount of
9 work the individual is to handle over time;

10 “(G) shall describe what services the State
11 will provide the individual so that the individual
12 will be able to obtain and keep employment in
13 the private sector, and describe the job counsel-
14 ing and other services that will be provided by
15 the State; and

16 “(H) at the option of the State, may re-
17 quire the individual to undergo appropriate sub-
18 stance abuse treatment.

19 “(2) TIMING.—The State agency shall comply
20 with paragraph (1) with respect to an individual—

21 “(A) within 90 days (or, at the option of
22 the State, 180 days) after the effective date of
23 this part, in the case of an individual who, as
24 of such effective date, is a recipient of assist-

1 ance under the State plan approved under this
2 part; or

3 “(B) within 30 days (or, at the option of
4 the State, 90 days) after the individual is deter-
5 mined to be eligible for such assistance, in the
6 case of any other individual.

7 “(c) PROVISION OF PROGRAM AND EMPLOYMENT IN-
8 FORMATION.—The State shall inform all applicants for
9 and recipients of assistance under the State plan approved
10 under this part of all available services under the State
11 plan for which they are eligible.

12 “(d) REQUIREMENT THAT RECIPIENTS ENTER THE
13 WORK FIRST PROGRAM.—

14 “(1) IN GENERAL.—Beginning with fiscal year
15 2004, the State shall place recipients of assistance
16 under the State plan approved under this part, who
17 have not become employed in the private sector with-
18 in 1 year after signing an individual responsibility
19 plan, in the first available slot in the State program
20 established under part F, except as provided in
21 paragraph (2).

22 “(2) EXCEPTIONS.—A state may not be re-
23 quired to place a recipient of such assistance in the
24 State program established under part F if the recipi-
25 ent—

1 “(A) is ill, incapacitated, or of advanced
2 age;

3 “(B) has not attained 18 years of age;

4 “(C) is caring for a child or parent who is
5 ill or incapacitated; or

6 “(D) is enrolled in school or in educational
7 or training programs that will lead to private
8 sector employment.

9 “(e) PENALTIES.—

10 “(1) STATE NOT OPERATING A WORK FIRST OR
11 WORKFARE PROGRAM.—In the case of a State that
12 is not operating a program under part F or G:

13 “(A) FAILURE TO COMPLY WITH INDIVID-
14 UAL RESPONSIBILITY PLAN OR AGREEMENT OF
15 MUTUAL RESPONSIBILITY.—

16 “(i) PROGRESSIVE REDUCTIONS IN
17 ASSISTANCE FOR 1ST AND 2ND FAIL-
18 URES.—The amount of assistance other-
19 wise to be provided under the State plan
20 approved under this part to a family that
21 includes an individual who fails without
22 good cause to comply with an individual
23 responsibility plan (or, if the State has es-
24 tablished a program under subpart 1 of
25 part F and the individual is required to

1 participate in the program, an agreement
2 of mutual responsibility) signed by the in-
3 dividual (other than by reason of conduct
4 described in paragraph (2)) shall be re-
5 duced by—

6 “(I) 33 percent for the 1st such
7 act of noncompliance; or

8 “(II) 66 percent for the 2nd such
9 act of noncompliance.

10 “(ii) DENIAL OF ASSISTANCE FOR 3RD
11 FAILURE.—In the case of the 3rd such act
12 of noncompliance, the family of which the
13 individual is a member shall not thereafter
14 be eligible for assistance under the State
15 plan approved under this part.

16 “(iii) ACTS OF NONCOMPLIANCE.—
17 For purposes of this paragraph, a 1st act
18 of noncompliance by an individual that
19 continues for more than 1 calendar month
20 shall be considered a 2nd act of noncompli-
21 ance, and a 2nd act of noncompliance that
22 continues for more than 3 calendar months
23 shall be considered a 3rd act of noncompli-
24 ance.

1 “(B) DENIAL OF ASSISTANCE TO ADULTS
2 REFUSING TO WORK, LOOK FOR WORK, OR AC-
3 CEPT A BONA FIDE OFFER OF EMPLOYMENT.—

4 “(i) REFUSAL TO WORK OR LOOK FOR
5 WORK.—If an unemployed individual who
6 has attained 18 years of age refuses to
7 work or look for work—

8 “(I) in the case of the 1st such
9 refusal, assistance under the State
10 plan approved under this part shall
11 not be payable with respect to the in-
12 dividual until the later of—

13 “(aa) a period of not less
14 than 6 months after the date of
15 the first such refusal; or

16 “(bb) the first date the indi-
17 vidual agrees to work or look for
18 work; or

19 “(II) in the case of the 2nd such
20 refusal, the family of which the indi-
21 vidual is a member shall not there-
22 after be eligible for assistance under
23 the State plan approved under this
24 part.

1 “(ii) REFUSAL TO ACCEPT A BONA
2 FIDE OFFER OF EMPLOYMENT.—If an un-
3 employed individual who has attained 18
4 years of age refuses to accept a bona fide
5 offer of employment, the family of which
6 the individual is a member shall not there-
7 after be eligible for assistance under the
8 State plan approved under this part.

9 “(2) OTHER STATES.—In the case of any other
10 State, the State shall reduce, by such amount as the
11 State considers appropriate, the amount of assist-
12 ance otherwise payable under the State plan ap-
13 proved under this part to a family that includes an
14 individual who fails without good cause to comply
15 with an individual responsibility plan signed by the
16 individual.

17 **“SEC. 404. PAYMENT OF ASSISTANCE.**

18 “(a) STANDARDS OF ASSISTANCE.—The State plan
19 shall specify standards of assistance, including—

20 “(1) the composition of the unit for which as-
21 sistance will be provided;

22 “(2) a standard, expressed in money amounts,
23 to be used in determining the need of applicants and
24 recipients;

1 “(3) a standard, expressed in money amounts,
2 to be used in determining the amount of the assist-
3 ance payment; and

4 “(4) the methodology to be used in determining
5 the payment amount received by assistance units.

6 “(b) LEVEL OF ASSISTANCE.—Except as otherwise
7 provided in this title, the State plan shall provide that—

8 “(1) the determination of need and the amount
9 of assistance for all applicants and recipients shall
10 be made on an objective and equitable basis; and

11 “(2) families of similar composition with similar
12 needs and circumstances shall be treated similarly.

13 “(c) CORRECTION OF PAYMENTS.—The State plan
14 shall provide that the State agency will promptly take all
15 necessary steps to correct any overpayment or
16 underpayment of assistance under such plan, including the
17 request for Federal tax refund intercepts as provided
18 under section 416.

19 “(d) OPTIONAL VOLUNTARY DIVERSION PRO-
20 GRAM.—The State plan shall, at the option of the State,
21 and in such part or parts of the State as the State may
22 select, provide that—

23 “(1) upon the recommendation of the case-
24 worker who is handling the case of a family eligible
25 for assistance under the State plan, the State shall,

1 in lieu of any other assistance under the State plan
2 to the family during a time period of not more than
3 3 months, make a lump-sum payment to the family
4 for the time period in an amount not to exceed—

5 “(A) the value of the monthly benefits that
6 would otherwise be provided to the family under
7 the State plan; multiplied by

8 “(B) the number of months in the time pe-
9 riod;

10 “(2) a lump-sum payment pursuant to subpara-
11 graph (A) shall not be made more than once to any
12 family; and

13 “(3) if, during a time period for which the
14 State has made a lump-sum payment to a family
15 pursuant to subparagraph (A), the family applies for
16 and (but for the lump-sum payment) would be eligi-
17 ble under the State plan for a monthly benefit that
18 is greater than the value of the monthly benefit
19 which would have been provided to the family under
20 the State plan at the time of the calculation of the
21 lump sum payment, then, notwithstanding subpara-
22 graph (A), the State shall, for that part of the time
23 period that remains after the family becomes eligible
24 for the greater monthly benefit, provide monthly
25 benefits to the family in an amount not to exceed—

1 “(A) the amount by which the value of the
2 greater monthly benefit exceeds the value of the
3 former monthly benefit, multiplied by the num-
4 ber of months in the time period; divided by

5 “(B) the whole number of months remain-
6 ing in the time period.

7 **“SEC. 405. OTHER PROGRAMS.**

8 “(a) WORK FIRST PROGRAM; WORKFARE OR JOB
9 PLACEMENT VOUCHER PROGRAM.—The State plan shall
10 provide that the State has in effect and operation—

11 “(1) a work first program that meets the re-
12 quirements of part F; and

13 “(2) a workfare program that meets the re-
14 quirements of part G, or a job placement voucher
15 program that meets the requirements of part H, but
16 not both.

17 “(b) PROVISION OF POSITIONS AND VOUCHERS.—
18 The State plan shall provide that the State shall provide
19 a position in the workfare program established by the
20 State under part G, or a job placement voucher under the
21 job placement voucher program established by the State
22 under part H to any individual who, by reason of section
23 487(b), is prohibited from participating in the work first
24 program operated by the State, and shall not provide such
25 a position or such a voucher to any other individual.

1 “(c) PROVISION OF CASE MANAGEMENT SERV-
2 ICES.—The State plan shall provide that the State shall
3 provide to participants in such programs such case man-
4 agement services as are necessary to ensure the integrated
5 provision of benefits and services under such programs.

6 “(d) STATE CHILD SUPPORT AGENCY.—The State
7 plan shall—

8 “(1) provide that the State has in effect a plan
9 approved under part D and operates a child support
10 program in substantial compliance with such plan;

11 “(2) provide that the State agency administer-
12 ing the plan approved under this part shall be re-
13 sponsible for assuring that—

14 “(A) the benefits and services provided
15 under plans approved under this part and part
16 D are furnished in an integrated manner, in-
17 cluding coordination of intake procedures with
18 the agency administering the plan approved
19 under part D;

20 “(B) all applicants for, and recipients of,
21 temporary employment assistance are encour-
22 aged, assisted, and required (as provided under
23 section 403(b)(1)(E)(ii)) to cooperate in the es-
24 tablishment and enforcement of paternity and
25 child support obligations and are notified about

1 the services available under the State plan ap-
2 proved under part D; and

3 “(C) procedures require referral of pater-
4 nity and child support enforcement cases to the
5 agency administering the plan approved under
6 part D not later than 10 days after the applica-
7 tion for temporary employment assistance; and

8 “(3) provide for prompt notice (including the
9 transmittal of all relevant information) to the State
10 child support collection agency established pursuant
11 to part D of the furnishing of temporary employ-
12 ment assistance with respect to a child who has been
13 deserted or abandoned by a parent (including a child
14 born out-of-wedlock without regard to whether the
15 paternity of such child has been established).

16 “(e) CHILD WELFARE SERVICES AND FOSTER CARE
17 AND ADOPTION ASSISTANCE.—The State plan shall pro-
18 vide that the State has in effect—

19 “(1) a State plan for child welfare services ap-
20 proved under part B; and

21 “(2) a State plan for foster care and adoption
22 assistance approved under part E,

23 and operates such plans in substantial compliance with the
24 requirements of such parts.

1 “(f) REPORT OF CHILD ABUSE, ETC.—The State
2 plan shall provide that the State agency will—

3 “(1) report to an appropriate agency or official,
4 known or suspected instances of physical or mental
5 injury, sexual abuse or exploitation, or negligent
6 treatment or maltreatment of a child receiving as-
7 sistance under the State plan under circumstances
8 which indicate that the child’s health or welfare is
9 threatened thereby; and

10 “(2) provide such information with respect to a
11 situation described in paragraph (1) as the State
12 agency may have.

13 “(g) AVAILABILITY OF ASSISTANCE IN RURAL AREAS
14 OF STATE.—The State plan shall consider and address the
15 needs of rural areas in the State to ensure that families
16 in such areas receive assistance to become self-sufficient.

17 “(h) FAMILY PRESERVATION.—

18 “(1) IN GENERAL.—The State plan shall de-
19 scribe the efforts by the State to promote family
20 preservation and stability, including efforts—

21 “(A) to encourage fathers to stay home
22 and be a part of the family;

23 “(B) to keep families together to the ex-
24 tent possible; and

1 “(C) except to the extent provided in para-
2 graph (2), to treat 2-parent families and 1-par-
3 ent families equally with respect to eligibility
4 for assistance.

5 “(2) MAINTENANCE OF TREATMENT.—The
6 State may impose eligibility limitations relating spe-
7 cifically to 2-parent families to the extent such limi-
8 tations are no more restrictive than such limitations
9 in effect in the State plan in fiscal year 1995.

10 **“SEC. 406. ADMINISTRATIVE REQUIREMENTS FOR STATE**
11 **PLAN.**

12 “(a) STATEWIDE PLAN.—The State plan shall be in
13 effect in all political subdivisions of the State, and, if ad-
14 ministered by the subdivisions, be mandatory upon such
15 subdivisions. If such plan is not administered uniformly
16 throughout the State, the plan shall describe the adminis-
17 trative variations.

18 “(b) SINGLE ADMINISTRATING AGENCY.—The State
19 plan shall provide for the establishment or designation of
20 a single State agency to administer the plan or supervise
21 the administration of the plan.

22 “(c) FINANCIAL PARTICIPATION.—The State plan
23 shall provide for financial participation by the State in the
24 same manner and amount as such State participates
25 under title XIX, except that with respect to the sums ex-

1 pended for the administration of the State plan, the per-
2 centage shall be 50 percent.

3 “(d) REASONABLE PROMPTNESS.—The State plan
4 shall provide that all individuals wishing to make applica-
5 tion for temporary employment assistance shall have op-
6 portunity to do so, and that such assistance be furnished
7 with reasonable promptness to all eligible individuals.

8 “(e) AUTOMATED DATA PROCESSING SYSTEM.—The
9 State plan shall, at the option of the State, provide for
10 the establishment and operation of an automated state-
11 wide management information system designed effectively
12 and efficiently, to assist management in the administra-
13 tion of the State plan approved under this part, so as—

14 “(1) to control and account for—

15 “(A) all the factors in the total eligibility
16 determination process under such plan for as-
17 sistance, and

18 “(B) the costs, quality, and delivery of
19 payments and services furnished to applicants
20 for and recipients of assistance; and

21 “(2) to notify the appropriate officials for child
22 support, food stamp, and social service programs,
23 and the medical assistance program approved under
24 title XIX, whenever a recipient becomes ineligible for

1 such assistance or the amount of assistance provided
2 to a recipient under the State plan is changed.

3 “(f) DISCLOSURE OF INFORMATION.—The State plan
4 shall provide for safeguards which restrict the use or dis-
5 closure of information concerning applicants or recipients.

6 “(g) DETECTION OF FRAUD.—The State plan shall
7 provide, in accordance with regulations issued by the Sec-
8 retary, for appropriate measures to detect fraudulent ap-
9 plications for temporary employment assistance before the
10 establishment of eligibility for such assistance.

11 “SUBPART 2—ADMINISTRATIVE PROVISIONS

12 **“SEC. 411. APPROVAL OF PLAN.**

13 “(a) IN GENERAL.—The Secretary shall approve a
14 State plan which fulfills the requirements under subpart
15 1 within 120 days of the submission of the plan by the
16 State to the Secretary.

17 “(b) DEEMED APPROVAL.—If a State plan has not
18 been rejected by the Secretary during the period specified
19 in subsection (a), the plan shall be deemed to have been
20 approved.

21 **“SEC. 412. COMPLIANCE.**

22 In the case of any State plan for temporary employ-
23 ment assistance which has been approved under section
24 411, if the Secretary, after reasonable notice and oppor-
25 tunity for hearing to the State agency administering or

1 supervising the administration of such plan, finds that in
2 the administration of the plan there is a failure to comply
3 substantially with any provision required by subpart 1 to
4 be included in the plan, the Secretary shall notify such
5 State agency that further payments will not be made to
6 the State (or in the Secretary's discretion, that payments
7 will be limited to categories under or parts of the State
8 plan not affected by such failure) until the Secretary is
9 satisfied that such prohibited requirement is no longer so
10 imposed, and that there is no longer any such failure to
11 comply. Until the Secretary is so satisfied the Secretary
12 shall make no further payments to such State (or shall
13 limit payments to categories under or parts of the State
14 plan not affected by such failure).

15 **“SEC. 413. PAYMENTS TO STATES.**

16 “(a) COMPUTATION OF AMOUNT.—Subject to section
17 412, from the sums appropriated therefor, the Secretary
18 of the Treasury shall pay to each State which has an ap-
19 proved plan for temporary employment assistance, for
20 each quarter, beginning with the quarter commencing Oc-
21 tober 1, 1996, an amount equal to the Federal medical
22 assistance percentage (as defined in section 1905(b)) of
23 the expenditures by the State under such plan.

1 “(b) METHOD OF COMPUTATION AND PAYMENT.—

2 The method of computing and paying such amounts shall
3 be as follows:

4 “(1) The Secretary shall, prior to the beginning
5 of each quarter, estimate the amount to be paid to
6 the State for such quarter under the provisions of
7 subsection (a), such estimate to be based on—

8 “(A) a report filed by the State containing
9 its estimate of the total sum to be expended in
10 such quarter in accordance with the provisions
11 of such subsection and stating the amount ap-
12 propriated or made available by the State and
13 its political subdivisions for such expenditures
14 in such quarter, and if such amount is less than
15 the State’s proportionate share of the total sum
16 of such estimated expenditures, the source or
17 sources from which the difference is expected to
18 be derived;

19 “(B) records showing the number of needy
20 children in the State; and

21 “(C) such other information as the Sec-
22 retary may find necessary.

23 “(2) The Secretary of Health and Human Serv-
24 ices shall then certify to the Secretary of the Treas-

1 ury the amount so estimated by the Secretary of
2 Health and Human Services—

3 “(A) reduced or increased, as the case may
4 be, by any sum by which the Secretary of
5 Health and Human Services finds that the esti-
6 mate for any prior quarter was greater or less
7 than the amount which should have been paid
8 to the State for such quarter;

9 “(B) reduced by a sum equivalent to the
10 pro rata share to which the Federal Govern-
11 ment is equitably entitled, as determined by the
12 Secretary of Health and Human Services, of
13 the net amount recovered during any prior
14 quarter by the State or any political subdivision
15 thereof with respect to temporary employment
16 assistance furnished under the State plan; and

17 “(C) reduced by such amount as is nec-
18 essary to provide the appropriate reimburse-
19 ment to the Federal Government that the State
20 is required to make under section 457 out of
21 that portion of child support collections retained
22 by the State pursuant to such section,

23 except that such increases or reductions shall not be
24 made to the extent that such sums have been ap-
25 plied to make the amount certified for any prior

1 quarter greater or less than the amount estimated
2 by the Secretary of Health and Human Services for
3 such prior quarter.

4 “(c) METHOD OF PAYMENT.—The Secretary of the
5 Treasury shall thereupon, through the Fiscal Service of
6 the Department of the Treasury and prior to audit or set-
7 tlement by the General Accounting Office, pay to the
8 State, at the time or times fixed by the Secretary of
9 Health and Human Services, the amount so certified.

10 **“SEC. 414. QUALITY ASSURANCE, DATA COLLECTION, AND**
11 **REPORTING SYSTEM.**

12 “(a) QUALITY ASSURANCE.—

13 “(1) IN GENERAL.—Under the State plan, a
14 quality assurance system shall be developed based
15 upon a collaborative effort involving the Secretary,
16 the State, the political subdivisions of the State, and
17 assistance recipients, and shall include quantifiable
18 program outcomes related to self sufficiency in the
19 categories of welfare-to-work, payment accuracy, and
20 child support.

21 “(2) MODIFICATIONS TO SYSTEM.—As deemed
22 necessary, but not more often than every 2 years,
23 the Secretary, in consultation with the State, the po-
24 litical subdivisions of the State, and assistance re-
25 cipients, shall make appropriate changes in the de-

1 sign and administration of the quality assurance sys-
2 tem, including changes in benchmarks, measures,
3 and data collection or sampling procedures.

4 “(b) DATA COLLECTION AND REPORTING.—

5 “(1) IN GENERAL.—The State plan shall pro-
6 vide for a quarterly report to the Secretary regard-
7 ing the data described in paragraphs (2) and (3)
8 and such additional data needed for the quality as-
9 surance system. The data collection and reporting
10 system under this subsection shall promote account-
11 ability, continuous improvement, and integrity in the
12 State plans for temporary employment assistance
13 and Work First.

14 “(2) DISAGGREGATED DATA.—The State shall
15 collect the following data items on a monthly basis
16 from disaggregated case records of applicants for
17 and recipients of temporary employment assistance
18 from the previous month:

19 “(A) The age of adults and children (in-
20 cluding pregnant women).

21 “(B) Marital or familial status of cases:
22 married (2-parent family), widowed, divorced,
23 separated, or never married; or child living with
24 other adult relative.

1 “(C) The gender, race, educational attain-
2 ment, work experience, disability status (wheth-
3 er the individual is seriously ill, incapacitated,
4 or caring for a disabled or incapacitated child)
5 of adults.

6 “(D) The amount of cash assistance and
7 the amount and reason for any reduction in
8 such assistance. Any other data necessary to
9 determine the timeliness and accuracy of bene-
10 fits and welfare diversions.

11 “(E) Whether any member of the family
12 receives benefits under any of the following:

13 “(i) Any housing program.

14 “(ii) The food stamp program under
15 the Food Stamp Act of 1977.

16 “(iii) The Head Start programs car-
17 ried out under the Head Start Act.

18 “(iv) Any job training program.

19 “(F) The number of months since the most
20 recent application for assistance under the plan.

21 “(G) The total number of months for
22 which assistance has been provided to the fami-
23 lies under the plan.

24 “(H) The employment status, hours
25 worked, and earnings of individuals while re-

1 ceiving assistance, whether the case was closed
2 due to employment, and other data needed to
3 meet the work performance rate.

4 “(I) Status in Work First and workfare,
5 including the number of hours an individual
6 participated and the component in which the in-
7 dividual participated.

8 “(J) The number of persons in the assist-
9 ance unit and their relationship to the youngest
10 child. Nonrecipients in the household and their
11 relationship to the youngest child.

12 “(K) Citizenship status.

13 “(L) Shelter arrangement.

14 “(M) Unearned income (not including tem-
15 porary employment assistance), such as child
16 support, and assets.

17 “(N) The number of children who have a
18 parent who is deceased, incapacitated, or unem-
19 ployed.

20 “(O) Geographic location.

21 “(3) AGGREGATED DATA.—The State shall col-
22 lect the following data items on a monthly basis
23 from aggregated case records of applicants for and
24 recipients of temporary employment assistance from
25 the previous month:

1 “(A) The number of adults receiving as-
2 sistance.

3 “(B) The number of children receiving as-
4 sistance.

5 “(C) The number of families receiving as-
6 sistance.

7 “(D) The number of assistance units who
8 had their grants reduced or terminated and the
9 reason for the reduction or termination, includ-
10 ing sanction, employment, and meeting the time
11 limit for assistance).

12 “(E) The number of applications for as-
13 sistance; the number approved and the number
14 denied and the reason for denial.

15 “(4) LONGITUDINAL STUDIES.—The State shall
16 submit selected data items for a cohort of individ-
17 uals who are tracked over time. This longitudinal
18 sample shall be used for selected data items de-
19 scribed in paragraphs (2) and (3), as determined ap-
20 propriate by the Secretary.

21 “(c) ADDITIONAL DATA.—The report required by
22 subsection (b) for a fiscal year quarter shall also include
23 the following:

1 “(1) REPORT ON USE OF FEDERAL FUNDS TO
2 COVER ADMINISTRATIVE COSTS AND OVERHEAD.—A
3 statement of—

4 “(A) the percentage of the Federal funds
5 paid to the State under this part for the fiscal
6 year quarter that are used to cover administra-
7 tive costs or overhead; and

8 “(B) the total amount of State funds that
9 are used to cover such costs or overhead.

10 “(2) REPORT ON STATE EXPENDITURES ON
11 PROGRAMS FOR NEEDY FAMILIES.—A statement of
12 the total amount expended by the State during the
13 fiscal year quarter on programs for needy families,
14 with the amount spent on the program under this
15 part, and the purposes for which such amount was
16 spent, separately stated.

17 “(3) REPORT ON NONCUSTODIAL PARENTS PAR-
18 TICIPATING IN WORK ACTIVITIES.—The number of
19 noncustodial parents in the State who participated
20 in work activities during the fiscal year quarter.

21 “(4) REPORT ON CHILD SUPPORT COL-
22 LECTED.—The total amount of child support col-
23 lected by the State agency administering the State
24 plan under part D on behalf of a family receiving as-
25 sistance under this part.

1 “(5) REPORT ON CHILD CARE.—The total
2 amount expended by the State for child care under
3 this part, along with a description of the types of
4 child care provided, such as child care provided in
5 the case of a family that has ceased to receive assist-
6 ance under this part because of increased hours of,
7 or increased income from, employment, or in the
8 case of a family that is not receiving assistance
9 under this part but would be at risk of becoming eli-
10 gible for such assistance if child care was not pro-
11 vided.

12 “(6) REPORT ON TRANSITIONAL SERVICES.—
13 The total amount expended by the State for provid-
14 ing transitional services to a family that has ceased
15 to receive assistance under this part because of in-
16 creased hours of, or increased income from, employ-
17 ment, along with a description of such services.

18 “(d) COLLECTION PROCEDURES.—The Secretary
19 shall provide case sampling plans and data collection pro-
20 cedures as deemed necessary to make statistically valid es-
21 timates of plan performance.

22 “(e) VERIFICATION.—The Secretary shall develop
23 and implement procedures for verifying the quality of the
24 data submitted by the State, and shall provide technical

1 assistance, funded by the compliance penalties imposed

2 * * *

3 **SEC. 9201. EXTENSION OF PROVISION PROVIDING ADDI-**
4 **TIONAL ELIGIBILITY FOR MEDICAID.**

5 Subsection (f) of section 1925 of the Social Security
6 Act (42 U.S.C. 1396r-6(f)) is amended by striking
7 “1998” and inserting “2002”.

8 **SEC. 9202. NOTICE OF AVAILABILITY REQUIRED TO BE PRO-**
9 **VIDED TO APPLICANTS AND FORMER RECIPI-**
10 **ENTS OF TEMPORARY FAMILY ASSISTANCE,**
11 **FOOD STAMPS, AND MEDICAID.**

12 (a) TEMPORARY FAMILY ASSISTANCE.—Section 406,
13 as added by the amendment made by section 9101(a) of
14 this Act, is amended by adding at the end the following:

15 “(h) NOTICE OF AVAILABILITY OF EITC.—The
16 State plan shall provide that the State agency referred to
17 in subsection (b) must provide written notice of the exist-
18 ence and availability of the earned income credit under
19 section 32 of the Internal Revenue Code of 1986 to—

20 “(1) any individual who applies for assistance
21 under the State plan, upon receipt of the applica-
22 tion; and

23 “(2) any individual whose assistance under the
24 State plan (or under the State plan approved under
25 part A of this title (as in effect before the effective

1 date of title IX of the Omnibus Budget Reconcili-
2 ation Act of 1995) is terminated, in the notice of
3 termination of benefits.”.

4 (b) FOOD STAMPS.—Section 11(e) of the Food
5 Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended—

6 (1) in paragraph (24) by striking “and” at the
7 end;

8 (2) in paragraph (25) by striking the period at
9 the end and inserting “; and”; and

10 (3) by inserting after paragraph (25) the fol-
11 lowing:

12 “(26) that whenever a household applies for
13 food stamp benefits, and whenever such benefits are
14 terminated with respect to a household, the State
15 agency shall provide to each member of such house-
16 hold notice of—

17 “(A) the existence of the earned income
18 tax credit under section 32 of the Internal Rev-
19 enue Code of 1986; and

20 “(B) the fact that such credit may be ap-
21 plicable to such member.”.

22 (c) MEDICAID.—Section 1902(a) (42 U.S.C.
23 1396a(a)) is amended—

24 (1) by striking “and” at the end of paragraph
25 (61);

1 (2) by striking the period at the end of para-
2 graph (62) and inserting “; and”; and

3 (3) by inserting after paragraph (62) the fol-
4 lowing new paragraph:

5 “(63) provide that the State shall provide notice
6 of the existence and availability of the earned income
7 tax credit under section 32 of the Internal Revenue
8 Code of 1986 to each individual applying for medical
9 assistance under the State plan and to each individ-
10 ual whose eligibility for medical assistance under the
11 State plan is terminated.”.

12 **SEC. 9203. NOTICE OF AVAILABILITY OF EARNED INCOME**
13 **TAX CREDIT AND DEPENDENT CARE TAX**
14 **CREDIT TO BE INCLUDED ON W-4 FORM.**

15 (a) IN GENERAL.—Section 11114 of the Omnibus
16 Budget Reconciliation Act of 1990 (26 U.S.C. 21 note),
17 relating to program to increase public awareness, is
18 amended by adding at the end the following new sentence:
19 “Such means shall include printing a notice of the avail-
20 ability of such credits on the forms used by employees to
21 determine the proper number of withholding exemptions
22 under chapter 24 of such Code.”

1 **SEC. 9204. ADVANCE PAYMENT OF EARNED INCOME TAX**
2 **CREDIT THROUGH STATE DEMONSTRATION**
3 **PROGRAMS.**

4 (a) IN GENERAL.—Section 3507 of the Internal Rev-
5 enue Code of 1986 (relating to the advance payment of
6 the earned income tax credit) is amended by adding at
7 the end the following:

8 “(g) STATE DEMONSTRATIONS.—

9 “(1) IN GENERAL.—In lieu of receiving earned
10 income advance amounts from an employer under
11 subsection (a), a participating resident shall receive
12 advance earned income payments from a responsible
13 State agency pursuant to a State Advance Payment
14 Program that is designated pursuant to paragraph
15 (2).

16 “(2) DESIGNATIONS.—

17 “(A) IN GENERAL.—From among the
18 States submitting proposals satisfying the re-
19 quirements of paragraph (3), the Secretary (in
20 consultation with the Secretary of Health and
21 Human Services) may designate not more than
22 4 State Advance Payment Demonstrations.
23 States selected for the demonstrations may
24 have, in the aggregate, no more than 5 percent
25 of the total number of households participating
26 in the program under the Food Stamp program

1 in the immediately preceding fiscal year. Ad-
2 ministrative costs of a State in conducting a
3 demonstration under this section may be in-
4 cluded for matching under section 413(a) of the
5 Social Security Act and section 16(a) of the
6 Food Stamp Act of 1977.

7 “(B) WHEN DESIGNATION MAY BE
8 MADE.—Any designation under this paragraph
9 shall be made no later than December 31,
10 1996.

11 “(C) PERIOD FOR WHICH DESIGNATION IS
12 IN EFFECT.—

13 “(i) IN GENERAL.—Designations
14 made under this paragraph shall be effec-
15 tive for advance earned income payments
16 made after December 31, 1996, and before
17 January 1, 2000.

18 “(ii) SPECIAL RULES.—

19 “(I) REVOCATION OF DESIGNA-
20 TIONS.—The Secretary may revoke
21 any designation made under this
22 paragraph if the Secretary determines
23 that the State is not complying sub-
24 stantially with the proposal described

1 in paragraph (3) submitted by the
2 State.

3 “(II) AUTOMATIC TERMINATION
4 OF DESIGNATIONS.—Any failure by a
5 State to comply with the reporting re-
6 quirements described in paragraphs
7 (3)(F) and (3)(G) shall have the ef-
8 fect of immediately terminating the
9 designation under this paragraph and
10 rendering paragraph (5)(A)(ii) inap-
11 plicable to subsequent payments.

12 “(3) PROPOSALS.—No State may be designated
13 under paragraph (2) unless the State’s proposal for
14 such designation—

15 “(A) identifies the responsible State agen-
16 cy,

17 “(B) describes how and when the advance
18 earned income payments will be made by that
19 agency, including a description of any other
20 State or Federal benefits with which such pay-
21 ments will be coordinated,

22 “(C) describes how the State will obtain
23 the information on which the amount of ad-
24 vance earned income payments made to each

1 participating resident will be determined in ac-
2 cordance with paragraph (4),

3 “(D) describes how State residents who
4 will be eligible to receive advance earned income
5 payments will be selected, notified of the oppor-
6 tunity to receive advance earned income pay-
7 ments from the responsible State agency, and
8 given the opportunity to elect to participate in
9 the program,

10 “(E) describes how the State will verify, in
11 addition to receiving the certifications and
12 statement described in paragraph (7)(D)(iv),
13 the eligibility of participating residents for the
14 earned income tax credit,

15 “(F) commits the State to furnishing to
16 each participating resident by January 31 of
17 each year a written statement showing—

18 “(i) the name and taxpayer identifica-
19 tion number of the participating resident,
20 and

21 “(ii) the total amount of advance
22 earned income payments made to the par-
23 ticipating resident during the prior cal-
24 endar year,

1 “(G) commits the State to furnishing to
2 the Secretary by December 1 of each year a
3 written statement showing the name and tax-
4 payer identification number of each participat-
5 ing resident,

6 “(H) commits the State to treat any ad-
7 vance earned income payments as described in
8 paragraph (5) and any repayments of excessive
9 advance earned income payments as described
10 in paragraph (6),

11 “(I) commits the State to assess the devel-
12 opment and implementation of its State Ad-
13 vance Payment Program, including an agree-
14 ment to share its findings and lessons with
15 other interested States in a manner to be de-
16 scribed by the Secretary, and

17 “(J) is submitted to the Secretary on or
18 before June 30, 1996.

19 “(4) AMOUNT AND TIMING OF ADVANCE
20 EARNED INCOME PAYMENTS.—

21 “(A) AMOUNT.—

22 “(i) IN GENERAL.—The method for
23 determining the amount of advance earned
24 income payments made to each participat-
25 ing resident shall conform to the fullest ex-

1 tent possible with the provisions of sub-
2 section (c).

3 “(ii) SPECIAL RULE.—A State may,
4 at its election, apply the rules of subsection
5 (c)(2)(B) by substituting ‘between 60 per-
6 cent and 75 percent of the credit percent-
7 age in effect under section 32(b)(1) for an
8 individual with the corresponding number
9 of qualifying children’ for ‘60 percent of
10 the credit percentage in effect under sec-
11 tion 32(b)(1) for such an eligible individual
12 with 1 qualifying child’ in clause (i) and
13 ‘the same percentage (as applied in clause
14 (i))’ for ‘60 percent’ in clause (ii).

15 “(B) TIMING.—The frequency of advance
16 earned income payments may be determined on
17 the basis of the payroll periods of participating
18 residents, on a single statewide schedule, or on
19 any other reasonable basis prescribed by the
20 State in its proposal; however, in no event may
21 advance earned income payments be made to
22 any participating resident less frequently than
23 on a calendar-quarter basis.

24 “(5) PAYMENTS TO BE TREATED AS PAYMENTS
25 OF WITHHOLDING AND FICA TAXES.—

1 “(A) IN GENERAL.—For purposes of this
2 title, advance earned income payments during
3 any calendar quarter—

4 “(i) shall neither be treated as a pay-
5 ment of compensation nor be included in
6 gross income, and

7 “(ii) shall be treated as made out of—

8 “(I) amounts required to be de-
9 ducted by the State and withheld for
10 the calendar quarter by the State
11 under section 3401 (relating to wage
12 withholding),

13 “(II) amounts required to be de-
14 ducted for the calendar quarter under
15 section 3102 (relating to FICA em-
16 ployee taxes), and

17 “(III) amounts of the taxes im-
18 posed on the State for the calendar
19 quarter under section 3111 (relating
20 to FICA employer taxes),

21 as if the State had paid to the Secretary,
22 on the day on which payments are made to
23 participating residents, an amount equal to
24 such payments.

1 “(B) IF ADVANCE PAYMENTS EXCEED
2 TAXES DUE.—If for any calendar quarter the
3 aggregate amount of advance earned income
4 payments made by the responsible State agency
5 under a State Advance Payment Program ex-
6 ceeds the sum of the amounts referred to in
7 subparagraph (A)(ii) (without regard to para-
8 graph (6)(A)), each such advance earned in-
9 come payment shall be reduced by an amount
10 which bears the same ratio to such excess as
11 such advance earned income payment bears to
12 the aggregate amount of all such advance
13 earned income payments.

14 “(6) STATE REPAYMENT OF EXCESSIVE AD-
15 VANCE EARNED INCOME PAYMENTS.—

16 “(A) IN GENERAL.—Notwithstanding any
17 other provision of law, in the case of an exces-
18 sive advance earned income payment a State
19 shall be treated as having deducted and with-
20 held under section 3401 (relating to wage with-
21 holding), and as being required to pay to the
22 United States, the repayment amount during
23 the repayment calendar quarter.

24 “(B) EXCESSIVE ADVANCE EARNED IN-
25 COME PAYMENT.—For purposes of this section,

1 the term ‘excessive advance income payment’
2 means that portion of any advance earned in-
3 come payment that, when combined with other
4 advance earned income payments previously
5 made to the same participating resident during
6 the same calendar year, exceeds the amount of
7 earned income tax credit to which that partici-
8 pating resident is entitled under section 32 for
9 that year.

10 “(C) REPAYMENT AMOUNT.—For purposes
11 of this subsection, the term ‘repayment amount’
12 means an amount equal to 50 percent of the ex-
13 cess of—

14 “(i) excessive advance earned income
15 payments made by a State during a par-
16 ticular calendar year, over

17 “(ii) the sum of—

18 “(I) 4 percent of all advance
19 earned income payments made by the
20 State during that calendar year, and

21 “(II) the excessive advance
22 earned income payments made by the
23 State during that calendar year that
24 have been collected from participating
25 residents by the Secretary.

1 “(D) REPAYMENT CALENDAR QUARTER.—
2 For purposes of this subsection, the term ‘re-
3 payment calendar quarter’ means the second
4 calendar quarter of the third calendar year be-
5 ginning after the calendar year in which an ex-
6 cessive earned income payment is made.

7 “(7) DEFINITIONS.—For purposes of this sub-
8 section—

9 “(A) STATE ADVANCE PAYMENT PRO-
10 GRAM.—The term ‘State Advance Payment
11 Program’ means the program described in a
12 proposal submitted for designation under para-
13 graph (1) and designated by the Secretary
14 under paragraph (2).

15 “(B) RESPONSIBLE STATE AGENCY.—The
16 term ‘responsible State agency’ means the sin-
17 gle State agency that will be making the ad-
18 vance earned income payments to residents of
19 the State who elect to participate in a State Ad-
20 vance Payment Program.

21 “(C) ADVANCE EARNED INCOME PAY-
22 MENTS.—The term ‘advance earned income
23 payments’ means an amount paid by a respon-
24 sible State agency to residents of the State pur-
25 suant to a State Advance Payment Program.

1 “(D) PARTICIPATING RESIDENT.—The
2 term ‘participating resident’ means an individ-
3 ual who—

4 “(i) is a resident of a State that has
5 in effect a designated State Advance Pay-
6 ment Program,

7 “(ii) makes the election described in
8 paragraph (3)(D) pursuant to guidelines
9 prescribed by the State,

10 “(iii) certifies to the State the number
11 of qualifying children the individual has,
12 and

13 “(iv) provides to the State the certifi-
14 cations and statement described in sub-
15 sections (b)(1), (b)(2), (b)(3), and (b)(4)
16 (except that for purposes of this clause,
17 the term ‘any employer’ shall be sub-
18 stituted for ‘another employer’ in sub-
19 section (b)(3)), along with any other infor-
20 mation required by the State.”.

21 (b) TECHNICAL ASSISTANCE.—The Secretaries of the
22 Treasury and Health and Human Services shall jointly en-
23 sure that technical assistance is provided to State Advance
24 Payment Programs and that these programs are rigor-
25 ously evaluated.

1 (c) ANNUAL REPORTS.—The Secretary shall issue
2 annual reports detailing the extent to which—

3 (1) residents participate in the State Advance
4 Payment Programs,

5 (2) participating residents file Federal and
6 State tax returns,

7 (3) participating residents report accurately the
8 amount of the advance earned income payments
9 made to them by the responsible State agency dur-
10 ing the year, and

11 (4) recipients of excessive advance earned in-
12 come payments repay those amounts.

13 The report shall also contain an estimate of the amount
14 of advance earned income payments made by each respon-
15 sible State agency but not reported on the tax returns of
16 a participating resident and the amount of excessive ad-
17 vance earned income payments.

18 (d) AUTHORIZATION OF APPROPRIATIONS.—For pur-
19 poses of providing technical assistance described in sub-
20 section (b), preparing the reports described in subsection
21 (c), and providing grants to States in support of des-
22 ignated State Advance Payment Programs, there are au-
23 thorized to be appropriated in advance to the Secretary
24 of the Treasury and the Secretary of Health and Human

1 Services a total of \$1,400,000 for fiscal years 1997
2 through 2000.

3 **SEC. 9205. CONSOLIDATED CHILD CARE DEVELOPMENT**

4 **BLOCK GRANT.**

5 (a) PURPOSE.—It is the purpose of this section to—

6 (1) eliminate program fragmentation and create
7 a seamless system of high quality child care that al-
8 lows for continuity of care for children as parents
9 move from welfare to work;

10 (2) provide for parental choice among high
11 quality child care programs; and

12 (3) increase the availability of high quality af-
13 fordable child care in order to promote self suffi-
14 ciency and support working families.

15 (b) AMENDMENTS TO CHILD CARE AND DEVELOP-
16 MENT BLOCK GRANT ACT OF 1990.—

17 (1) APPROPRIATIONS.—Section 658B of the
18 Child Care and Development Block Grant Act of
19 1990 (42 U.S.C. 9858) is amended to read as fol-
20 lows:

21 **“SEC. 658B. APPROPRIATION.**

22 “(a) AUTHORIZATION OF APPROPRIATIONS OF
23 BLOCK GRANT FUNDS.—For the purpose of providing
24 child care services for eligible children through the award-
25 ing of grants to States under this subchapter (other than

1 the grants awarded under subsection (b)) by the Sec-
2 retary, there are authorized to be appropriated,
3 \$1,000,000,000 for fiscal year 1996 and such sums as
4 may be necessary for fiscal years 1997 through 2002.

5 “(b) APPROPRIATIONS OF FEDERAL MATCHING
6 FUNDS.—For the purpose of providing child care services
7 for eligible children through the awarding of matching
8 grants to States under section 658J(d) by the Secretary,
9 there are authorized to be appropriated and are hereby
10 appropriated, baseline plus \$500,000,000 for fiscal year
11 1996, baseline plus \$500,000,000 for fiscal year 1997,
12 baseline plus \$500,000,000 for fiscal year 1998, baseline
13 plus \$500,000,000 for fiscal year 1999, baseline plus
14 \$500,000,000 for fiscal year 2000, baseline plus
15 \$500,000,000 for fiscal year 2001, and baseline plus
16 \$500,000,000 for fiscal year 2002.”.

17 (2) USE OF FUNDS.—Section 658E(c)(3)(B) of
18 the Child Care and Development Block Grant Act of
19 1990 (42 U.S.C. 9858c(c)(3)(B)) is amended—

20 (A) in clause (i), by striking “with very low
21 family incomes (taking into consideration family
22 size)” and inserting “described in clause (ii) (in
23 the order so described)”;

1 (B) by redesignating clauses (i) and (ii) as
2 subclauses (I) and (II), respectively, and re-
3 aligning the margins accordingly;

4 (C) by striking “Subject” and inserting the
5 following:

6 “(i) IN GENERAL.—Subject”; and

7 (D) by adding at the end the following new
8 clause:

9 “(ii) FAMILIES DESCRIBED.—The
10 families described in this clause are the fol-
11 lowing:

12 “(I) Families containing an indi-
13 vidual receiving assistance under a
14 State plan approved under part A of
15 title IV of the Social Security Act and
16 participating in education, job search,
17 job training, work, or workfare pro-
18 grams.

19 “(II) Families containing an indi-
20 vidual who—

21 “(aa) no longer qualifies for
22 child care assistance under sec-
23 tion 405(b) of the Social Security
24 Act because such individual has
25 ceased to receive assistance under

1 the temporary employment as-
2 sistance program under part A of
3 title IV of the Social Security Act
4 as a result of increased hours of,
5 or increased income from, em-
6 ployment; and

7 “(bb) the State determines
8 requires such child care assist-
9 ance in order to continue such
10 employment (but only for the 1-
11 year period beginning on the date
12 that the individual no longer
13 qualifies for child care assistance
14 under section 405(b) of such Act,
15 and, at the option of the State,
16 for the additional 1-year period
17 beginning after the conclusion of
18 the first 1-year period).

19 “(III) Families containing an in-
20 dividual who—

21 “(aa) is not described in
22 subclause (I) or (II); and

23 “(bb) has an annual income
24 for a fiscal year below 75 percent
25 of the State median income.”.

1 (3) SET-ASIDES FOR QUALITY AND EXPAN-
2 SION.—Section 658E(c)(3) of the Child Care and
3 Development Block Grant Act of 1990 (42 U.S.C.
4 9858c(c)(3)) is amended in subparagraph (C), by
5 striking “25 percent” and inserting “10 percent”.

6 (4) SLIDING FEE SCALE.—Section 658E(c)(5)
7 of the Child Care and Development Block Grant Act
8 of 1990 (42 U.S.C. 9858c(c)(5)) is amended by in-
9 serting “described in subclauses (II) and (III) of
10 paragraph (3)(B)(ii)” after “families”.

11 (5) MATCHING REQUIREMENT FOR NEW
12 FUNDS.—

13 **“SEC. 418. FUNDING FOR CHILD CARE.**

14 “(a) GENERAL CHILD CARE ENTITLEMENT.—

15 “(1) GENERAL ENTITLEMENT.—Subject to the
16 amount appropriated under 658(B)(b), each State
17 shall, for the purpose of providing child care assist-
18 ance, be entitled to payments under a grant under
19 this subsection for a fiscal year in an amount equal
20 to—

21 “(A) the sum of the total amount required
22 to be paid to the State under former section
23 403 for fiscal year 1994 with respect to
24 amounts expended for child care under sec-
25 tion—

1 “(i) 402(g) of this Act (as such sec-
2 tion was in effect before October 1, 1995);
3 and

4 “(ii) 403(i) of this Act (as so in ef-
5 fect); or

6 “(B) the average of the total amounts re-
7 quired to be paid to the State for fiscal years
8 1992 through 1994 under the sections referred
9 to in subparagraph (A);
10 whichever is greater.

11 “(2) REMAINDER.—

12 “(A) GRANTS.—The Secretary shall use
13 any amounts appropriated for a fiscal year
14 under 658(B)(b)(3), and remaining after the
15 reservation described in paragraph (3) and
16 after grants are awarded under paragraph (1),
17 to make grants to States under this paragraph.

18 “(B) AMOUNT.—Subject to subparagraph
19 (C), the amount of a grant awarded to a State
20 for a fiscal year under this paragraph shall be
21 based on the formula used for determining the
22 amount of Federal payments to the State under
23 section 658(o).

24 “(C) MATCHING REQUIREMENT.—The Sec-
25 retary shall pay to each eligible State in a fiscal

1 year an amount, under a grant under subpara-
2 graph (A), equal to the Federal medical assist-
3 ance percentage for such State for fiscal year
4 1994 (as defined in section 1905(b)) of so
5 much of the expenditures by the State for child
6 care in such year as exceed the State set-aside
7 for such State under subparagraph (A) for such
8 year and the amount of State expenditures in
9 fiscal year 1994 that equal the non-Federal
10 share for the programs described in subpara-
11 graphs (A), (B) and (C) of paragraph (1).

12 “(3) REDISTRIBUTION.—With respect to any
13 fiscal year, if the Secretary determines that amounts
14 under any grant awarded to a State under this sub-
15 section for such fiscal year will not be used by such
16 State for carrying out the purpose for which the
17 grant is made, the Secretary shall make such
18 amounts available for carrying out such purpose to
19 1 or more other States which apply for such funds
20 to the extent the Secretary determines that such
21 other States will be able to use such additional
22 amounts for carrying out such purpose. Such avail-
23 able amounts shall be redistributed to a State pursu-
24 ant to section 402(i) (as such section was in effect
25 before October 1, 1995) by substituting ‘the number

1 of children residing in all States applying for such
2 funds' for 'the number of children residing in the
3 United States in the second preceding fiscal year'.
4 Any amount made available to a State from an ap-
5 propriation for a fiscal year in accordance with the
6 preceding sentence shall, for purposes of this part,
7 be regarded as part of such State's payment (as de-
8 termined under this subsection) for such year.

9 “(e) AMOUNTS RESERVED FOR INDIAN TRIBES.—
10 The Secretary shall reserve not more than 3 percent of
11 the amount appropriated under section 658B in each fis-
12 cal year for payments to Indian tribes and tribal organiza-
13 tions with applications approved under section 6580(c).
14 The amounts reserved under the prior sentence shall be
15 available to make grants to or enter into contracts with
16 Indian tribes or tribal organizations consistent with sec-
17 tion 6580(c) without a requirement of matching funds by
18 the Indian tribes or tribal organizations.

19 “(f) SAME TREATMENT AS ALLOTMENTS.—Amounts
20 paid to a State or Indian tribe under subsections (d) and
21 (e) shall be subject to the same requirements under this
22 subchapter as amounts paid from the allotment under sec-
23 tion 6580.”.

24 (B) CONFORMING AMENDMENTS.—Section
25 6580 of the Child Care and Development Block

1 Grant Act of 1990 (42 U.S.C. 9858m) is
2 amended—

3 (i) in subsection (a)—

4 (I) in paragraph (1), by striking
5 “this subchapter” and inserting sec-
6 tion 658B(a); and

7 (II) in paragraph (2), by striking
8 “section 658B” and inserting “section
9 658B(a); and

10 (ii) in subsection (b)(1), by striking
11 “section 658B” and inserting “section
12 658B(a)”.

13 (6) IMPROVING QUALITY.—

14 (A) INCREASE IN REQUIRED FUNDING.—
15 Section 658G of the Child Care and Develop-
16 ment Block Grant Act of 1990 (42 U.S.C.
17 9858e) is amended by striking “not less than
18 20 percent”.

19 (B) QUALITY IMPROVEMENT INCENTIVE
20 INITIATIVE.—Section 658G of the Child Care
21 and Development Block Grant Act of 1990 (42
22 U.S.C. 9858e) is amended—

23 (i) by striking “A State” and insert-
24 ing “(a) IN GENERAL.—A State”;

1 (ii) by adding at the end the following
2 new subparagraphs:

3 “(6) BEFORE AND AFTER-SCHOOL ACTIVI-
4 TIES.—Increasing the availability of before and
5 after-school care.

6 “(7) INFANT CARE.—Increasing the availability
7 of child care for infants under the age of 18 months.

8 “(8) NONTRADITIONAL WORK HOURS.—Increas-
9 ing the availability of child care between the hours
10 of 5:00 p.m. and 8:00 a.m.”;

11 (iii) by adding at the end the follow-
12 ing new subsection:

13 “(b) QUALITY IMPROVEMENT INCENTIVE INITIA-
14 TIVE.—

15 “(1) IN GENERAL.—The Secretary shall estab-
16 lish a child care quality improvement incentive ini-
17 tiative to make funds available to States that dem-
18 onstrate progress in the implementation of—

19 “(A) innovative teacher training programs
20 such as the Department of Defense staff devel-
21 opment and compensation program for child
22 care personnel; or

23 “(B) enhanced child care quality standards
24 and licensing and monitoring procedures.

1 “(2) FUNDING.—From the amounts made
2 available for each fiscal year under subsection (a),
3 the Secretary shall reserve not to exceed
4 \$250,000,000 in each such fiscal year to carry out
5 this subsection.”.

6 (7) REPEAL—Section 658H of the Child Care
7 and Development Block Grant Act of 1990 (42
8 U.S.C. 9858f) is repealed.

9 (8) PAYMENTS.—Section 658J(a) of the Child
10 Care and Development Block Grant Act of 1990 (42
11 U.S.C. 9858h) is amended by striking “Subject to
12 the availability of appropriation, a” and inserting
13 “A”.

14 (9) DEFINITION OF POVERTY LINE.—Section
15 658P of the Child Care and Development Block
16 Grant Act of 1990 (42 U.S.C. 9858n) is amended—

17 (A) by redesignating paragraphs (10)
18 through (14) as paragraphs (11) through (15),
19 respectively; and

20 (B) by inserting after paragraph (9), the
21 following new paragraph:

22 “(10) POVERTY LINE.—The term ‘poverty line’
23 means the poverty line (as such term is defined in
24 section 673(2) of the Community Services Block

1 Grant Act (42 U.S.C. 9902(2)), including any revision required by such section) that—

3 “(A) in the case of a family of less than
4 4 individuals, is applicable to a family of the
5 size involved; and

6 “(B) in the case of a family of 4 or more
7 individuals, is applicable to a family of 4 individuals.”.

9 (c) PROGRAM REPEALS.—

10 (1) STATE DEPENDENT CARE GRANTS.—Sub-
11 chapter E of chapter 8 of subtitle A of title VI of
12 the Omnibus Budget Reconciliation Act of 1981 (42
13 U.S.C. 9871 et seq.) is repealed.

14 (2) CHILD DEVELOPMENT ASSOCIATE SCHOLAR-
15 SHIP ASSISTANCE ACT.—The Child Development As-
16 sociate Scholarship Assistance Act of 1985 (42
17 U.S.C. 10901 et seq.) is repealed.

18 **SEC. 9206. CERTAIN FEDERAL ASSISTANCE INCLUDIBLE IN**
19 **GROSS INCOME.**

20 (a) IN GENERAL.—Part II of subchapter B of chap-
21 ter 1 of the Internal Revenue Code of 1986 (relating to
22 items specifically included in gross income) is amended by
23 adding at the end the following new section:

1 **“SEC. 91. CERTAIN FEDERAL ASSISTANCE.**

2 “(a) IN GENERAL.—Gross income shall include an
3 amount equal to the specified Federal assistance received
4 by the taxpayer during the taxable year.

5 “(b) SPECIFIED FEDERAL ASSISTANCE.—For pur-
6 poses of this section—

7 “(1) IN GENERAL.—The term ‘specified Federal
8 assistance’ means—

9 “(A) supplemental security income benefits
10 under title XVI of the Social Security Act (in-
11 cluding supplemental security income benefits
12 of the type described in section 1616 of such
13 Act or section 212 of Public Law 93-66).”.

14 (b) REPORTING.—

15 (1) IN GENERAL.—Subpart B of part III of
16 subchapter A of chapter 61 of such Code is amended
17 by adding at the end the following new section:

18 **“SEC. 6050Q. PAYMENTS OF CERTAIN FEDERAL ASSIST-**
19 **ANCE.**

20 “(a) REQUIREMENT OF REPORTING.—The appro-
21 priate official shall make a return, according to the forms
22 and regulations prescribed by the Secretary, setting
23 forth—

24 “(1) the aggregate amount of specified Federal
25 assistance paid to any individual during any cal-
26 endar year, and

1 “(2) the name, address, and TIN of such indi-
2 vidual.

3 “(b) STATEMENTS TO BE FURNISHED TO PERSONS
4 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—

5 Every person required to make a return under subsection
6 (a) shall furnish to each individual whose name is required
7 to be set forth in such return a written statement show-
8 ing—

9 “(1) the aggregate amount of payments made
10 to the individual which are required to be shown on
11 such return, and

12 “(2) the name of the agency making the pay-
13 ments.

14 The written statement required under the preceding sen-
15 tence shall be furnished to the individual on or before Jan-
16 uary 31 of the year following the calendar year for which
17 the return under subsection (a) was required to be made.

18 “(c) DEFINITIONS AND SPECIAL RULE.—For pur-
19 poses of this section—

20 “(1) APPROPRIATE OFFICIAL.—The term ‘ap-
21 propriate official’ means—

22 “(A) in the case of specified Federal as-
23 sistance described in section 91(b)(1)(A), the
24 head of the State agency administering the plan
25 under which such assistance is provided,

1 “(B) in the case of specified Federal as-
2 sistance described in section 91(b)(1)(B), the
3 head of the State agency administering the pro-
4 gram under which such assistance is provided,
5 and

6 “(C) in the case of specified Federal assist-
7 ance described in section 91(b)(1)(C), the Sec-
8 retary of Health and Human Services.

9 “(2) SPECIFIED FEDERAL ASSISTANCE.—The
10 term ‘specified Federal assistance’ has the meaning
11 given such term by section 91(b).

12 “(3) AMOUNTS TREATED AS PAID.—The rules
13 of section 91(c) shall apply for purposes of deter-
14 mining to whom specified Federal assistance is
15 paid.”

16 (2) PENALTIES.—

17 (A) Subparagraph (B) of section
18 6724(d)(1) of such Code is amended by redesign-
19 ating clauses (ix) through (xiv) as clauses (x)
20 through (xv), respectively, and by inserting
21 after clause (viii) the following new clause:

22 “(ix) section 6050Q (relating to pay-
23 ments of certain Federal assistance),”.

24 (B) Paragraph (2) of section 6724(d) of
25 such Code is amended by redesignating sub-

1 paragraphs (Q) through (T) as subparagraphs
2 (R) through (U), respectively, and by inserting
3 after subparagraph (P) the following new sub-
4 paragraph:

5 “(Q) section 6050Q(b) (relating to pay-
6 ments of certain Federal assistance),”.

7 (c) SUPPLEMENTAL SECURITY INCOME BENEFITS
8 NOT TAKEN INTO ACCOUNT FOR PURPOSES OF THE
9 EARNED INCOME TAX CREDIT.—Section 32 of the Inter-
10 nal Revenue Code of 1986 (relating to the earned income
11 tax credit), is amended by adding at the end the following
12 new subsection:

13 “(k) ADJUSTED GROSS INCOME DETERMINED WITH-
14 OUT REGARD TO CERTAIN FEDERAL ASSISTANCE.—For
15 purposes of this section, adjusted gross income shall be
16 determined without regard to any amount which is includ-
17 ible in gross income solely by reason of section 91.”

18 (d) CLERICAL AMENDMENTS.—

19 (1) The table of sections for part II of sub-
20 chapter B of chapter 1 of such Code is amended by
21 adding at the end the following new item:

“Sec. 91. Certain Federal assistance.”.

22 (2) The table of sections for subpart B of part
23 III of subchapter A of chapter 61 of such Code is

1 amended by adding at the end the following new
2 item:

“Sec. 6050Q. Payments of certain Federal assistance.”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to benefits received after December
5 31, 1995, except that the amendment made by subsection
6 (c) shall apply to taxable years beginning after such date.

7 **SEC. 9207. DEPENDENT CARE CREDIT TO BE REFUNDABLE;**
8 **HIGH-INCOME TAXPAYERS INELIGIBLE FOR**
9 **CREDIT.**

10 (a) CREDIT TO BE REFUNDABLE.—

11 (1) IN GENERAL.—Section 21 of the Internal
12 Revenue Code of 1986 (relating to expenses for
13 household and dependent care services necessary for
14 gainful employment) is hereby moved to subpart C
15 of part IV of subchapter A of chapter 1 of such
16 Code (relating to refundable credits) and inserted
17 after section 34.

18 (2) TECHNICAL AMENDMENTS.—

19 (A) Section 35 of such Code is redesign-
20 nated as section 36.

21 (B) Section 21 of such Code is redesign-
22 nated as section 35.

23 (C) Paragraph (1) of section 35(a) of such
24 Code (as redesignated by subparagraph (B)) is

1 amended by striking “this chapter” and insert-
2 ing “this subtitle”.

3 (D) Subparagraph (C) of section 129(a)(2)
4 of such Code is amended by striking “section
5 21(e)” and inserting “section 35(e)”.

6 (E) Paragraph (2) of section 129(b) of
7 such Code is amended by striking “section
8 21(d)(2)” and inserting “section 35(d)(2)”.

9 (F) Paragraph (1) of section 129(e) of
10 such Code is amended by striking “section
11 21(b)(2)” and inserting “section 35(b)(2)”.

12 (G) Subsection (e) of section 213 of such
13 Code is amended by striking “section 21” and
14 inserting “section 35”.

15 (H) Paragraph (2) of section 1324(b) of
16 title 31, United States Code, is amended by in-
17 serting before the period “, or from section 35
18 of such Code”.

19 (I) The table of sections for subpart C of
20 part IV of subchapter A of chapter 1 of such
21 Code is amended by striking the item relating
22 to section 35 and inserting the following:

“Sec. 35. Expenses for household and dependent care services
necessary for gainful employment.

“Sec. 36. Overpayments of tax.”

1 (J) The table of sections for subpart A of
2 such part IV is amended by striking the item
3 relating to section 21.

4 (b) HIGHER-INCOME TAXPAYERS INELIGIBLE FOR
5 CREDIT.—Subsection (a) of section 35 of such Code, as
6 redesignated by subsection (a), is amended by adding at
7 the end the following new paragraph:

8 “(3) PHASEOUT OF CREDIT FOR HIGHER-IN-
9 COME TAXPAYERS.—The amount of the credit which
10 would (but for this paragraph) be allowed by this
11 section shall be reduced (but not below zero) by an
12 amount which bears the same ratio to such amount
13 of credit as the excess of the taxpayer’s adjusted
14 gross income for the taxable year over \$60,000 bears
15 to \$20,000. Any reduction determined under the
16 preceding sentence which is not a multiple of \$10
17 shall be rounded to the nearest multiple of \$10.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning after
20 December 31, 1996.

21 **Subtitle C—Work First**

22 **SEC. 9301. WORK FIRST PROGRAM.**

23 (a) ESTABLISHMENT AND OPERATION OF PRO-
24 GRAM.—Title IV (42 U.S.C. 601 et seq.) is amended by
25 striking part F and inserting the following:

“Part F—Work First Program**2 “SEC. 481. STATE ROLE.**

3 “(a) PROGRAM REQUIREMENTS.—Any State may es-
4 tablish and operate a work first program that meets the
5 following requirements:

6 “(1) OBJECTIVE.—The objective of the pro-
7 gram is for each program participant to find and
8 hold a full-time unsubsidized paid job, and for this
9 goal to be achieved in a cost-effective fashion.

10 “(2) METHOD.—The method of the program is
11 to connect recipients of assistance under the State
12 plan approved under part A with the private sector
13 labor market as soon as possible and offer them the
14 support and skills necessary to remain in the labor
15 market. Each component of the program should be
16 permeated with an emphasis on employment and
17 with an understanding that minimum wage jobs are
18 a stepping stone to more highly paid employment.
19 The program shall provide recipients with education,
20 training, job search and placement, wage
21 supplementation, temporary subsidized jobs, or such
22 other services that the State deems necessary to help
23 a recipient obtain private sector employment.

24 “(3) JOB CREATION.—The creation of jobs,
25 with an emphasis on private sector jobs, shall be a
26 component of the program and shall be a priority for

1 each State office with responsibilities under the pro-
2 gram.

3 “(4) FORMS OF ASSISTANCE.—The State shall
4 provide assistance to participants in the program in
5 the form of education, training, job placement serv-
6 ices (including vouchers for job placement services),
7 work supplementation programs, temporary sub-
8 sidized job creation, job counseling, assistance in es-
9 tablishing microenterprises, or other services to pro-
10 vide individuals with the support and skills necessary
11 to obtain and keep employment in the private sector.

12 “(5) 2-YEAR LIMITATION ON PARTICIPATION.—
13 The program shall comply with section 487(b).

14 “(6) AGREEMENTS OF MUTUAL RESPONSIBIL-
15 ITY.—

16 “(A) IN GENERAL.—The State agency
17 shall develop an agreement of mutual respon-
18 sibility for each program participant, which will
19 be an individualized comprehensive plan, devel-
20 oped by the team and the participant, to move
21 the participant into a full-time unsubsidized
22 job. The agreement should detail the education,
23 training, or skills that the individual will be re-
24 ceiving to obtain a full-time unsubsidized job,
25 and the obligations of the individual.

1 “(B) HOURS OF PARTICIPATION REQUIRE-
2 MENT.—The agreement shall provide that the
3 individual shall participate in activities in ac-
4 cordance with the agreement for—

5 “(i) not fewer than 20 hours per week
6 during fiscal years 1997 and 1998;

7 “(ii) not fewer than 25 hours per
8 week during fiscal year 1999; and

9 “(iii) not fewer than 30 hours per
10 week thereafter.

11 “(7) CASELOAD PARTICIPATION RATES.—The
12 program shall comply with section 488.

13 “(8) NONDISPLACEMENT.—The program may
14 not be operated in a manner that results in—

15 “(A) the displacement of a currently em-
16 ployed worker or position by a program partici-
17 pant;

18 “(B) the replacement of an employee who
19 has been terminated with a program partici-
20 pant; or

21 “(C) the replacement of an individual who
22 is on layoff from the same position given to a
23 program participant or any equivalent position.

24 “(b) ANNUAL REPORTS.—

1 “(1) COMPLIANCE WITH PERFORMANCE MEAS-
2 URES.—Each State that operates a program under
3 this part shall submit to the Secretary annual re-
4 ports that compare the achievements of the program
5 with the performance-based measures established
6 under section 488(c).

7 “(2) COMPLIANCE WITH PARTICIPATION
8 RATES.—Each State that operates a program under
9 this part for a fiscal year shall submit to the Sec-
10 retary a report on the participation rate of the State
11 for the fiscal year.

12 **“SEC. 482. REVAMPED JOBS PROGRAM.**

13 “A State that establishes a program under this part
14 may operate a program similar to the program known as
15 the ‘GAIN Program’ that has been operated by Riverside
16 County, California, under Federal law in effect imme-
17 diately before the date this part first applies to the State
18 of California.

19 **“SEC. 483. USE OF PLACEMENT COMPANIES.**

20 “(a) IN GENERAL.—A State that establishes a pro-
21 gram under this part may enter into contracts with private
22 companies (whether operated for profit or not for profit)
23 for the placement of participants in the program in posi-
24 tions of full-time employment, preferably in the private

1 sector, for wages sufficient to eliminate the need of such
2 participants for cash assistance.

3 “(b) REQUIRED CONTRACT TERMS.—Each contract
4 entered into under this section with a company shall meet
5 the following requirements:

6 “(1) PROVISION OF JOB READINESS AND SUP-
7 PORT SERVICES.—The contract shall require the
8 company to provide, to any program participant who
9 presents to the company a voucher issued under sub-
10 section (d) intensive personalized support and job
11 readiness services designed to prepare the individual
12 for employment and ensure the continued success of
13 the individual in employment.

14 “(2) PAYMENTS.—

15 “(A) IN GENERAL.—The contract shall
16 provide for payments to be made to the com-
17 pany with respect to each program participant
18 who presents to the company a voucher issued
19 under subsection (d).

20 “(B) STRUCTURE.—The contract shall
21 provide for the majority of the amounts to be
22 paid under the contract with respect to a pro-
23 gram participant, to be paid after the company
24 has placed the participant in a position of full-
25 time employment and the participant has been

1 employed in the position for such period of not
2 less than 5 months as the State deems appro-
3 priate.

4 “(c) **COMPETITIVE BIDDING REQUIRED.**—Contracts
5 under this section shall be awarded only after competitive
6 bidding.

7 “(d) **VOUCHERS.**—The State shall issue a voucher to
8 each program participant whose agreement of mutual re-
9 sponsibility provides for the use of placement companies
10 under this section, indicating that the participant is eligi-
11 ble for the services of such a company.

12 **“SEC. 484. TEMPORARY SUBSIDIZED JOB CREATION.**

13 “A State that establishes a program under this part
14 may establish a program similar to the program known
15 as ‘JOBS Plus’ that has been operated by the State of
16 Oregon under Federal law in effect immediately before the
17 date this part first applies to the State of Oregon.

18 **“SEC. 485. MICROENTERPRISE.**

19 “(a) **GRANTS AND LOANS TO NONPROFIT ORGANIZA-**
20 **TIONS FOR THE PROVISION OF TECHNICAL ASSISTANCE,**
21 **TRAINING, AND CREDIT TO LOW INCOME ENTRE-**
22 **PRENEURS.**—A State that establishes a program under
23 this part may make grants and loans to nonprofit organi-
24 zations to provide technical assistance, training, and credit

1 to low income entrepreneurs for the purpose of establish-
2 ing microenterprises.

3 “(b) MICROENTERPRISE DEFINED.—For purposes of
4 this subsection, the term ‘microenterprise’ means a com-
5 mercial enterprise which has 5 or fewer employees, 1 or
6 more of whom owns the enterprise.

7 **“SEC. 486. WORK SUPPLEMENTATION PROGRAM.**

8 “(a) IN GENERAL.—A State that establishes a pro-
9 gram under this part may institute a work
10 supplementation program under which the State, to the
11 extent it considers appropriate, may reserve the sums that
12 would otherwise be payable under the State plan approved
13 under part A to participants in the program and use the
14 sums instead for the purpose of providing and subsidizing
15 jobs for the participants (as described in subsection (c)(3)
16 (A) and (B)), as an alternative to providing such assist-
17 ance to the participants.

18 “(b) STATE FLEXIBILITY.—

19 “(1) Nothing in this part, or in any State plan
20 approved under part A, shall be construed to prevent
21 a State from operating (on such terms and condi-
22 tions and in such cases as the State may find to be
23 necessary or appropriate) a work supplementation
24 program in accordance with this section and section

1 484 (as in effect immediately before the date this
2 part first applies to the State).

3 “(2) Notwithstanding any other provision of
4 law, a State may adjust the levels of the standards
5 of need under the State plan as the State determines
6 to be necessary and appropriate for carrying out a
7 work supplementation program under this section.

8 “(3) Notwithstanding any other provision of
9 law, a State operating a work supplementation pro-
10 gram under this section may provide that the need
11 standards in effect in those areas of the State in
12 which the program is in operation may be different
13 from the need standards in effect in the areas in
14 which the program is not in operation, and the State
15 may provide that the need standards for categories
16 of recipients may vary among such categories to the
17 extent the State determines to be appropriate on the
18 basis of ability to participate in the work
19 supplementation program.

20 “(4) Notwithstanding any other provision of
21 law, a State may make such further adjustments in
22 the amounts of assistance provided under the plan
23 to different categories of recipients (as determined
24 under paragraph (3)) in order to offset increases in
25 benefits from needs-related programs (other than

1 the State plan approved under part A) as the State
2 determines to be necessary and appropriate to fur-
3 ther the purposes of the work supplementation pro-
4 gram.

5 “(5) In determining the amounts to be reserved
6 and used for providing and subsidizing jobs under
7 this section as described in subsection (a), the State
8 may use a sampling methodology.

9 “(6) Notwithstanding any other provision of
10 law, a State operating a work supplementation pro-
11 gram under this section, may reduce or eliminate the
12 amount of earned income to be disregarded under
13 the State plan as the State determines to be nec-
14 essary and appropriate to further the purposes of
15 the work supplementation program.

16 “(c) RULES RELATING TO SUPPLEMENTED JOBS.—

17 “(1) A work supplementation program operated
18 by a State under this section may provide that any
19 individual who is an eligible individual (as deter-
20 mined under paragraph (2)) shall take a supple-
21 mented job (as defined in paragraph (3)) to the ex-
22 tent that supplemented jobs are available under the
23 program. Payments by the State to individuals or to
24 employers under the work supplementation program
25 shall be treated as expenditures incurred by the

1 State for temporary employment assistance under
2 part A except as limited by subsection (d).

3 “(2) For purposes of this section, an eligible in-
4 dividual is an individual who is in a category which
5 the State determines should be eligible to participate
6 in the work supplementation program, and who
7 would, at the time of placement in the job involved,
8 be eligible for assistance under an approved State
9 plan if the State did not have a work
10 supplementation program in effect.

11 “(3) For purposes of this subsection, a supple-
12 mented job is—

13 “(A) a job provided to an eligible individ-
14 ual by the State or local agency administering
15 the State plan under part A; or

16 “(B) a job provided to an eligible individ-
17 ual by any other employer for which all or part
18 of the wages are paid by the State or local
19 agency.

20 A State may provide or subsidize under the program
21 any job which the State determines to be appro-
22 priate.

23 “(d) COST LIMITATION.—The amount of the Federal
24 payment to a State under section 413 for expenditures in-
25 curred in making payments to individuals and employers

1 under a work supplementation program under this sub-
2 section shall not exceed an amount equal to the amount
3 which would otherwise be payable under such section if
4 the family of each individual employed in the program es-
5 tablished in the State under this section had received the
6 maximum amount of assistance providable under the State
7 plan to such a family with no income (without regard to
8 adjustments under subsection (b) of this section) for the
9 lesser of—

10 “(1) 9 months; or

11 “(2) the number of months in which the indi-
12 vidual was employed in the program.

13 “(e) RULES OF INTERPRETATION.—

14 “(1) This section shall not be construed as re-
15 quiring the State or local agency administering the
16 State plan to provide employee status to an eligible
17 individual to whom the State or local agency pro-
18 vides a job under the work supplementation program
19 (or with respect to whom the State or local agency
20 provides all or part of the wages paid to the individ-
21 ual by another entity under the program), or as re-
22 quiring any State or local agency to provide that an
23 eligible individual filling a job position provided by
24 another entity under the program be provided em-

1 ployee status by the entity during the first 13 weeks
2 the individual fills the position.

3 “(2) Wages paid under a work supplementation
4 program shall be considered to be earned income for
5 purposes of any provision of law.

6 “(f) PRESERVATION OF MEDICAID ELIGIBILITY.—
7 Any State that chooses to operate a work supplementation
8 program under this section shall provide that any individ-
9 ual who participates in the program, and any child or rel-
10 ative of the individual (or other individual living in the
11 same household as the individual) who would be eligible
12 for assistance under the State plan approved under part
13 A if the State did not have a work supplementation pro-
14 gram, shall be considered individuals receiving assistance
15 under the State plan approved under part A for purposes
16 of eligibility for medical assistance under the State plan
17 approved under title XIX.

18 **“SEC. 487. PARTICIPATION RULES.**

19 “(a) IN GENERAL.—Except as provided in subsection
20 (b), a State that establishes a program under this part
21 may require any individual receiving assistance under the
22 State plan approved under part A to participate in the
23 program.

24 “(b) 2-YEAR LIMITATION ON PARTICIPATION.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), an individual may not participate in a
3 State program established under this part if the in-
4 dividual has participated in the State program es-
5 tablished under this part for 24 months after the
6 date the individual first signed an agreement of mu-
7 tual responsibility under this part, excluding any
8 month during which the individual worked for an av-
9 erage of at least 25 hours per week in a private sec-
10 tor job.

11 “(2) AUTHORITY TO ALLOW REPEAT PARTICI-
12 PATION.—

13 “(A) IN GENERAL.—Subject to subpara-
14 graph (B) of this paragraph, a State may allow
15 an individual who, by reason of paragraph (1),
16 would be prohibited from participating in the
17 State program established under this part to
18 participate in the program for such additional
19 period or periods as the State determines ap-
20 propriate.

21 “(B) LIMITATION ON PERCENTAGE OF RE-
22 PEAT PARTICIPANTS.—

23 “(i) IN GENERAL.—Except as pro-
24 vided in clause (ii) of this subparagraph,
25 the number of individuals allowed under

1 subparagraph (A) to participate during a
2 program year in a State program estab-
3 lished under this part shall not exceed—

4 “(I) 10 percent of the total num-
5 ber of individuals who participated in
6 the State program established under
7 this part or the State program estab-
8 lished under part H during the imme-
9 diately preceding program year; or

10 “(II) in the case of fiscal year
11 2004 or any succeeding fiscal year, 15
12 percent of such total number of indi-
13 viduals.

14 “(ii) AUTHORITY TO INCREASE LIM-
15 TATION.—

16 “(I) PETITION.—A State may re-
17 quest the Secretary to increase to not
18 more than 15 percent the percentage
19 limitation imposed by clause (i)(I) for
20 a fiscal year before fiscal year 2004.

21 “(II) AUTHORITY TO GRANT RE-
22 QUEST.—The Secretary may approve
23 a request made pursuant to subclause
24 (I) if the Secretary deems it appro-
25 priate. The Secretary shall develop

1 recommendations on the criteria that
 2 should be applied in evaluating re-
 3 quests under subclause (I).

4 **“SEC. 488. CASELOAD PARTICIPATION RATES; PERFORM-**
 5 **ANCE MEASURES.**

6 “(a) PARTICIPATION RATES.—

7 “(1) REQUIREMENT.—A State that operates a
 8 program under this part shall achieve a participation
 9 rate for the following fiscal years of not less than
 10 the following percentage:

“Fiscal year:	Percentage:
1997	20
1998	24
1999	28
2000	32
2001	36
2002	40
2003 or later	52.

11 “(2) PARTICIPATION RATE DEFINED.—

12 “(A) IN GENERAL.—As used in this sub-
 13 section, the term ‘participation rate’ means,
 14 with respect to a State and a fiscal year, an
 15 amount equal to—

16 “(i) the average monthly number of
 17 individuals who, during the fiscal year,
 18 participate in the State program estab-
 19 lished under this part or (if applicable)
 20 part G or H; divided by

1 “(ii) the average monthly number of
2 individuals who are not described in sec-
3 tion 402(c)(1)(D) and for whom an indi-
4 vidual responsibility plan is in effect under
5 section 403 during the fiscal year.

6 “(B) SPECIAL RULE.—For each of the 1st
7 12 months after an individual ceases to receive
8 assistance under a State plan approved under
9 part A by reason of having become employed
10 for more than 25 hours per week in an
11 unsubsidized job in the private sector, the indi-
12 vidual shall be considered to be participating in
13 the State program established under this part,
14 and to be an adult recipient of such assistance,
15 for purposes of subparagraph (A).

16 “(3) STATE COMPLIANCE REPORTS.—Each
17 State that operates a program under this part for a
18 fiscal year shall submit to the Secretary a report on
19 the participation rate of the State for the fiscal year.

20 “(4) EFFECT OF FAILURE TO MEET PARTICIPA-
21 TION RATES.—

22 “(A) IN GENERAL.—If a State reports that
23 the State has failed to achieve the participation
24 rate required by paragraph (1) for the fiscal
25 year, the Secretary may make recommendations

1 for changes in the State program established
2 under this part and (if the State has estab-
3 lished a program under part G) the State pro-
4 gram established under part G. The State may
5 elect to follow such recommendations, and shall
6 demonstrate to the Secretary how the State will
7 achieve the required participation rates.

8 “(B) SECOND CONSECUTIVE FAILURE.—
9 Notwithstanding subparagraph (A), if a State
10 fails to achieve the participation rate required
11 by paragraph (1) for 2 consecutive fiscal years,
12 the Secretary may—

13 “(i) require the State to make
14 changes in the State program established
15 under this part and (if the State has estab-
16 lished a program under part G) the State
17 program established under part G; and

18 “(ii) reduce by 5 percent the amount
19 otherwise payable to the State under sec-
20 tion 413.

21 “(b) PERFORMANCE STANDARDS.—The Secretary
22 shall develop standards to be used to measure the effec-
23 tiveness of the programs established under this part and
24 part G in moving recipients of assistance under the State

1 plan approved under part A into full-time unsubsidized
2 employment.

3 “(c) PERFORMANCE-BASED MEASURES.—

4 “(1) ESTABLISHMENT.—The Secretary shall, by
5 regulation, establish measures of the effectiveness of
6 the State programs established under this part and
7 under part G in moving recipients of assistance
8 under the State plan approved under part A into
9 full-time unsubsidized employment, based on the
10 performance of such programs.

11 “(2) ANNUAL COMPLIANCE REPORTS.—Each
12 State that operates a program under this part shall
13 submit to the Secretary annual reports that compare
14 the achievements of the program with the perform-
15 ance-based measures established under paragraph
16 (1).

17 **“SEC. 489. FEDERAL ROLE.**

18 “(a) APPROVAL OF STATE PLANS.—

19 “(1) IN GENERAL.—Within 60 days after the
20 date a State submits to the Secretary a plan that
21 provides for the establishment and operation of a
22 work first program that meets the requirements of
23 section 481, the Secretary shall approve the plan.

24 “(2) AUTHORITY TO EXTEND APPROVAL DEAD-
25 LINE.—The 60-day deadline established in para-

1 graph (1) with respect to a State may be extended
2 in accordance with an agreement between the Sec-
3 retary and the State.

4 “(b) PERFORMANCE-BASED MEASURES.—The Sec-
5 retary shall, by regulation, establish measures of the effec-
6 tiveness of the State program established under this part
7 and (if the State has established a program under part
8 G) the State program established under part G in moving
9 recipients of assistance under the State plan approved
10 under part A into full-time unsubsidized employment,
11 based on the performance of such programs.

12 “(c) EFFECT OF FAILURE TO MEET PARTICIPATION
13 RATES.—

14 “(1) IN GENERAL.—If a State reports that the
15 State has failed to achieve the participation rate re-
16 quired by section 488 for the fiscal year, the Sec-
17 retary may make recommendations for changes in
18 the State program established under this part and
19 (if the State has established a program under part
20 G) the State program established under part G. The
21 State may elect to follow such recommendations, and
22 shall demonstrate to the Secretary how the State
23 will achieve the required participation rates.

24 “(2) SECOND CONSECUTIVE FAILURE.—Not-
25 withstanding paragraph (1), if the State has failed

1 to achieve the participation rates required by section
2 488 for 2 consecutive fiscal years, the Secretary may
3 require the State to make changes in the State pro-
4 gram established under this part and (if the State
5 has established a program under part G) the State
6 program established under part G.

7 “PART G—WORKFARE PROGRAM

8 **“SEC. 490. ESTABLISHMENT AND OPERATION OF PROGRAM.**

9 “(a) IN GENERAL.—A State that establishes a work
10 first program under part F may establish and carry out
11 a workfare program that meets the requirements of this
12 part, unless the State has established a job placement
13 voucher program under part H.

14 “(b) OBJECTIVE.—The objective of the workfare pro-
15 gram is for each program participant to find and hold a
16 full-time unsubsidized paid job, and for this goal to be
17 achieved in a cost-effective fashion.

18 “(c) CASE MANAGEMENT TEAMS.—The State shall
19 assign to each program participant a case management
20 team that shall meet with the participant and assist the
21 participant to choose the most suitable workfare job under
22 subsection (e), (f), or (g) and to eventually obtain a full-
23 time unsubsidized paid job.

24 “(d) PROVISION OF JOBS.—The State shall provide
25 each participant in the program with a community service

1 job that meets the requirements of subsection (e) or a sub-
2 sidized job that meets the requirements of subsection (f)
3 or (g).

4 “(e) COMMUNITY SERVICE JOBS.—

5 “(1) IN GENERAL.—Except as provided in para-
6 graphs (2) and (3), each participant shall work for
7 not fewer than 30 hours per week (or, at the option
8 of the State, 20 hours per week during fiscal years
9 1997 and 1998, not fewer than 25 hours per week
10 during fiscal year 1999, not fewer than 30 hours per
11 week during fiscal years 2000 and 2001, and not
12 fewer than 35 hours per week thereafter) in a com-
13 munity service job, and be paid at a rate which is
14 not greater than 75 percent (or, at the option of the
15 State, 100 percent) of the maximum amount of as-
16 sistance that may be provided under the State plan
17 approved under part A to a family of the same size
18 and composition with no income.

19 “(2) EXCEPTION.—(A) If the participant has
20 obtained unsubsidized part-time employment in the
21 private sector, the State shall provide the participant
22 with a part-time community service job.

23 “(B) If the State provides a participant a part-
24 time community service job under subparagraph (A),

1 the State shall ensure that the participant works for
2 not fewer than 30 hours per week.

3 “(3) WAGES NOT CONSIDERED EARNED IN-
4 COME.—Wages paid under a workfare program shall
5 not be considered to be earned income for purposes
6 of any provision of law.

7 “(4) COMMUNITY SERVICE JOB DEFINED.—For
8 purposes of this section, the term ‘community serv-
9 ice job’ means—

10 “(A) a job provided to a participant by the
11 State administering the State plan under part
12 A; or

13 “(B) a job provided to a participant by any
14 other employer for which all or part of the
15 wages are paid by the State.

16 A State may provide or subsidize under the program
17 any job which the State determines to be appro-
18 priate.

19 “(f) TEMPORARY SUBSIDIZED JOB CREATION.—A
20 State that establishes a workfare program under this part
21 may establish a program similar to the program operated
22 by the State of Oregon, which is known as ‘JOBS Plus’.

23 “(g) WORK SUPPLEMENTATION PROGRAM.—

24 “(1) IN GENERAL.—A State that establishes a
25 workfare program under this part may institute a

1 work supplementation program under which the
2 State, to the extent it considers appropriate, may re-
3 serve the sums that would otherwise be payable to
4 participants in the program as a community service
5 minimum wage and use the sums instead for the
6 purpose of providing and subsidizing private sector
7 jobs for the participants.

8 “(2) EMPLOYER AGREEMENT.—An employer
9 who provides a private sector job to a participant
10 under paragraph (1) shall agree to provide to the
11 participant an amount in wages equal to the poverty
12 threshold for a family of three.

13 “(h) JOB SEARCH REQUIREMENT.—The State shall
14 require each participant to spend a minimum of 5 hours
15 per week on activities related to securing unsubsidized
16 full-time employment in the private sector.

17 “(i) DURATION OF PARTICIPATION.—

18 “(1) IN GENERAL.—Except as provided in para-
19 graph (2), an individual may not participate for
20 more than 2 years in a workfare program under this
21 part.

22 “(2) AUTHORITY TO ALLOW REPEATED PAR-
23 TICIPATION.—

24 “(A) IN GENERAL.—Subject to subpara-
25 graph (B), a State may allow an individual

1 who, by reason of paragraph (1), would be pro-
2 hibited from participating in the State program
3 established under this part to participate in the
4 program for such additional period or periods
5 as the State determines appropriate.

6 “(B) LIMITATION ON PERCENTAGE OF RE-
7 PEAT PARTICIPANTS.—

8 “(i) IN GENERAL.—Except as pro-
9 vided in clause (ii), the number of individ-
10 uals allowed under subparagraph (A) to
11 participate during a program year in a
12 State program established under this part
13 shall not exceed 10 percent of the total
14 number of individuals who participated in
15 the program during the immediately pre-
16 ceding program year.

17 “(ii) AUTHORITY TO INCREASE LIM-
18 TATION.—

19 “(I) PETITION.—A State may re-
20 quest the Secretary to increase the
21 percentage limitation imposed by
22 clause (i) to not more than 15 per-
23 cent.

24 “(II) AUTHORITY TO GRANT RE-
25 QUEST.—The Secretary may approve

1 a request made pursuant to subclause
2 (I) if the Secretary deems it appro-
3 priate. The Secretary shall develop
4 recommendations on the criteria that
5 should be applied in evaluating re-
6 quests under subclause (I).

7 “(j) USE OF PLACEMENT COMPANIES.—A State that
8 establishes a workfare program under this part may enter
9 into contracts with private companies (whether operated
10 for profit or not for profit) for the placement of partici-
11 pants in the program in positions of full-time employment,
12 preferably in the private sector, for wages sufficient to
13 eliminate the need of such participants for cash assistance
14 in accordance with section 483.

15 “(k) MAXIMUM OF 3 COMMUNITY SERVICE JOBS.—
16 A program participant may not receive more than 3 com-
17 munity service jobs under the program.

18 “PART H—JOB PLACEMENT VOUCHER PROGRAM

19 “**SEC. 490A. JOB PLACEMENT VOUCHER PROGRAM.**

20 “A State that is not operating a workfare program
21 under part G may establish a job placement voucher pro-
22 gram that meets the following requirements:

23 “(1) The program shall offer each program par-
24 ticipant a voucher which the participant may use to
25 obtain employment in the private sector.

1 “(2) An employer who receives a voucher issued
2 under the program from an individual may redeem
3 the voucher at any time after the individual has been
4 employed by the employer for 6 months, unless an-
5 other employee of the employer was displaced by the
6 employment of the individual.

7 “(3) Upon presentation of a voucher by an em-
8 ployer to the State agency responsible for the admin-
9 istration of the program, the State agency shall pay
10 to the employer an amount equal to 50 percent of
11 the total amount of assistance provided under the
12 State plan approved under part A to the family of
13 which the individual is a member for the most recent
14 12 months for which the family was eligible for such
15 assistance.”.

16 (c) FUNDING.—Section 413(a), as added by section
17 9101(a) of this Act, is amended—

18 (1) by striking “Subject to” and inserting the
19 following:

20 “(1) IN GENERAL.—Subject to”; and

21 (2) by inserting after and below the end the fol-
22 lowing:

23 “(2) WORK FIRST AND OTHER PROGRAMS.—(A)
24 Each State that is operating a program in accord-
25 ance with a plan approved under part F and a pro-

1 gram in accordance with part G or H shall be enti-
2 tled to payments under paragraph (3) for any fiscal
3 year in an amount equal to the sum of the applicable
4 percentages (specified in such paragraph) of its ex-
5 penditures to carry out such programs (subject to
6 limitations prescribed by or pursuant to such parts
7 or this part on expenditures that may be included
8 for purposes of determining payment under para-
9 graph (3)), but such payments for any fiscal year in
10 the case of any State may not exceed the limitation
11 determined under subparagraph (B) with respect to
12 the State.

13 “(B) The limitation determined under this sub-
14 paragraph with respect to a State for any fiscal year
15 is the amount that bears the same ratio to the
16 amount specified in subparagraph (C) for such fiscal
17 year as the average monthly number of adult recipi-
18 ents (as defined in subparagraph (D)) in the State
19 in the preceding fiscal year bears to the average
20 monthly number of such recipients in all the States
21 for such preceding year.

22 “(C)(i) The amount specified in this subpara-
23 graph is—

24 “(I) \$1,600,000,000 for fiscal year 1997;

25 “(II) \$1,600,000,000 for fiscal year 1998;

1 “(III) \$1,900,000,000 for fiscal year 1999;

2 “(IV) \$2,500,000,000 for fiscal year 2000;

3 and

4 “(V) \$3,200,000,000 for fiscal year 2001;

5 and

6 “(VI) \$4,700,000,000 for fiscal year 2002;

7 and

8 “(VII) the amount determined under
9 clause (ii) for fiscal year 2003 and each suc-
10 ceeding fiscal year.

11 “(ii) The amount determined under this clause
12 for a fiscal year is the product of the following:

13 “(I) The amount specified in this subpara-
14 graph for the immediately preceding fiscal year.

15 “(II) 1.00 plus the percentage (if any) by
16 which—

17 “(aa) the average of the Consumer
18 Price Index (as defined in section 1(f)(5)
19 of the Internal Revenue Code of 1986) for
20 the most recent 12-month period for which
21 such information is available; exceeds

22 “(bb) the average of the Consumer
23 Price Index (as so defined) for the 12-
24 month period ending on June 30 of the
25 2nd preceding fiscal year.

1 “(III) The amount that bears the same
2 ratio to the amount specified in this subpara-
3 graph for the immediately preceding fiscal year
4 as the number of individuals whom the Sec-
5 retary estimates will participate in programs
6 operated under part F, G, or H during the fis-
7 cal year bears to the total number of individuals
8 who participated in such programs during such
9 preceding fiscal year.

10 “(D) For purposes of this paragraph, the term
11 ‘adult recipient’ in the case of any State means an
12 individual other than a dependent child (unless such
13 child is the custodial parent of another dependent
14 child) whose needs are met (in whole or in part)
15 with assistance provided under the State plan ap-
16 proved under this part.

17 “(E) For purposes of subparagraph (D), the
18 term ‘dependent child’ means a needy child (i) who
19 has been deprived of parental support or care by
20 reason of the death, continued absence from the
21 home (other than absence occasioned solely by rea-
22 son of the performance of active duty in the uni-
23 formed services of the United States), or physical or
24 mental incapacity of a parent, and who is living with
25 his father, mother, grandfather, grandmother, broth-

1 er, sister, stepfather, stepmother, stepbrother, step-
2 sister, uncle, aunt, first cousin, nephew, or niece, in
3 a place of residence maintained by one or more of
4 such relatives as his or their own home, and (ii) who
5 is (I) under the age of eighteen, or (II) at the option
6 of the State, under the age of nineteen and a full-
7 time student in a secondary school (or in the equiva-
8 lent level of vocational or technical training), if, be-
9 fore he attains age nineteen, he may reasonably be
10 expected to complete the program of such secondary
11 school (or such training).

12 “(F) For purposes of subparagraph (E), the
13 term ‘relative with whom any dependent child is liv-
14 ing’ means the individual who is one of the relatives
15 specified in subparagraph (E) and with whom such
16 child is living (within the meaning of such sub-
17 section) in a place of residence maintained by such
18 individual (himself or together with any one or more
19 of the other relatives so specified) as his (or their)
20 own home.

21 “(3)(A) In lieu of any payment under para-
22 graph (1) therefor, the Secretary shall pay to each
23 State that is operating a program in accordance
24 with a plan approved under part F and a program
25 in accordance with part G or H, with respect to ex-

1 penditures by the State to carry out such programs,
2 an amount equal to—

3 “(i) with respect to so much of such ex-
4 penditures in a fiscal year as do not exceed the
5 State’s expenditures in the fiscal year 1987
6 with respect to which payments were made to
7 such State from its allotment for such fiscal
8 year pursuant to part C of this title as then in
9 effect, 90 percent; and

10 “(ii) with respect to so much of such ex-
11 penditures in a fiscal year as exceed the amount
12 described in clause (i)—

13 “(I) 50 percent, in the case of expend-
14 itures for administrative costs made by a
15 State in operating such programs for such
16 fiscal year (other than the personnel costs
17 for staff employed full-time in the oper-
18 ation of such program) and the costs of
19 transportation and other work-related sup-
20 portive services; and

21 “(II) 60 percent or the Federal medi-
22 cal assistance percentage (as defined in the
23 last sentence of section 1118), whichever is
24 the greater, in the case of expenditures
25 made by a State in operating such pro-

1 grams for such fiscal year (other than for
2 costs described in subclause (I)).

3 “(B) With respect to the amount for which pay-
4 ment is made to a State under subparagraph (A)(i),
5 the State’s expenditures for the costs of operating
6 such programs may be in cash or in kind, fairly eval-
7 uated.

8 “(C) Not more than 10 percent of the amount
9 payable to a State under this paragraph for a quar-
10 ter may be for expenditures made during the quarter
11 with respect to program participants who are not eli-
12 gible for assistance under the State plan approved
13 under this part.”.

14 (d) SECRETARY’S SPECIAL ADJUSTMENT FUND.—
15 Section 413(a), as added by section 9101(a) of this Act,
16 is amended by adding at the end the following:

17 “(4) SECRETARY’S SPECIAL ADJUSTMENT
18 FUND.—(A) There shall be available to the Sec-
19 retary from the amount appropriated for payments
20 under paragraph (2) for States’ programs under
21 parts F and G for fiscal year 1996, \$300,000,000
22 for special adjustments to States’ limitations on
23 Federal payments for such programs.

24 “(B) A State may, not later than March 1 and
25 September 1 of each fiscal year, submit to the Sec-

1 retary a request to adjust the limitation on pay-
2 ments under this section with respect to its program
3 under part F (and, in fiscal years after 1997) its
4 program under part G for the following fiscal year.
5 The Secretary shall only consider such a request
6 from a State which has, or which demonstrates con-
7 vincingly on the basis of estimates that it will, sub-
8 mit allowable claims for Federal payment in the full
9 amount available to it under paragraph (2) in the
10 current fiscal year and obligated 95 percent of its
11 full amount in the prior fiscal year. The Secretary
12 shall by regulation prescribe criteria for the equi-
13 table allocation among the States of Federal pay-
14 ments pursuant to adjustments of the limitations re-
15 ferred to in the preceding sentence in the case where
16 the requests of all States that the Secretary finds
17 reasonable exceed the amount available, and, within
18 30 days following the dates specified in this para-
19 graph, will notify each State whether one or more of
20 its limitations will be adjusted in accordance with
21 the State's request and the amount of the adjust-
22 ment (which may be some or all of the amount re-
23 quested).

24 “(C) The Secretary may adjust the limitation
25 on Federal payments to a State for a fiscal year

1 under paragraph (2), and upon a determination by
2 the Secretary that (and the amount by which) a
3 State's limitation should be raised, the amount spec-
4 ified in such paragraph shall be considered to be so
5 increased for the following fiscal year.

6 “(D) The amount made available under sub-
7 paragraph (A) for special adjustments shall remain
8 available to the Secretary until expended. That
9 amount shall be reduced by the sum of the adjust-
10 ments approved by the Secretary in any fiscal year,
11 and the amount shall be increased in a fiscal year
12 by the amount by which all States' limitations under
13 paragraph (2) of this subsection and section 2008
14 for a fiscal year exceeded the sum of the Federal
15 payments under such provisions of law for such fiscal
16 year, but for fiscal years after 1997, such amount
17 at the end of such fiscal year shall not exceed
18 \$400,000,000.”.

19 (e) CONFORMING AMENDMENTS.—

20 (1) Section 1115(b)(2)(A) (42 U.S.C.
21 1315(b)(2)(A)) is amended by striking “, and
22 402(a)(19) (relating to the work incentive pro-
23 gram)”.

24 (2) Section 1108 (42 U.S.C. 1308) is amend-
25 ed—

1 (A) in subsection (a), by striking “or, in
2 the case of part A of title IV, section 403(k)”;
3 and

4 (B) in subsection (d), by striking “(exclu-
5 sive of any amounts on account of services and
6 items to which, in the case of part A of such
7 title, section 403(k) applies)”.

8 (3) Section 1902(a)(10)(A)(i)(I) (42 U.S.C.
9 1396a(a)(19)(A)(i)(I)) is amended—

10 (A) by striking “402(a)(37), 406(h), or”;
11 and

12 (B) by striking “482(e)(6)” and inserting
13 “486(f)”.

14 (4) Section 1928(a)(1) (42 U.S.C. 1396s(a)(1))
15 is amended by striking “482(e)(6)” and inserting
16 “486(f)”.

17 (f) INTENT OF THE CONGRESS.—The Congress in-
18 tends for State activities under section 484 of the Social
19 Security Act (as added by the amendment made by section
20 9301(a) of this Act) to emphasize the use of the funds
21 that would otherwise be used to provide individuals with
22 assistance under part A of title IV of the Social Security
23 Act and with food stamp benefits under the Food Stamp
24 Act of 1977, to subsidize the wages of such individuals
25 in temporary jobs.

1 (g) SENSE OF THE CONGRESS.—It is the sense of
2 the Congress that States should target individuals who
3 have not attained 25 years of age for participation in the
4 program established by the State under part F of title IV
5 of the Social Security Act (as added by the amendment
6 made by section 9301(a) of this section) in order to break
7 the cycle of welfare dependency.

8 **SEC. 9302. REGULATIONS.**

9 The Secretary of Health and Human Services shall
10 prescribe such regulations as may be necessary to imple-
11 ment the amendments made by this subtitle.

12 **SEC. 9303. APPLICABILITY TO STATES.**

13 (a) STATE OPTION TO ACCELERATE APPLICABIL-
14 ITY.—If a State formally notifies the Secretary of Health
15 and Human Services that the State desires to accelerate
16 the applicability to the State of the amendments made by
17 this subtitle, the amendments shall apply to the State on
18 and after such earlier date as the State may select.

19 (b) STATE OPTION TO DELAY APPLICABILITY UNTIL
20 WAIVERS EXPIRE.—The amendments made by this sub-
21 title shall not apply to a State with respect to which there
22 is in effect a waiver issued under section 1115 of the So-
23 cial Security Act for the State program established under
24 part F of title IV of such Act, until the waiver expires,
25 if the State formally notifies the Secretary of Health and

1 Human Services that the State desires to so delay such
2 effective date.

3 (c) AUTHORITY OF THE SECRETARY OF HEALTH
4 AND HUMAN SERVICES TO DELAY APPLICABILITY TO A
5 STATE.—If a State formally notifies the Secretary of
6 Health and Human Services that the State desires to
7 delay the applicability to the State of the amendments
8 made by this title, the amendments shall apply to the
9 State on and after any later date agreed upon by the Sec-
10 retary and the State.

11 **Subtitle D—Family Responsibility**
12 **And Improved Child Support**
13 **Enforcement**

14 **CHAPTER 1—ELIGIBILITY AND OTHER**
15 **MATTERS CONCERNING TITLE IV-D**
16 **PROGRAM CLIENTS**

17 **SEC. 9401. STATE OBLIGATION TO PROVIDE PATERNITY ES-**
18 **TABLISHMENT AND CHILD SUPPORT EN-**
19 **FORCEMENT SERVICES.**

20 (a) STATE LAW REQUIREMENTS.—Section 466(a)
21 (42 U.S.C. 666(a)) is amended by inserting after para-
22 graph (11) the following:

23 “(12) USE OF CENTRAL CASE REGISTRY AND
24 CENTRALIZED COLLECTIONS UNIT.—Procedures
25 under which—

1 “(A) every child support order established
2 or modified in the State on or after October 1,
3 1998, is recorded in the central case registry
4 established in accordance with section 454A(e);
5 and

6 “(B) child support payments are collected
7 through the centralized collections unit estab-
8 lished in accordance with section 454B—

9 “(i) on and after October 1, 1998,
10 under each order subject to wage withhold-
11 ing under section 466(b); and

12 “(ii) on and after October 1, 1999,
13 under each other order required to be re-
14 corded in such central case registry under
15 this paragraph or section 454A(e), except
16 as provided in subparagraph (C); and

17 “(C)(i) parties subject to a child support
18 order described in subparagraph (B)(ii) may
19 opt out of the procedure for payment of support
20 through the centralized collections unit (but not
21 the procedure for inclusion in the central case
22 registry) by filing with the State agency a writ-
23 ten agreement, signed by both parties, to an al-
24 ternative payment procedure; and

1 “(ii) an agreement described in clause (i)
2 becomes void whenever either party advises the
3 State agency of an intent to vacate the agree-
4 ment.”.

5 (b) STATE PLAN REQUIREMENTS.—Section 454 (42
6 U.S.C. 654) is amended—

7 (1) by striking paragraph (4) and inserting the
8 following:

9 “(4) provide that such State will undertake—

10 “(A) to provide appropriate services under
11 this part to—

12 “(i) each child with respect to whom
13 an assignment is effective under section
14 403(b)(1)(E)(i), 471(a)(17), or 1912 (ex-
15 cept in cases where the State agency deter-
16 mines, in accordance with paragraph (25),
17 that it is against the best interests of the
18 child to do so); and

19 “(ii) each child not described in clause
20 (i)—

21 “(I) with respect to whom an in-
22 dividual applies for such services; and

23 “(II) (on and after October 1,
24 1998) each child with respect to
25 whom a support order is recorded in

1 the central State case registry estab-
2 lished under section 454A, regardless
3 of whether application is made for
4 services under this part; and

5 “(B) to enforce the support obligation es-
6 tablished with respect to the custodial parent of
7 a child described in subparagraph (A) unless
8 the parties to the order which establishes the
9 support obligation have opted, in accordance
10 with section 466(a)(12)(C), for an alternative
11 payment procedure.”; and

12 (2) in paragraph (6)—

13 (A) by striking subparagraph (A) and in-
14 serting the following:

15 “(A) services under the State plan shall be
16 made available to nonresidents on the same
17 terms as to residents;”;

18 (B) in subparagraph (B)—

19 (i) by inserting “on individuals not re-
20 ceiving assistance under part A” after
21 “such services shall be imposed”; and

22 (ii) by inserting “but no fees or costs
23 shall be imposed on any absent or custo-
24 dial parent or other individual for inclusion

1 in the central State registry maintained
2 pursuant to section 454A(e)”; and

3 (C) in each of subparagraphs (B), (C), and
4 (D)—

5 (i) by indenting such subparagraph
6 and aligning its left margin with the left
7 margin of subparagraph (A); and

8 (ii) by striking the final comma and
9 inserting a semicolon.

10 (c) CONFORMING AMENDMENTS.—

11 (1) Section 452(g)(2)(A) (42 U.S.C.
12 652(g)(2)(A)) is amended by striking “454(6)” each
13 place it appears and inserting “454(4)(A)(ii)”.

14 (2) Section 454(23) (42 U.S.C. 654(23)) is
15 amended, effective October 1, 1998, by striking “in-
16 formation as to any application fees for such services
17 and”.

18 (3) Section 466(a)(3)(B) (42 U.S.C.
19 666(a)(3)(B)) is amended by striking “in the case of
20 overdue support which a State has agreed to collect
21 under section 454(6)” and inserting “in any other
22 case”.

23 (4) Section 466(e) (42 U.S.C. 666(e)) is
24 amended by striking “or (6)”.

1 **SEC. 9402. DISTRIBUTION OF PAYMENTS.**

2 (a) DISTRIBUTIONS THROUGH STATE CHILD SUP-
3 PORT ENFORCEMENT AGENCY TO FORMER ASSISTANCE
4 RECIPIENTS.—Section 454(5) (42 U.S.C. 654(5)) is
5 amended—

6 (1) in subparagraph (A)—

7 (A) by striking “section 402(a)(26) is ef-
8 fective,” and inserting “section 403(b)(1)(E)(i)
9 is effective, except as otherwise specifically pro-
10 vided in section 464 or 466(a)(3),”; and

11 (B) by striking “except that” and all that
12 follows through the semicolon; and

13 (2) in subparagraph (B), by striking “, except”
14 and all that follows through “medical assistance”.

15 (b) DISTRIBUTION TO A FAMILY CURRENTLY RE-
16 CEIVING TEMPORARY EMPLOYMENT ASSISTANCE.—Sec-
17 tion 457 (42 U.S.C. 657) is amended—

18 (1) by striking subsection (a) and redesignating
19 subsection (b) as subsection (a);

20 (2) in subsection (a) (as so redesignated)—

21 (A) in the matter preceding paragraph (2),
22 to read as follows:

23 “(a) IN THE CASE OF A FAMILY RECEIVING TEA.—
24 Amounts collected under this part during any month as
25 support of a child who is receiving assistance under part
26 A (or a parent or caretaker relative of such a child) shall

1 (except in the case of a State exercising the option under
2 subsection (b)) be distributed as follows:

3 “(1) an amount equal to the amount that will
4 be disregarded pursuant to section 402(d)(2)(C)
5 shall be taken from each of—

6 “(A) the amounts received in a month
7 which represent payments for that month; and

8 “(B) the amounts received in a month
9 which represent payments for a prior month
10 which were made by the absent parent in that
11 prior month;

12 and shall be paid to the family without affecting its
13 eligibility for assistance or decreasing any amount
14 otherwise payable as assistance to such family dur-
15 ing such month;”;

16 (B) in paragraph (4), by striking “or (B)”
17 and all that follows through the period and in-
18 serting “; then (B) from any remainder,
19 amounts equal to arrearages of such support
20 obligations assigned, pursuant to part A, to any
21 other State or States shall be paid to such
22 other State or States and used to pay any such
23 arrearages (with appropriate reimbursement of
24 the Federal Government to the extent of its

1 participation in the financing); and then (C)
2 any remainder shall be paid to the family.”; and

3 (3) by inserting after subsection (a) (as so re-
4 designated) the following new subsection:

5 “(b) ALTERNATIVE DISTRIBUTION IN CASE OF FAM-
6 ILY RECEIVING TEA.—In the case of a State electing the
7 option under this subsection, amounts collected as de-
8 scribed in subsection (a) shall be distributed as follows:

9 “(1) an amount equal to the amount that will
10 be disregarded pursuant to section 402(d)(2)(C)
11 shall be taken from each of—

12 “(A) the amounts received in a month
13 which represent payments for that month; and

14 “(B) the amounts received in a month
15 which represent payments for a prior month
16 which were made by the absent parent in that
17 prior month;

18 and shall be paid to the family without affecting its
19 eligibility for assistance or decreasing any amount
20 otherwise payable as assistance to such family dur-
21 ing such month;

22 “(2) second, from any remainder, amounts
23 equal to the balance of support owed for the current
24 month shall be paid to the family;

1 “(3) third, from any remainder, amounts equal
2 to arrearages of such support obligations assigned,
3 pursuant to part A, to the State making the collec-
4 tion shall be retained and used by such State to pay
5 any such arrearages (with appropriate reimburse-
6 ment of the Federal Government to the extent of its
7 participation in the financing);

8 “(4) fourth, from any remainder, amounts
9 equal to arrearages of such support obligations as-
10 signed, pursuant to part A, to any other State or
11 States shall be paid to such other State or States
12 and used to pay any such arrearages (with appro-
13 priate reimbursement of the Federal Government to
14 the extent of its participation in the financing); and

15 “(5) fifth, any remainder shall be paid to the
16 family.”.

17 (c) DISTRIBUTION TO A FAMILY NOT RECEIVING
18 TEA.—Section 457(c) (42 U.S.C. 657(c)) is amended to
19 read as follows:

20 “(c) DISTRIBUTIONS IN CASE OF FAMILY NOT RE-
21 CEIVING TEA.—Amounts collected by a State agency
22 under this part during any month as support of a child
23 who is not receiving assistance under part A (or of a par-
24 ent or caretaker relative of such a child) shall (subject to

1 the remaining provisions of this section) be distributed as
2 follows:

3 “(1) first, amounts equal to the total of such
4 support owed for such month shall be paid to the
5 family;

6 “(2) second, from any remainder, amounts
7 equal to arrearages of such support obligations for
8 months during which such child did not receive as-
9 sistance under part A shall be paid to the family;

10 “(3) third, from any remainder, amounts equal
11 to arrearages of such support obligations assigned to
12 the State making the collection pursuant to part A
13 shall be retained and used by such State to pay any
14 such arrearages (with appropriate reimbursement of
15 the Federal Government to the extent of its partici-
16 pation in the financing); and

17 “(4) fourth, from any remainder, amounts
18 equal to arrearages of such support obligations as-
19 signed to any other State pursuant to part A shall
20 be paid to such other State or States, and used to
21 pay such arrearages, in the order in which such ar-
22 rearages accrued (with appropriate reimbursement
23 of the Federal Government to the extent of its par-
24 ticipation in the financing).”.

1 (d) DISTRIBUTION TO A CHILD RECEIVING ASSIST-
2 ANCE UNDER TITLE IV—E.—Section 457(d) (42 U.S.C.
3 657(d)) is amended, in the matter preceding paragraph
4 (1), by striking “Notwithstanding the preceding provisions
5 of this section, amounts” and inserting the following:

6 “(d) DISTRIBUTIONS IN CASE OF A CHILD RECEIV-
7 ING ASSISTANCE UNDER TITLE IV—E.—Amounts”.

8 (e) REGULATIONS.—The Secretary of Health and
9 Human Services shall promulgate regulations under part
10 A of title IV of the Social Security Act, establishing stand-
11 ards applicable to States electing the alternative formula
12 under section 457(b) of such Act for distribution of collec-
13 tions on behalf of families receiving temporary employ-
14 ment assistance, designed to minimize irregular monthly
15 payments to such families.

16 (f) CLERICAL AMENDMENTS.—Section 454 (42
17 U.S.C. 654) is amended—

18 (1) in paragraph (11)—

19 (A) by striking “(11)” and inserting
20 “(11)(A)”; and

21 (B) by inserting after the semicolon “and”;

22 and

23 (2) by redesignating paragraph (12) as sub-
24 paragraph (B) of paragraph (11).

25 (g) EFFECTIVE DATES.—

1 (1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, the amendments made by
3 this section shall become effective on October 1,
4 1996.

5 (2) FAMILY NOT RECEIVING TEA.—The amend-
6 ment made by subsection (c) shall become effective
7 on October 1, 1999.

8 (3) SPECIAL RULES.—

9 (A) APPLICABILITY.—A State may elect to
10 have the amendments made by any subsection
11 of this section become effective only with re-
12 spect to child support cases beginning on or
13 after the effective date of such subsection.

14 (B) DELAYED IMPLEMENTATION.—A State
15 may elect to have the amendments made by this
16 section (other than subsection (c)) become ef-
17 fective on a date later than October 1, 1996,
18 which date shall coincide with the operation of
19 the single statewide automated data processing
20 and information retrieval system required by
21 section 454A of the Social Security Act (as
22 added by section 9415(a)(2) of this Act) and
23 the State centralized collection unit required by
24 section 454B of the Social Security Act (as
25 added by section 9422(b) of this Act).

1 **SEC. 9403. DUE PROCESS RIGHTS.**

2 (a) IN GENERAL.—Section 454 (42 U.S.C. 654), as
3 amended by section 9402(f) of this Act, is amended by
4 inserting after paragraph (11) the following new para-
5 graph:

6 “(12) provide for procedures to ensure that—

7 “(A) individuals who are applying for or
8 receiving services under this part, or are parties
9 to cases in which services are being provided
10 under this part—

11 “(i) receive notice of all proceedings in
12 which support obligations might be estab-
13 lished or modified; and

14 “(ii) receive a copy of any order estab-
15 lishing or modifying a child support obliga-
16 tion, or (in the case of a petition for modi-
17 fication) a notice of determination that
18 there should be no change in the amount
19 of the child support award, within 14 days
20 after issuance of such order or determina-
21 tion;

22 “(B) individuals applying for or receiving
23 services under this part have access to a fair
24 hearing that meets standards established by the
25 Secretary and ensures prompt consideration
26 and resolution of complaints (but the resort to

1 such procedure shall not stay the enforcement
2 of any support order); and

3 “(C) individuals adversely affected by the
4 establishment or modification of (or, in the case
5 of a petition for modification, the determination
6 that there should be no change in) a child sup-
7 port order shall be afforded not less than 30
8 days after the receipt of the order or determina-
9 tion to initiate proceedings to challenge such
10 order or determination;”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall become effective on October 1, 1997.

13 **SEC. 9404. PRIVACY SAFEGUARDS.**

14 (a) STATE PLAN REQUIREMENT.—Section 454 (42
15 U.S.C. 454) is amended—

16 (1) by striking “and” at the end of paragraph
17 (23);

18 (2) by striking the period at the end of para-
19 graph (24) and inserting “; and”; and

20 (3) by adding after paragraph (24) the follow-
21 ing:

22 “(25) will have in effect safeguards applicable
23 to all sensitive and confidential information handled
24 by the State agency designed to protect the privacy
25 rights of the parties, including—

1 “(A) safeguards against unauthorized use
2 or disclosure of information relating to proceed-
3 ings or actions to establish paternity, or to es-
4 tablish or enforce support;

5 “(B) prohibitions on the release of infor-
6 mation on the whereabouts of one party to an-
7 other party against whom a protective order
8 with respect to the former party has been en-
9 tered; and

10 “(C) prohibitions on the release of infor-
11 mation on the whereabouts of one party to an-
12 other party if the State has reason to believe
13 that the release of the information may result
14 in physical or emotional harm to the former
15 party.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall become effective on October 1, 1997.

18 **CHAPTER 2—PROGRAM ADMINISTRATION**

19 **AND FUNDING**

20 **SEC. 9411. FEDERAL MATCHING PAYMENTS.**

21 (a) INCREASED BASE MATCHING RATE.—Section
22 455(a)(2) (42 U.S.C. 655(a)(2)) is amended to read as
23 follows:

24 “(2) The applicable percent for a quarter for
25 purposes of paragraph (1)(A) is—

1 “(A) for fiscal year 1997, 69 percent,
2 “(B) for fiscal year 1998, 72 percent, and
3 “(C) for fiscal year 1999 and succeeding
4 fiscal years, 75 percent.”.

5 (b) MAINTENANCE OF EFFORT.—Section 455 (42
6 U.S.C. 655) is amended—

7 (1) in subsection (a)(1), in the matter preced-
8 ing subparagraph (A), by striking “From” and in-
9 serting “Subject to subsection (c), from”; and
10 (2) by inserting after subsection (b) the follow-
11 ing new subsection:

12 “(c) MAINTENANCE OF EFFORT.—Notwithstanding
13 the provisions of subsection (a), total expenditures for the
14 State program under this part for fiscal year 1997 and
15 each succeeding fiscal year, reduced by the percentage
16 specified for such fiscal year under subsection (a)(2)(A),
17 (B), or (C)(i), shall not be less than such total expendi-
18 tures for fiscal year 1996, reduced by 66 percent.”.

19 **SEC. 9412. PERFORMANCE-BASED INCENTIVES AND PEN-**
20 **ALTIES.**

21 (a) INCENTIVE ADJUSTMENTS TO FEDERAL MATCH-
22 ING RATE.—Section 458 (42 U.S.C. 658) is amended to
23 read as follows:

24 “INCENTIVE ADJUSTMENTS TO MATCHING RATE
25 “SEC. 458. (a) INCENTIVE ADJUSTMENT.—(1) IN
26 GENERAL.—In order to encourage and reward State child

1 support enforcement programs which perform in an effective manner, the Federal matching rate for payments to a State under section 455(a)(1)(A), for each fiscal year beginning on or after October 1, 1998, shall be increased by a factor reflecting the sum of the applicable incentive adjustments (if any) determined in accordance with regulations under this section with respect to Statewide paternity establishment and to overall performance in child support enforcement.

10 “(2) STANDARDS.—(A) IN GENERAL.—The Secretary shall specify in regulations—

12 “(i) the levels of accomplishment, and rates of improvement as alternatives to such levels, which States must attain to qualify for incentive adjustments under this section; and

16 “(ii) the amounts of incentive adjustment that shall be awarded to States achieving specified accomplishment or improvement levels, which amounts shall be graduated, ranging up to—

20 “(I) 5 percentage points, in connection with Statewide paternity establishment; and

22 “(II) 10 percentage points, in connection with overall performance in child support enforcement.

1 “(B) LIMITATION.—In setting performance stand-
2 ards pursuant to subparagraph (A)(i) and adjustment
3 amounts pursuant to subparagraph (A)(ii), the Secretary
4 shall ensure that the aggregate number of percentage
5 point increases as incentive adjustments to all States do
6 not exceed such aggregate increases as assumed by the
7 Secretary in estimates of the cost of this section as of
8 June 1995, unless the aggregate performance of all States
9 exceeds the projected aggregate performance of all States
10 in such cost estimates.

11 “(3) DETERMINATION OF INCENTIVE ADJUST-
12 MENT.—The Secretary shall determine the amount (if
13 any) of incentive adjustment due each State on the basis
14 of the data submitted by the State pursuant to section
15 454(15)(B) concerning the levels of accomplishment (and
16 rates of improvement) with respect to performance indica-
17 tors specified by the Secretary pursuant to this section.

18 “(4) FISCAL YEAR SUBJECT TO INCENTIVE ADJUST-
19 MENT.—The total percentage point increase determined
20 pursuant to this section with respect to a State program
21 in a fiscal year shall apply as an adjustment to the appli-
22 cable percent under section 455(a)(2) for payments to
23 such State for the succeeding fiscal year.

24 “(5) RECYCLING OF INCENTIVE ADJUSTMENT.—A
25 State shall expend in the State program under this part

1 all funds paid to the State by the Federal Government
2 as a result of an incentive adjustment under this section.

3 “(b) MEANING OF TERMS.—For purposes of this sec-
4 tion—

5 “(1) the term ‘Statewide paternity establish-
6 ment percentage’ means, with respect to a fiscal
7 year, the ratio (expressed as a percentage) of—

8 “(A) the total number of out-of-wedlock
9 children in the State under one year of age for
10 whom paternity is established or acknowledged
11 during the fiscal year, to

12 “(B) the total number of children born out
13 of wedlock in the State during such fiscal year;
14 and

15 “(2) the term ‘overall performance in child sup-
16 port enforcement’ means a measure or measures of
17 the effectiveness of the State agency in a fiscal year
18 which takes into account factors including—

19 “(A) the percentage of cases requiring a
20 child support order in which such an order was
21 established;

22 “(B) the percentage of cases in which child
23 support is being paid;

24 “(C) the ratio of child support collected to
25 child support due; and

1 “(D) the cost-effectiveness of the State
2 program, as determined in accordance with
3 standards established by the Secretary in regu-
4 lations.”.

5 (b) ADJUSTMENT OF PAYMENTS UNDER PART D OF
6 TITLE IV.—Section 455(a)(2) (42 U.S.C. 655(a)(2)), as
7 amended by section 9411(a) of this Act, is amended—

8 (1) by striking the period at the end of sub-
9 paragraph (C)(ii) and inserting a comma; and

10 (2) by adding after and below subparagraph
11 (C), flush with the left margin of the subsection, the
12 following:

13 “increased by the incentive adjustment factor (if any) de-
14 termined by the Secretary pursuant to section 458.”.

15 (c) CONFORMING AMENDMENTS.—Section 454(22)
16 (42 U.S.C. 654(22)) is amended—

17 (1) by striking “incentive payments” the first
18 place it appears and inserting “incentive adjust-
19 ments”; and

20 (2) by striking “any such incentive payments
21 made to the State for such period” and inserting
22 “any increases in Federal payments to the State re-
23 sulting from such incentive adjustments”.

24 (d) CALCULATION OF IV–D PATERNITY ESTABLISH-
25 MENT PERCENTAGE.—(1) Section 452(g)(1) (42 U.S.C.

1 652(g)(1)) is amended in the matter preceding subpara-
2 graph (A) by inserting “its overall performance in child
3 support enforcement is satisfactory (as defined in section
4 458(b) and regulations of the Secretary), and” after
5 “1994,”.

6 (2) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is
7 amended—

8 (A) in subparagraph (A), in the matter preced-
9 ing clause (i)—

10 (i) by striking “paternity establishment
11 percentage” and inserting “IV–D paternity es-
12 tablishment percentage”; and

13 (ii) by striking “(or all States, as the case
14 may be)”;

15 (B) in subparagraph (A)(i), by striking “during
16 the fiscal year”;

17 (C) in subparagraph (A)(ii)(I), by striking “as
18 of the end of the fiscal year” and inserting “in the
19 fiscal year or, at the option of the State, as of the
20 end of such year”;

21 (D) in subparagraph (A)(ii)(II), by striking “or
22 (E) as of the end of the fiscal year” and inserting
23 “in the fiscal year or, at the option of the State, as
24 of the end of such year”;

25 (E) in subparagraph (A)(iii)—

1 (i) by striking “during the fiscal year”;

2 and

3 (ii) by striking “and” at the end; and

4 (F) in the matter following subparagraph (A)—

5 (i) by striking “who were born out of wed-
6 lock during the immediately preceding fiscal
7 year” and inserting “born out of wedlock”;

8 (ii) by striking “such preceding fiscal
9 year” both places it appears and inserting “the
10 preceding fiscal year”; and

11 (iii) by striking “or (E)” the second place
12 it appears.

13 (3) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is
14 amended—

15 (A) by striking subparagraph (A) and redesignating
16 subparagraphs (B) and (C) as subparagraphs
17 (A) and (B), respectively;

18 (B) in subparagraph (A), as redesignated, by
19 striking “the percentage of children born out-of-wed-
20 lock in the State” and inserting “the percentage of
21 children in the State who are born out of wedlock
22 or for whom support has not been established”; and

23 (C) in subparagraph (B), as redesignated—

1 (i) by inserting “and overall performance
2 in child support enforcement” after “paternity
3 establishment percentages”; and

4 (ii) by inserting “and securing support”
5 before the period.

6 (e) REDUCTION OF PAYMENTS UNDER PART D OF
7 TITLE IV.—

8 (1) NEW REQUIREMENTS.—Section 455 (42
9 U.S.C. 655) is amended by inserting after sub-
10 section (b) the following:

11 “(c)(1) If the Secretary finds, with respect to a State
12 program under this part in a fiscal year beginning on or
13 after October 1, 1997—

14 “(A)(i) on the basis of data submitted by a
15 State pursuant to section 454(15)(B), that the State
16 program in such fiscal year failed to achieve the IV-
17 D paternity establishment percentage (as defined in
18 section 452(g)(2)(A)) or the appropriate level of
19 overall performance in child support enforcement (as
20 defined in section 458(b)(2)), or to meet other per-
21 formance measures that may be established by the
22 Secretary, or

23 “(ii) on the basis of an audit or audits of such
24 State data conducted pursuant to section
25 452(a)(4)(C), that the State data submitted pursu-

1 ant to section 454(15)(B) is incomplete or unreli-
2 able; and

3 “(B) that, with respect to the succeeding fiscal
4 year—

5 “(i) the State failed to take sufficient cor-
6 rective action to achieve the appropriate per-
7 formance levels as described in subparagraph
8 (A)(i) of this paragraph, or

9 “(ii) the data submitted by the State pur-
10 suant to section 454(15)(B) is incomplete or
11 unreliable,

12 the amounts otherwise payable to the State under this
13 part for quarters following the end of such succeeding fis-
14 cal year, prior to quarters following the end of the first
15 quarter throughout which the State program is in compli-
16 ance with such performance requirement, shall be reduced
17 by the percentage specified in paragraph (2).

18 “(2) The reductions required under paragraph (1)
19 shall be—

20 “(A) not less than 6 nor more than 8 percent,
21 or

22 “(B) not less than 8 nor more than 12 percent,
23 if the finding is the second consecutive finding made
24 pursuant to paragraph (1), or

1 “(C) not less than 12 nor more than 15 per-
2 cent, if the finding is the third or a subsequent con-
3 secutive such finding.

4 “(3) For purposes of this subsection, section 405(d),
5 and section 452(a)(4), a State which is determined as a
6 result of an audit to have submitted incomplete or unreli-
7 able data pursuant to section 454(15)(B), shall be deter-
8 mined to have submitted adequate data if the Secretary
9 determines that the extent of the incompleteness or
10 unreliability of the data is of a technical nature which does
11 not adversely affect the determination of the level of the
12 State’s performance.”.

13 (2) CONFORMING AMENDMENTS.—

14 (A) Section 452(a)(4) (42 U.S.C.
15 652(a)(4)) is amended by striking “403(h)”
16 each place such term appears and inserting
17 “455(c)”.

18 (B) Subsections (d)(3)(A), (g)(1), and
19 (g)(3)(A) of section 452 (42 U.S.C. 652) are
20 each amended by striking “403(h)” and insert-
21 ing “455(c)”.

22 (f) EFFECTIVE DATES.—

23 (1) INCENTIVE ADJUSTMENTS.—(A) The
24 amendments made by subsections (a), (b), and (c)

1 shall become effective October 1, 1997, except to the
2 extent provided in subparagraph (B).

3 (B) Section 458 of the Social Security Act, as
4 in effect prior to the enactment of this section, shall
5 be effective for purposes of incentive payments to
6 States for fiscal years prior to fiscal year 1999.

7 (2) PENALTY REDUCTIONS.—(A) The amend-
8 ments made by subsection (d) shall become effective
9 with respect to calendar quarters beginning on and
10 after the date of enactment of this Act.

11 (B) The amendments made by subsection (e)
12 shall become effective with respect to calendar quar-
13 ters beginning on and after the date one year after
14 the date of enactment of this Act.

15 **SEC. 9413. FEDERAL AND STATE REVIEWS AND AUDITS.**

16 (a) STATE AGENCY ACTIVITIES.—Section 454 (42
17 U.S.C. 654) is amended—

18 (1) in paragraph (14), by striking “(14)” and
19 inserting “(14)(A)”;

20 (2) by redesignating paragraph (15) as sub-
21 paragraph (B) of paragraph (14); and

22 (3) by inserting after paragraph (14) the fol-
23 lowing new paragraph:

24 “(15) provide for—

1 “(A) a process for annual reviews of and
2 reports to the Secretary on the State program
3 under this part, which shall include such infor-
4 mation as may be necessary to measure State
5 compliance with Federal requirements for expe-
6 dited procedures and timely case processing,
7 using such standards and procedures as are re-
8 quired by the Secretary, under which the State
9 agency will determine the extent to which such
10 program is in conformity with applicable re-
11 quirements with respect to the operation of
12 State programs under this part (including the
13 status of complaints filed under the procedure
14 required under paragraph (12)(B)); and

15 “(B) a process of extracting from the
16 State automated data processing system and
17 transmitting to the Secretary data and calcula-
18 tions concerning the levels of accomplishment
19 (and rates of improvement) with respect to ap-
20 plicable performance indicators (including IV–D
21 paternity establishment percentages and overall
22 performance in child support enforcement) to
23 the extent necessary for purposes of sections
24 452(g) and 458.”.

1 (b) FEDERAL ACTIVITIES.—Section 452(a)(4) (42
2 U.S.C. 652(a)(4)) is amended to read as follows:

3 “(4)(A) review data and calculations transmit-
4 ted by State agencies pursuant to section
5 454(15)(B) on State program accomplishments with
6 respect to performance indicators for purposes of
7 section 452(g) and 458, and determine the amount
8 (if any) of penalty reductions pursuant to section
9 455(c) to be applied to the State;

10 “(B) review annual reports by State agencies
11 pursuant to section 454(15)(A) on State program
12 conformity with Federal requirements; evaluate any
13 elements of a State program in which significant de-
14 ficiencies are indicated by such report on the status
15 of complaints under the State procedure under sec-
16 tion 454(12)(B); and, as appropriate, provide to the
17 State agency comments, recommendations for addi-
18 tional or alternative corrective actions, and technical
19 assistance; and

20 “(C) conduct audits, in accordance with the
21 government auditing standards of the United States
22 Comptroller General—

23 “(i) at least once every 3 years (or more
24 frequently, in the case of a State which fails to
25 meet requirements of this part, or of regula-

1 tions implementing such requirements, concern-
2 ing performance standards and reliability of
3 program data) to assess the completeness, reli-
4 ability, and security of the data, and the accu-
5 racy of the reporting systems, used for the cal-
6 culations of performance indicators specified in
7 subsection (g) and section 458;

8 “(ii) of the adequacy of financial manage-
9 ment of the State program, including assess-
10 ments of—

11 “(I) whether Federal and other funds
12 made available to carry out the State pro-
13 gram under this part are being appro-
14 priately expended, and are properly and
15 fully accounted for; and

16 “(II) whether collections and disburse-
17 ments of support payments and program
18 income are carried out correctly and are
19 properly and fully accounted for; and

20 “(iii) for such other purposes as the Sec-
21 retary may find necessary;”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall be effective with respect to calendar
24 quarters beginning on or after the date one year after en-
25 actment of this section.

1 **SEC. 9414. REQUIRED REPORTING PROCEDURES.**

2 (a) ESTABLISHMENT.—Section 452(a)(5) (42 U.S.C.
3 652(a)(5)) is amended by inserting “, and establish proce-
4 dures to be followed by States for collecting and reporting
5 information required to be provided under this part, and
6 establish uniform definitions (including those necessary to
7 enable the measurement of State compliance with the re-
8 quirements of this part relating to expedited processes and
9 timely case processing) to be applied in following such pro-
10 cedures” before the semicolon.

11 (b) STATE PLAN REQUIREMENT.—Section 454 (42
12 U.S.C. 654), as amended by section 9404(a) of this Act,
13 is amended—

14 (1) by striking “and” at the end of paragraph
15 (24);

16 (2) by striking the period at the end of para-
17 graph (25) and inserting “; and”; and

18 (3) by adding after paragraph (25) the follow-
19 ing:

20 “(26) provide that the State shall use the defi-
21 nitions established under section 452(a)(5) in col-
22 lecting and reporting information as required under
23 this part.”.

1 **SEC. 9415. AUTOMATED DATA PROCESSING REQUIRE-**
2 **MENTS.**

3 (a) REVISED REQUIREMENTS.—(1) Section 454(16)
4 (42 U.S.C. 654(16)) is amended—

5 (A) by striking “, at the option of the State,”;

6 (B) by inserting “and operation by the State
7 agency” after “for the establishment”;

8 (C) by inserting “meeting the requirements of
9 section 454A” after “information retrieval system”;

10 (D) by striking “in the State and localities
11 thereof, so as (A)” and inserting “so as”;

12 (E) by striking “(i)”; and

13 (F) by striking “(including” and all that follows
14 and inserting a semicolon.

15 (2) Part D of title IV (42 U.S.C. 651–669) is amend-
16 ed by inserting after section 454 the following new section:

17 “AUTOMATED DATA PROCESSING

18 “SEC. 454A. (a) IN GENERAL.—In order to meet the
19 requirements of this section, for purposes of the require-
20 ment of section 454(16), a State agency shall have in op-
21 eration a single statewide automated data processing and
22 information retrieval system which has the capability to
23 perform the tasks specified in this section, and performs
24 such tasks with the frequency and in the manner specified
25 in this part or in regulations or guidelines of the Sec-
26 retary.

1 “(b) PROGRAM MANAGEMENT.—The automated sys-
2 tem required under this section shall perform such func-
3 tions as the Secretary may specify relating to management
4 of the program under this part, including—

5 “(1) controlling and accounting for use of Fed-
6 eral, State, and local funds to carry out such pro-
7 gram; and

8 “(2) maintaining the data necessary to meet
9 Federal reporting requirements on a timely basis.

10 “(c) CALCULATION OF PERFORMANCE INDICA-
11 TORS.—In order to enable the Secretary to determine the
12 incentive and penalty adjustments required by sections
13 452(g) and 458, the State agency shall—

14 “(1) use the automated system—

15 “(A) to maintain the requisite data on
16 State performance with respect to paternity es-
17 tablishment and child support enforcement in
18 the State; and

19 “(B) to calculate the IV–D paternity es-
20 tablishment percentage and overall performance
21 in child support enforcement for the State for
22 each fiscal year; and

23 “(2) have in place systems controls to ensure
24 the completeness, and reliability of, and ready access
25 to, the data described in paragraph (1)(A), and the

1 accuracy of the calculations described in paragraph
2 (1)(B).

3 “(d) INFORMATION INTEGRITY AND SECURITY.—The
4 State agency shall have in effect safeguards on the integ-
5 rity, accuracy, and completeness of, access to, and use of
6 data in the automated system required under this section,
7 which shall include the following (in addition to such other
8 safeguards as the Secretary specifies in regulations):

9 “(1) POLICIES RESTRICTING ACCESS.—Written
10 policies concerning access to data by State agency
11 personnel, and sharing of data with other persons,
12 which—

13 “(A) permit access to and use of data only
14 to the extent necessary to carry out program re-
15 sponsibilities;

16 “(B) specify the data which may be used
17 for particular program purposes, and the per-
18 sonnel permitted access to such data; and

19 “(C) ensure that data obtained or disclosed
20 for a limited program purpose is not used or
21 redisclosed for another, impermissible purpose.

22 “(2) SYSTEMS CONTROLS.—Systems controls
23 (such as passwords or blocking of fields) to ensure
24 strict adherence to the policies specified under para-
25 graph (1).

1 “(3) MONITORING OF ACCESS.—Routine mon-
2 itoring of access to and use of the automated sys-
3 tem, through methods such as audit trails and feed-
4 back mechanisms, to guard against and promptly
5 identify unauthorized access or use.

6 “(4) TRAINING AND INFORMATION.—The State
7 agency shall have in effect procedures to ensure that
8 all personnel (including State and local agency staff
9 and contractors) who may have access to or be re-
10 quired to use sensitive or confidential program data
11 are fully informed of applicable requirements and
12 penalties, and are adequately trained in security pro-
13 cedures.

14 “(5) PENALTIES.—The State agency shall have
15 in effect administrative penalties (up to and includ-
16 ing dismissal from employment) for unauthorized ac-
17 cess to, or disclosure or use of, confidential data.”.

18 (3) REGULATIONS.—Section 452 (42 U.S.C. 652) is
19 amended by adding at the end the following:

20 “(j) The Secretary shall prescribe final regulations
21 for implementation of the requirements of section 454A
22 not later than 2 years after the date of the enactment of
23 this subsection.”.

24 (4) IMPLEMENTATION TIMETABLE.—Section
25 454(24) (42 U.S.C. 654(24)), as amended by sections

1 9404(a)(2) and 9414(b)(1) of this Act, is amended to read
2 as follows:

3 “(24) provide that the State will have in effect
4 an automated data processing and information re-
5 trieval system—

6 “(A) by October 1, 1995, meeting all re-
7 quirements of this part which were enacted on
8 or before the date of enactment of the Family
9 Support Act of 1988; and

10 “(B) by October 1, 1999, meeting all re-
11 quirements of this part enacted on or before the
12 date of enactment of the Omnibus Budget Rec-
13 onciliation Act of 1995 (but this provision shall
14 not be construed to alter earlier deadlines speci-
15 fied for elements of such system), except that
16 such deadline shall be extended by 1 day for
17 each day (if any) by which the Secretary fails
18 to meet the deadline imposed by section 452(j)
19 of this Act;”.

20 (b) SPECIAL FEDERAL MATCHING RATE FOR DE-
21 VELOPMENT COSTS OF AUTOMATED SYSTEMS.—Section
22 455(a) (42 U.S.C. 655(a)) is amended—

23 (1) in paragraph (1)(B)—

24 (A) by striking “90 percent” and inserting
25 “the percent specified in paragraph (3)”;

1 (B) by striking “so much of”; and

2 (C) by striking “which the Secretary” and

3 all that follows and inserting “, and”; and

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

6 “(3)(A) The Secretary shall pay to each State, for
7 each quarter in fiscal year 1996, 90 percent of so much
8 of State expenditures described in subparagraph (1)(B) as
9 the Secretary finds are for a system meeting the require-
10 ments specified in section 454(16), or meeting such re-
11 quirements without regard to clause (D) thereof.

12 “(B)(i) The Secretary shall pay to each State, for
13 each quarter in fiscal years 1997 through 2001, the per-
14 centage specified in clause (ii) of so much of State expend-
15 itures described in subparagraph (1)(B) as the Secretary
16 finds are for a system meeting the requirements specified
17 in sections 454(16) and 454A, subject to clause (iii).

18 “(ii) The percentage specified in this clause, for pur-
19 poses of clause (i), is the higher of—

20 “(I) 80 percent, or

21 “(II) the percentage otherwise applicable to
22 Federal payments to the State under subparagraph
23 (A) (as adjusted pursuant to section 458).”.

1 (c) CONFORMING AMENDMENT.—Section 123(c) of
2 the Family Support Act of 1988 (102 Stat. 2352; Public
3 Law 100–485) is repealed.

4 (d) ADDITIONAL PROVISIONS.—For additional provi-
5 sions of section 454A, as added by subsection (a) of this
6 section, see the amendments made by sections 9421,
7 9422(c), and 9433(d) of this Act.

8 **SEC. 9416. DIRECTOR OF CSE PROGRAM; STAFFING STUDY.**

9 (a) REPORTING TO SECRETARY.—Section 452(a) (42
10 U.S.C. 652(a)) is amended in the matter preceding para-
11 graph (1) by striking “directly”.

12 (b) STAFFING STUDIES.—

13 (1) SCOPE.—The Secretary of Health and
14 Human Services shall, directly or by contract, con-
15 duct studies of the staffing of each State child sup-
16 port enforcement program under part D of title IV
17 of the Social Security Act. Such studies shall include
18 a review of the staffing needs created by require-
19 ments for automated data processing, maintenance
20 of a central case registry and centralized collections
21 of child support, and of changes in these needs re-
22 sulting from changes in such requirements. Such
23 studies shall examine and report on effective staffing
24 practices used by the States and on recommended
25 staffing procedures.

1 (2) FREQUENCY OF STUDIES.—The Secretary
2 shall complete the first staffing study required under
3 paragraph (1) by October 1, 1997, and may conduct
4 additional studies subsequently at appropriate inter-
5 vals.

6 (3) REPORT TO THE CONGRESS.—The Sec-
7 retary shall submit a report to the Congress stating
8 the findings and conclusions of each study conducted
9 under this subsection.

10 **SEC. 9417. FUNDING FOR SECRETARIAL ASSISTANCE TO**
11 **STATE PROGRAMS.**

12 Section 452 (42 U.S.C. 652), as amended by section
13 9415(a)(3) of this Act, is amended by adding at the end
14 the following new subsection:

15 “(k) FUNDING FOR FEDERAL ACTIVITIES ASSISTING
16 STATE PROGRAMS.—(1) There shall be available to the
17 Secretary, from amounts appropriated for fiscal year 1996
18 and each succeeding fiscal year for payments to States
19 under this part, the amount specified in paragraph (2) for
20 the costs to the Secretary for—

21 “(A) information dissemination and technical
22 assistance to States, training of State and Federal
23 staff, staffing studies, and related activities needed
24 to improve programs (including technical assistance
25 concerning State automated systems);

1 “(B) research, demonstration, and special
2 projects of regional or national significance relating
3 to the operation of State programs under this part;
4 and

5 “(C) operation of the Federal Parent Locator
6 Service under section 453, to the extent such costs
7 are not recovered through user fees.

8 “(2) The amount specified in this paragraph for a
9 fiscal year is the amount equal to a percentage of the re-
10 duction in Federal payments to States under part A on
11 account of child support (including arrearages) collected
12 in the preceding fiscal year on behalf of children receiving
13 assistance under State plans approved under part A in
14 such preceding fiscal year (as determined on the basis of
15 the most recent reliable data available to the Secretary
16 as of the end of the third calendar quarter following the
17 end of such preceding fiscal year), equal to—

18 “(A) 1 percent, for the activities specified in
19 subparagraphs (A) and (B) of paragraph (1); and

20 “(B) 2 percent, for the activities specified in
21 subparagraph (C) of paragraph (1).”.

22 **SEC. 9418. REPORTS AND DATA COLLECTION BY THE SEC-**
23 **RETARY.**

24 (a) ANNUAL REPORT TO CONGRESS.—(1) Section
25 452(a)(10)(A) (42 U.S.C. 652(a)(10)(A)) is amended—

1 (A) by striking “this part;” and inserting “this
2 part, including—”; and

3 (B) by adding at the end the following indented
4 clauses:

5 “(i) the total amount of child support
6 payments collected as a result of services
7 furnished during such fiscal year to indi-
8 viduals receiving services under this part;

9 “(ii) the cost to the States and to the
10 Federal Government of furnishing such
11 services to those individuals; and

12 “(iii) the number of cases involving
13 families—

14 “(I) who became ineligible for as-
15 sistance under a State plan approved
16 under part A during a month in such
17 fiscal year; and

18 “(II) with respect to whom a
19 child support payment was received in
20 the same month;”.

21 (2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C))
22 is amended—

23 (A) in the matter preceding clause (i)—

24 (i) by striking “with the data required
25 under each clause being separately stated for

1 cases” and inserting “separately stated for (1)
2 cases”;

3 (ii) by striking “cases where the child was
4 formerly receiving” and inserting “or formerly
5 received”;

6 (iii) by inserting “or 1912” after
7 “471(a)(17)”; and

8 (iv) by inserting “(2)” before “all other”;

9 (B) in each of clauses (i) and (ii), by striking
10 “, and the total amount of such obligations”;

11 (C) in clause (iii), by striking “described in”
12 and all that follows and inserting “in which support
13 was collected during the fiscal year;”;

14 (D) by striking clause (iv); and

15 (E) by redesignating clause (v) as clause (vii),
16 and inserting after clause (iii) the following new
17 clauses:

18 “(iv) the total amount of support col-
19 lected during such fiscal year and distrib-
20 uted as current support;

21 “(v) the total amount of support col-
22 lected during such fiscal year and distrib-
23 uted as arrearages;

24 “(vi) the total amount of support due
25 and unpaid for all fiscal years; and”.

1 (3) Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G))
2 is amended by striking “on the use of Federal courts
3 and”.

4 (4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is
5 amended by striking all that follows subparagraph (I).

6 (b) DATA COLLECTION AND REPORTING.—Section
7 469 (42 U.S.C. 669) is amended—

8 (1) by striking subsections (a) and (b) and in-
9 serting the following:

10 “(a) The Secretary shall collect and maintain, on a
11 fiscal year basis, up-to-date statistics, by State, with re-
12 spect to services to establish paternity and services to es-
13 tablish child support obligations, the data specified in sub-
14 section (b), separately stated, in the case of each such
15 service, with respect to—

16 “(1) families (or dependent children) receiving
17 assistance under State plans approved under part A
18 (or E); and

19 “(2) families not receiving such assistance.

20 “(b) The data referred to in subsection (a) are—

21 “(1) the number of cases in the caseload of the
22 State agency administering the plan under this part
23 in which such service is needed; and

24 “(2) the number of such cases in which the
25 service has been provided.”; and

1 (2) in subsection (c), by striking “(a)(2)” and
2 inserting “(b)(2)”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall be effective with respect to fiscal year
5 1996 and succeeding fiscal years.

6 **CHAPTER 3—LOCATE AND CASE**

7 **TRACKING**

8 **SEC. 9421. CENTRAL STATE AND CASE REGISTRY.**

9 Section 454A, as added by section 9415(a)(2) of this
10 Act, is amended by adding at the end the following:

11 “(e) CENTRAL CASE REGISTRY.—(1) IN GEN-
12 ERAL.—The automated system required under this section
13 shall perform the functions, in accordance with the provi-
14 sions of this subsection, of a single central registry con-
15 taining records with respect to each case in which services
16 are being provided by the State agency (including, on and
17 after October 1, 1998, each order specified in section
18 466(a)(12)), using such standardized data elements (such
19 as names, social security numbers or other uniform identi-
20 fication numbers, dates of birth, and case identification
21 numbers), and containing such other information (such as
22 information on case status) as the Secretary may require.

23 “(2) PAYMENT RECORDS.—Each case record in the
24 central registry shall include a record of—

1 “(A) the amount of monthly (or other periodic)
2 support owed under the support order, and other
3 amounts due or overdue (including arrears, interest
4 or late payment penalties, and fees);

5 “(B) the date on which or circumstances under
6 which the support obligation will terminate under
7 such order;

8 “(C) all child support and related amounts col-
9 lected (including such amounts as fees, late payment
10 penalties, and interest on arrearages);

11 “(D) the distribution of such amounts collected;
12 and

13 “(E) the birth date of the child for whom the
14 child support order is entered.

15 “(3) UPDATING AND MONITORING.—The State agen-
16 cy shall promptly establish and maintain, and regularly
17 monitor, case records in the registry required by this sub-
18 section, on the basis of—

19 “(A) information on administrative actions and
20 administrative and judicial proceedings and orders
21 relating to paternity and support;

22 “(B) information obtained from matches with
23 Federal, State, or local data sources;

24 “(C) information on support collections and dis-
25 tributions; and

1 “(D) any other relevant information.

2 “(f) DATA MATCHES AND OTHER DISCLOSURES OF
3 INFORMATION.—The automated system required under
4 this section shall have the capacity, and be used by the
5 State agency, to extract data at such times, and in such
6 standardized format or formats, as may be required by
7 the Secretary, and to share and match data with, and re-
8 ceive data from, other data bases and data matching serv-
9 ices, in order to obtain (or provide) information necessary
10 to enable the State agency (or Secretary or other State
11 or Federal agencies) to carry out responsibilities under
12 this part. Data matching activities of the State agency
13 shall include at least the following:

14 “(1) DATA BANK OF CHILD SUPPORT OR-
15 DERS.—Furnish to the Data Bank of Child Support
16 Orders established under section 453(h) (and update
17 as necessary, with information including notice of
18 expiration of orders) minimal information (to be
19 specified by the Secretary) on each child support
20 case in the central case registry.

21 “(2) FEDERAL PARENT LOCATOR SERVICE.—
22 Exchange data with the Federal Parent Locator
23 Service for the purposes specified in section 453.

24 “(3) TEMPORARY EMPLOYMENT ASSISTANCE
25 PROGRAM AND MEDICAID AGENCIES.—Exchange

1 data with State agencies (of the State and of other
2 States) administering the programs under part A
3 and title XIX, as necessary for the performance of
4 State agency responsibilities under this part and
5 under such programs.

6 “(4) INTRA- AND INTERSTATE DATA
7 MATCHES.—Exchange data with other agencies of
8 the State, agencies of other States, and interstate
9 information networks, as necessary and appropriate
10 to carry out (or assist other States to carry out) the
11 purposes of this part.”.

12 **SEC. 9422. CENTRALIZED COLLECTION AND DISBURSE-**
13 **MENT OF SUPPORT PAYMENTS.**

14 (a) STATE PLAN REQUIREMENT.—Section 454 (42
15 U.S.C. 654), as amended by sections 9404(a) and 9414(b)
16 of this Act, is amended—

17 (1) by striking “and” at the end of paragraph
18 (25);

19 (2) by striking the period at the end of para-
20 graph (26) and inserting “; and”; and

21 (3) by adding after paragraph (26) the follow-
22 ing new paragraph:

23 “(27) provide that the State agency, on and
24 after October 1, 1998—

1 “(1) operated directly by the State agency (or
2 by two or more State agencies under a regional co-
3 operative agreement), or by a single contractor re-
4 sponsible directly to the State agency; and

5 “(2) used for the collection and disbursement
6 (including interstate collection and disbursement) of
7 payments under support orders in all cases being en-
8 forced by the State pursuant to section 454(4).

9 “(b) REQUIRED PROCEDURES.—The centralized col-
10 lections unit shall use automated procedures, electronic
11 processes, and computer-driven technology to the maxi-
12 mum extent feasible, efficient, and economical, for the col-
13 lection and disbursement of support payments, including
14 procedures—

15 “(1) for receipt of payments from parents, em-
16 ployers, and other States, and for disbursements to
17 custodial parents and other obligees, the State agen-
18 cy, and the State agencies of other States;

19 “(2) for accurate identification of payments;

20 “(3) to ensure prompt disbursement of the cus-
21 todial parent’s share of any payment; and

22 “(4) to furnish to either parent, upon request,
23 timely information on the current status of support
24 payments.”.

1 (c) USE OF AUTOMATED SYSTEM.—Section 454A, as
2 added by section 9415(a)(2) of this Act and as amended
3 by section 9421 of this Act, is amended by adding at the
4 end the following new subsection:

5 “(g) CENTRALIZED COLLECTION AND DISTRIBUTION
6 OF SUPPORT PAYMENTS.—The automated system re-
7 quired under this section shall be used, to the maximum
8 extent feasible, to assist and facilitate collections and dis-
9 bursement of support payments through the centralized
10 collections unit operated pursuant to section 454B,
11 through the performance of functions including at a mini-
12 mum—

13 “(1) generation of orders and notices to em-
14 ployers (and other debtors) for the withholding of
15 wages (and other income)—

16 “(A) within two working days after receipt
17 (from the directory of New Hires established
18 under section 453(i) or any other source) of no-
19 tice of and the income source subject to such
20 withholding; and

21 “(B) using uniform formats directed by
22 the Secretary;

23 “(2) ongoing monitoring to promptly identify
24 failures to make timely payment; and

1 “(3) automatic use of enforcement mechanisms
2 (including mechanisms authorized pursuant to sec-
3 tion 466(c)) where payments are not timely made.”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall become effective on October 1, 1998.

6 **SEC. 9423. AMENDMENTS CONCERNING INCOME WITH-**
7 **HOLDING.**

8 (a) MANDATORY INCOME WITHHOLDING.—(1) Sec-
9 tion 466(a)(1) (42 U.S.C. 666(a)(1)) is amended to read
10 as follows:

11 “(1) INCOME WITHHOLDING.—(A) UNDER OR-
12 DERS ENFORCED UNDER THE STATE PLAN.—Proce-
13 dures described in subsection (b) for the withholding
14 from income of amounts payable as support in cases
15 subject to enforcement under the State plan.

16 “(B) UNDER CERTAIN ORDERS PREDATING
17 CHANGE IN REQUIREMENT.—Procedures under
18 which all child support orders issued (or modified)
19 before October 1, 1996, and which are not otherwise
20 subject to withholding under subsection (b), shall be-
21 come subject to withholding from wages as provided
22 in subsection (b) if arrearages occur, without the
23 need for a judicial or administrative hearing.”.

24 (2) Section 466(a)(8) (42 U.S.C. 666(a)(8)) is re-
25 pealed.

1 (3) Section 466(b) (42 U.S.C. 666(b)) is amended—

2 (A) in the matter preceding paragraph (1), by
3 striking “subsection (a)(1)” and inserting “sub-
4 section (a)(1)(A)”;

5 (B) in paragraph (5), by striking all that fol-
6 lows “administered by” and inserting “the State
7 through the centralized collections unit established
8 pursuant to section 454B, in accordance with the re-
9 quirements of such section 454B.”;

10 (C) in paragraph (6)(A)(i)—

11 (i) by inserting “, in accordance with time-
12 tables established by the Secretary,” after
13 “must be required”; and

14 (ii) by striking “to the appropriate agency”
15 and all that follows and inserting “to the State
16 centralized collections unit within 5 working
17 days after the date such amount would (but for
18 this subsection) have been paid or credited to
19 the employee, for distribution in accordance
20 with this part.”;

21 (D) in paragraph (6)(A)(ii), by inserting “be in
22 a standard format prescribed by the Secretary, and”
23 after “shall”; and

24 (E) in paragraph (6)(D)—

1 (i) by striking “employer who discharges”
2 and inserting “employer who—(A) discharges”;

3 (ii) by relocating subparagraph (A), as des-
4 ignated, as an indented subparagraph after and
5 below the introductory matter;

6 (iii) by striking the period at the end; and

7 (iv) by adding after and below subpara-
8 graph (A) the following new subparagraph:

9 “(B) fails to withhold support from wages,
10 or to pay such amounts to the State centralized
11 collections unit in accordance with this sub-
12 section.”.

13 (b) CONFORMING AMENDMENT.—Section 466(c) (42
14 U.S.C. 666(c)) is repealed.

15 (c) DEFINITION OF TERMS.—The Secretary shall
16 promulgate regulations providing definitions, for purposes
17 of part D of title IV of the Social Security Act, for the
18 term “income” and for such other terms relating to in-
19 come withholding under section 466(b) of such Act as the
20 Secretary may find it necessary or advisable to define.

21 **SEC. 9424. LOCATOR INFORMATION FROM INTERSTATE**
22 **NETWORKS.**

23 Section 466(a) (42 U.S.C. 666(a)), as amended by
24 section 9423(a)(2) of this Act, is amended by inserting
25 after paragraph (7) the following:

1 “(8) LOCATOR INFORMATION FROM INTER-
2 STATE NETWORKS.—Procedures ensuring that the
3 State will neither provide funding for, nor use for
4 any purpose (including any purpose unrelated to the
5 purposes of this part), any automated interstate net-
6 work or system used to locate individuals—

7 “(A) for purposes relating to the use of
8 motor vehicles; or

9 “(B) providing information for law en-
10 forcement purposes (where child support en-
11 forcement agencies are otherwise allowed access
12 by State and Federal law),

13 unless all Federal and State agencies administering
14 programs under this part (including the entities es-
15 tablished under section 453) have access to informa-
16 tion in such system or network to the same extent
17 as any other user of such system or network.”.

18 **SEC. 9425. EXPANDED FEDERAL PARENT LOCATOR SERV-**
19 **ICE.**

20 (a) EXPANDED AUTHORITY TO LOCATE INDIVIDUALS
21 AND ASSETS.—Section 453 (42 U.S.C. 653) is amended—

22 (1) in subsection (a), by striking all that follows
23 “subsection (e))” and inserting the following:

1 “, for the purpose of establishing parentage, establishing,
2 setting the amount of, modifying, or enforcing child sup-
3 port obligations—

4 “(1) information on, or facilitating the discov-
5 ery of, the location of any individual—

6 “(A) who is under an obligation to pay
7 child support;

8 “(B) against whom such an obligation is
9 sought; or

10 “(C) to whom such an obligation is owed,
11 including such individual’s social security num-
12 ber (or numbers), most recent residential ad-
13 dress, and the name, address, and employer
14 identification number of such individual’s em-
15 ployer; and

16 “(2) information on the individual’s wages (or
17 other income) from, and benefits of, employment (in-
18 cluding rights to or enrollment in group health care
19 coverage); and

20 “(3) information on the type, status, location,
21 and amount of any assets of, or debts owed by or
22 to, any such individual.”; and

23 (2) in subsection (b)—

24 (A) in the matter preceding paragraph (1),
25 by striking “social security” and all that follows

1 through “absent parent” and inserting “infor-
2 mation specified in subsection (a)”;

3 (B) in paragraph (2), by inserting before
4 the period “, or from any consumer reporting
5 agency (as defined in section 603(f) of the Fair
6 Credit Reporting Act (15 U.S.C. 1681a(f))”;

7 (3) in subsection (e)(1), by inserting before the
8 period “, or by consumer reporting agencies”.

9 (b) REIMBURSEMENT FOR DATA FROM FEDERAL
10 AGENCIES.—Section 453(e)(2) (42 U.S.C. 653(e)(2)) is
11 amended in the fourth sentence by inserting before the
12 period “in an amount which the Secretary determines to
13 be reasonable payment for the data exchange (which
14 amount shall not include payment for the costs of obtain-
15 ing, compiling, or maintaining the data)”.

16 (c) ACCESS TO CONSUMER REPORTS UNDER FAIR
17 CREDIT REPORTING ACT.—(1) Section 608 of the Fair
18 Credit Reporting Act (15 U.S.C. 1681f) is amended—

19 (A) by striking “, limited to” and inserting “to
20 a governmental agency (including the entire
21 consumer report, in the case of a Federal, State, or
22 local agency administering a program under part D
23 of title IV of the Social Security Act, and limited
24 to”;

1 (B) by striking “employment, to a govern-
2 mental agency” and inserting “employment, in the
3 case of any other governmental agency)”.

4 (2) REIMBURSEMENT FOR REPORTS BY STATE
5 AGENCIES AND CREDIT BUREAUS.—Section 453 (42
6 U.S.C. 653) is amended by adding at the end the following
7 new subsection:

8 “(g) The Secretary is authorized to reimburse costs
9 to State agencies and consumer credit reporting agencies
10 the costs incurred by such entities in furnishing informa-
11 tion requested by the Secretary pursuant to this section
12 in an amount which the Secretary determines to be rea-
13 sonable payment for the data exchange (which amount
14 shall not include payment for the costs of obtaining, com-
15 piling, or maintaining the data).”.

16 (d) DISCLOSURE OF TAX RETURN INFORMATION.—
17 (1) Section 6103(1)(6)(A)(ii) of the Internal Revenue
18 Code of 1986 is amended by striking “, but only if” and
19 all that follows and inserting a period.

20 (2) Section 6103(1)(8)(A) of the Internal Revenue
21 Code of 1986 is amended by inserting “Federal,” before
22 “State or local”.

23 (e) TECHNICAL AMENDMENTS.—

24 (1) Sections 452(a)(9), 453(a), 453(b), 463(a),
25 and 463(e) (42 U.S.C. 652(a)(9), 653(a), 653(b),

1 663(a), and 663(e)) are each amended by inserting
2 “Federal” before “Parent” each place it appears.

3 (2) Section 453 (42 U.S.C. 653) is amended in
4 the heading by adding “FEDERAL” before “PAR-
5 ENT”.

6 (f) NEW COMPONENTS.—Section 453 (42 U.S.C.
7 653), as amended by subsection (e)(2) of this section, is
8 amended by adding at the end the following:

9 “(h) DATA BANK OF CHILD SUPPORT ORDERS.—

10 “(1) IN GENERAL.—Not later than October 1,
11 1998, In order to assist States in administering
12 their State plans under this part and parts A, F,
13 and G, and for the other purposes specified in this
14 section, the Secretary shall establish and maintain in
15 the Federal Parent Locator Service an automated
16 registry to be known as the Data Bank of Child
17 Support Orders, which shall contain abstracts of
18 child support orders and other information described
19 in paragraph (2) on each case in each State central
20 case registry maintained pursuant to section
21 454A(e), as furnished (and regularly updated), pur-
22 suant to section 454A(f), by State agencies admin-
23 istering programs under this part.

24 “(2) CASE INFORMATION.—The information re-
25 ferred to in paragraph (1), as specified by the Sec-

1 retary, shall include sufficient information (including
2 names, social security numbers or other uniform
3 identification numbers, and State case identification
4 numbers) to identify the individuals who owe or are
5 owed support (or with respect to or on behalf of
6 whom support obligations are sought to be estab-
7 lished), and the State or States which have estab-
8 lished or modified, or are enforcing or seeking to es-
9 tablish, such an order.

10 “(i) DIRECTORY OF NEW HIRES.—

11 “(1) IN GENERAL.—Not later than October 1,
12 1998, In order to assist States in administering
13 their State plans under this part and parts A, F,
14 and G, and for the other purposes specified in this
15 section, the Secretary shall establish and maintain in
16 the Federal Parent Locator Service an automated
17 directory to be known as the directory of New Hires,
18 containing—

19 “(A) information supplied by employers on
20 each newly hired individual, in accordance with
21 paragraph (2); and

22 “(B) information supplied by State agen-
23 cies administering State unemployment com-
24 pensation laws, in accordance with paragraph
25 (3).

1 “(2) EMPLOYER INFORMATION.—

2 “(A) INFORMATION REQUIRED.—Subject
3 to subparagraph (D), each employer shall fur-
4 nish to the Secretary, for inclusion in the direc-
5 tory established under this subsection, not later
6 than 10 days after the date (on or after Octo-
7 ber 1, 1998) on which the employer hires a new
8 employee (as defined in subparagraph (C)), a
9 report containing the name, date of birth, and
10 social security number of such employee, and
11 the employer identification number of the em-
12 ployer.

13 “(B) REPORTING METHOD AND FOR-
14 MAT.—The Secretary shall provide for trans-
15 mission of the reports required under subpara-
16 graph (A) using formats and methods which
17 minimize the burden on employers, which shall
18 include—

19 “(i) automated or electronic trans-
20 mission of such reports;

21 “(ii) transmission by regular mail;
22 and

23 “(iii) transmission of a copy of the
24 form required for purposes of compliance

1 with section 3402 of the Internal Revenue
2 Code of 1986.

3 “(C) EMPLOYEE DEFINED.—For purposes
4 of this paragraph, the term ‘employee’ means
5 any individual subject to the requirement of
6 section 3402(f)(2) of the Internal Revenue Code
7 of 1986.

8 “(D) PAPERWORK REDUCTION REQUIRE-
9 MENT.—As required by the information re-
10 sources management policies published by the
11 Director of the Office of Management and
12 Budget pursuant to section 3504(b)(1) of title
13 44, United States Code, the Secretary, in order
14 to minimize the cost and reporting burden on
15 employers, shall not require reporting pursuant
16 to this paragraph if an alternative reporting
17 mechanism can be developed that either relies
18 on existing Federal or State reporting or en-
19 ables the Secretary to collect the needed infor-
20 mation in a more cost-effective and equally ex-
21 peditious manner, taking into account the re-
22 porting costs on employers.

23 “(E) CIVIL MONEY PENALTY ON NON-
24 COMPLYING EMPLOYERS.—(i) Any employer
25 that fails to make a timely report in accordance

1 with this paragraph with respect to an individ-
2 ual shall be subject to a civil money penalty, for
3 each calendar year in which the failure occurs,
4 of the lesser of \$500 or 1 percent of the wages
5 or other compensation paid by such employer to
6 such individual during such calendar year.

7 “(ii) Subject to clause (iii), the provisions
8 of section 1128A (other than subsections (a)
9 and (b) thereof) shall apply to a civil money
10 penalty under clause (i) in the same manner as
11 they apply to a civil money penalty or proceed-
12 ing under section 1128A(a).

13 “(iii) Any employer with respect to whom
14 a penalty under this subparagraph is upheld
15 after an administrative hearing shall be liable to
16 pay all costs of the Secretary with respect to
17 such hearing.

18 “(3) EMPLOYMENT SECURITY INFORMATION.—

19 “(A) REPORTING REQUIREMENT.—Each
20 State agency administering a State unemploy-
21 ment compensation law approved by the Sec-
22 retary of Labor under the Federal Unemploy-
23 ment Tax Act shall furnish to the Secretary of
24 Health and Human Services extracts of the re-
25 ports to the Secretary of Labor concerning the

1 wages and unemployment compensation paid to
2 individuals required under section 303(a)(6), in
3 accordance with subparagraph (B).

4 “(B) MANNER OF COMPLIANCE.—The ex-
5 tracts required under subparagraph (A) shall be
6 furnished to the Secretary of Health and
7 Human Services on a quarterly basis, with re-
8 spect to calendar quarters beginning on and
9 after October 1, 1996, by such dates, in such
10 format, and containing such information as re-
11 quired by that Secretary in regulations.

12 “(j) DATA MATCHES AND OTHER DISCLOSURES.—

13 “(1) VERIFICATION BY SOCIAL SECURITY AD-
14 MINISTRATION.—(A) The Secretary shall transmit
15 data on individuals and employers maintained under
16 this section to the Social Security Administration to
17 the extent necessary for verification in accordance
18 with subparagraph (B).

19 “(B) The Social Security Administration shall
20 verify the accuracy of, correct or supply to the ex-
21 tent necessary and feasible, and report to the Sec-
22 retary, the following information in data supplied by
23 the Secretary pursuant to subparagraph (A):

24 “(i) the name, social security number, and
25 birth date of each individual; and

1 “(ii) the employer identification number of
2 each employer.

3 “(2) CHILD SUPPORT LOCATOR MATCHES.—For
4 the purpose of locating individuals for purposes of
5 paternity establishment and establishment and en-
6 forcement of child support, the Secretary shall—

7 “(A) match data in the directory of New
8 Hires against the child support order abstracts
9 in the Data Bank of Child Support Orders not
10 less often than every 2 working days; and

11 “(B) report information obtained from
12 such a match to concerned State agencies oper-
13 ating programs under this part not later than
14 2 working days after such match.

15 “(3) DATA MATCHES AND DISCLOSURES OF
16 DATA IN ALL REGISTRIES FOR TITLE IV PROGRAM
17 PURPOSES.—The Secretary shall—

18 “(A) perform matches of data in each com-
19 ponent of the Federal Parent Locator Service
20 maintained under this section against data in
21 each other such component (other than the
22 matches required pursuant to paragraph (1)),
23 and report information resulting from such
24 matches to State agencies operating programs
25 under this part and parts A, F, and G; and

1 “(B) disclose data in such registries to
2 such State agencies,
3 to the extent, and with the frequency, that the Sec-
4 retary determines to be effective in assisting such
5 States to carry out their responsibilities under such
6 programs.

7 “(k) FEES.—

8 “(1) FOR SSA VERIFICATION.—The Secretary
9 shall reimburse the Commissioner of Social Security,
10 at a rate negotiated between the Secretary and the
11 Commissioner, the costs incurred by the Commis-
12 sioner in performing the verification services speci-
13 fied in subsection (j).

14 “(2) FOR INFORMATION FROM SESAS.—The
15 Secretary shall reimburse costs incurred by State
16 employment security agencies in furnishing data as
17 required by subsection (j)(3), at rates which the Sec-
18 retary determines to be reasonable (which rates shall
19 not include payment for the costs of obtaining, com-
20 piling, or maintaining such data).

21 “(3) FOR INFORMATION FURNISHED TO STATE
22 AND FEDERAL AGENCIES.—State and Federal agen-
23 cies receiving data or information from the Secretary
24 pursuant to this section shall reimburse the costs in-
25 curred by the Secretary in furnishing such data or

1 information, at rates which the Secretary determines
2 to be reasonable (which rates shall include payment
3 for the costs of obtaining, verifying, maintaining,
4 and matching such data or information).

5 “(l) RESTRICTION ON DISCLOSURE AND USE.—Data
6 in the Federal Parent Locator Service, and information
7 resulting from matches using such data, shall not be used
8 or disclosed except as specifically provided in this section.

9 “(m) RETENTION OF DATA.—Data in the Federal
10 Parent Locator Service, and data resulting from matches
11 performed pursuant to this section, shall be retained for
12 such period (determined by the Secretary) as appropriate
13 for the data uses specified in this section.

14 “(n) INFORMATION INTEGRITY AND SECURITY.—The
15 Secretary shall establish and implement safeguards with
16 respect to the entities established under this section de-
17 signed to—

18 “(1) ensure the accuracy and completeness of
19 information in the Federal Parent Locator Service;
20 and

21 “(2) restrict access to confidential information
22 in the Federal Parent Locator Service to authorized
23 persons, and restrict use of such information to au-
24 thorized purposes.

1 “(o) LIMIT ON LIABILITY.—The Secretary shall not
2 be liable to either a State or an individual for inaccurate
3 information provided to a component of the Federal Par-
4 ent Locator Service section and disclosed by the Secretary
5 in accordance with this section.”.

6 (g) CONFORMING AMENDMENTS.—

7 (1) TO PART D OF TITLE IV OF THE SOCIAL SE-
8 CURITY ACT.—Section 454(8)(B) (42 U.S.C.
9 654(8)(B)) is amended to read as follows:

10 “(B) the Federal Parent Locator Service
11 established under section 453;”.

12 (2) TO FEDERAL UNEMPLOYMENT TAX ACT.—
13 Section 3304(16) of the Internal Revenue Code of
14 1986 is amended—

15 (A) by striking “Secretary of Health, Edu-
16 cation, and Welfare” each place such term ap-
17 pears and inserting “Secretary of Health and
18 Human Services”;

19 (B) in subparagraph (B), by striking
20 “such information” and all that follows and in-
21 serting “information furnished under subpara-
22 graph (A) or (B) is used only for the purposes
23 authorized under such subparagraph;”;

24 (C) by striking “and” at the end of sub-
25 paragraph (A);

1 (D) by redesignating subparagraph (B) as
2 subparagraph (C); and

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

5 “(B) wage and unemployment compensa-
6 tion information contained in the records of
7 such agency shall be furnished to the Secretary
8 of Health and Human Services (in accordance
9 with regulations promulgated by such Sec-
10 retary) as necessary for the purposes of the di-
11 rectory of New Hires established under section
12 453(i) of the Social Security Act, and”.

13 (3) TO STATE GRANT PROGRAM UNDER TITLE
14 III OF THE SOCIAL SECURITY ACT.—Section 303(a)
15 (42 U.S.C. 503(a)) is amended—

16 (A) by striking “and” at the end of para-
17 graph (8);

18 (B) by striking the period at the end of
19 paragraph (9) and inserting “; and”; and

20 (C) by adding after paragraph (9) the fol-
21 lowing new paragraph:

22 “(10) The making of quarterly electronic re-
23 ports, at such dates, in such format, and containing
24 such information, as required by the Secretary of
25 Health and Human Services under section 453(i)(3),

1 and compliance with such provisions as such Sec-
2 retary may find necessary to ensure the correctness
3 and verification of such reports.”.

4 **SEC. 9426. USE OF SOCIAL SECURITY NUMBERS.**

5 (a) STATE LAW REQUIREMENT.—Section 466(a) (42
6 U.S.C. 666(a)), as amended by section 9401(a) of this
7 Act, is amended by inserting after paragraph (12) the fol-
8 lowing:

9 “(13) SOCIAL SECURITY NUMBERS RE-
10 QUIRED.—Procedures requiring the recording of so-
11 cial security numbers—

12 “(A) of both parties on marriage licenses
13 and divorce decrees; and

14 “(B) of both parents, on birth records and
15 child support and paternity orders.”.

16 (b) CLARIFICATION OF FEDERAL POLICY.—Section
17 205(e)(2)(C)(ii) (42 U.S.C. 405(e)(2)(C)(ii)) is amended
18 by striking the third sentence and inserting “This clause
19 shall not be considered to authorize disclosure of such
20 numbers except as provided in the preceding sentence.”.

1 **CHAPTER 4—STREAMLINING AND**
2 **UNIFORMITY OF PROCEDURES**

3 **SEC. 9431. ADOPTION OF UNIFORM STATE LAWS.**

4 Section 466(a) (42 U.S.C. 666(a)), as amended by
5 sections 9401(a) and 9426(a) of this Act, is amended in-
6 serting after paragraph (13) the following:

7 “(14) INTERSTATE ENFORCEMENT.—(A) ADOPT-
8 TION OF UIFSA.—Procedures under which the State
9 adopts in its entirety (with the modifications and ad-
10 ditions specified in this paragraph) not later than
11 January 1, 1997, and uses on and after such date,
12 the Uniform Interstate Family Support Act, as ap-
13 proved by the National Conference of Commissioners
14 on Uniform State Laws in August, 1992.

15 “(B) EXPANDED APPLICATION OF UIFSA.—The
16 State law adopted pursuant to subparagraph (A)
17 shall be applied to any case—

18 “(i) involving an order established or modi-
19 fied in one State and for which a subsequent
20 modification is sought in another State; or

21 “(ii) in which interstate activity is required
22 to enforce an order.

23 “(C) JURISDICTION TO MODIFY ORDERS.—The
24 State law adopted pursuant to subparagraph (A) of
25 this paragraph shall contain the following provision

1 in lieu of section 611(a)(1) of the Uniform Inter-
2 state Family Support Act described in such subpara-
3 graph (A):

4 “(1) the following requirements are met:

5 “(i) the child, the individual obligee, and
6 the obligor—

7 “(I) do not reside in the issuing
8 State; and

9 “(II) either reside in this State or
10 are subject to the jurisdiction of this State
11 pursuant to section 201; and

12 “(ii) (in any case where another State is
13 exercising or seeks to exercise jurisdiction to
14 modify the order) the conditions of section 204
15 are met to the same extent as required for pro-
16 ceedings to establish orders; or’.

17 “(D) SERVICE OF PROCESS.—The State law
18 adopted pursuant to subparagraph (A) shall recog-
19 nize as valid, for purposes of any proceeding subject
20 to such State law, service of process upon persons
21 in the State (and proof of such service) by any
22 means acceptable in another State which is the initi-
23 ating or responding State in such proceeding.

24 “(E) COOPERATION BY EMPLOYERS.—The
25 State law adopted pursuant to subparagraph (A)

1 shall provide for the use of procedures (including
2 sanctions for noncompliance) under which all entities
3 in the State (including for-profit, nonprofit, and gov-
4 ernmental employers) are required to provide
5 promptly, in response to a request by the State
6 agency of that or any other State administering a
7 program under this part, information on the employ-
8 ment, compensation, and benefits of any individual
9 employed by such entity as an employee or contrac-
10 tor.”.

11 **SEC. 9432. IMPROVEMENTS TO FULL FAITH AND CREDIT**
12 **FOR CHILD SUPPORT ORDERS.**

13 Section 1738B of title 28, United States Code, is
14 amended—

15 (1) in subsection (a)(2), by striking “subsection
16 (e)” and inserting “subsections (e), (f), and (i)”;

17 (2) in subsection (b), by inserting after the 2nd
18 undesignated paragraph the following:

19 “‘child’s home State’ means the State in which
20 a child lived with a parent or a person acting as par-
21 ent for at least six consecutive months immediately
22 preceding the time of filing of a petition or com-
23 parable pleading for support and, if a child is less
24 than six months old, the State in which the child
25 lived from birth with any of them. A period of tem-

1 porary absence of any of them is counted as part of
2 the six-month period.”;

3 (3) in subsection (c), by inserting “by a court
4 of a State” before “is made”;

5 (4) in subsection (c)(1), by inserting “and sub-
6 sections (e), (f), and (g)” after “located”;

7 (5) in subsection (d)—

8 (A) by inserting “individual” before “con-
9 testant”; and

10 (B) by striking “subsection (e)” and in-
11 serting “subsections (e) and (f)”;

12 (6) in subsection (e), by striking “make a modi-
13 fication of a child support order with respect to a
14 child that is made” and inserting “modify a child
15 support order issued”;

16 (7) in subsection (e)(1), by inserting “pursuant
17 to subsection (i)” before the semicolon;

18 (8) in subsection (e)(2)—

19 (A) by inserting “individual” before “con-
20 testant” each place such term appears; and

21 (B) by striking “to that court’s making the
22 modification and assuming” and inserting “with
23 the State of continuing, exclusive jurisdiction
24 for a court of another State to modify the order
25 and assume”;

1 (9) by redesignating subsections (f) and (g) as
2 subsections (g) and (h), respectively;

3 (10) by inserting after subsection (e) the follow-
4 ing:

5 “(f) RECOGNITION OF CHILD SUPPORT ORDERS.—

6 If one or more child support orders have been issued in
7 this or another State with regard to an obligor and a child,
8 a court shall apply the following rules in determining
9 which order to recognize for purposes of continuing, exclu-
10 sive jurisdiction and enforcement:

11 “(1) If only one court has issued a child sup-
12 port order, the order of that court must be recog-
13 nized.

14 “(2) If two or more courts have issued child
15 support orders for the same obligor and child, and
16 only one of the courts would have continuing, exclu-
17 sive jurisdiction under this section, the order of that
18 court must be recognized.

19 “(3) If two or more courts have issued child
20 support orders for the same obligor and child, and
21 only one of the courts would have continuing, exclu-
22 sive jurisdiction under this section, an order issued
23 by a court in the current home State of the child
24 must be recognized, but if an order has not been is-

1 sued in the current home State of the child, the
2 order most recently issued must be recognized.

3 “(4) If two or more courts have issued child
4 support orders for the same obligor and child, and
5 none of the courts would have continuing, exclusive
6 jurisdiction under this section, a court may issue a
7 child support order, which must be recognized.

8 “(5) The court that has issued an order recog-
9 nized under this subsection is the court having con-
10 tinuing, exclusive jurisdiction.”;

11 (11) in subsection (g) (as so redesignated)—

12 (A) by striking “PRIOR” and inserting
13 “MODIFIED”; and

14 (B) by striking “subsection (e)” and in-
15 serting “subsections (e) and (f)”;

16 (12) in subsection (h) (as so redesignated)—

17 (A) in paragraph (2), by inserting “includ-
18 ing the duration of current payments and other
19 obligations of support” before the comma; and

20 (B) in paragraph (3), by inserting “arrears
21 under” after “enforce”; and

22 (13) by adding at the end the following:

23 “(i) REGISTRATION FOR MODIFICATION.—If there is
24 no individual contestant or child residing in the issuing
25 State, the party or support enforcement agency seeking

1 to modify, or to modify and enforce, a child support order
2 issued in another State shall register that order in a State
3 with jurisdiction over the nonmovant for the purpose of
4 modification.”.

5 **SEC. 9433. STATE LAWS PROVIDING EXPEDITED PROCE-**
6 **DURES.**

7 (a) STATE LAW REQUIREMENTS.—Section 466 (42
8 U.S.C. 666) is amended—

9 (1) in subsection (a)(2), in the first sentence, to
10 read as follows: “Expedited administrative and judi-
11 cial procedures (including the procedures specified in
12 subsection (c)) for establishing paternity and for es-
13 tablishing, modifying, and enforcing support obliga-
14 tions.”; and

15 (2) by adding after subsection (b) the following
16 new subsection:

17 “(c) EXPEDITED PROCEDURES.—The procedures
18 specified in this subsection are the following:

19 “(1) ADMINISTRATIVE ACTION BY STATE AGEN-
20 CY.—Procedures which give the State agency the au-
21 thority (and recognize and enforce the authority of
22 State agencies of other States), without the necessity
23 of obtaining an order from any other judicial or ad-
24 ministrative tribunal (but subject to due process
25 safeguards, including (as appropriate) requirements

1 for notice, opportunity to contest the action, and op-
2 portunity for an appeal on the record to an inde-
3 pendent administrative or judicial tribunal), to take
4 the following actions relating to establishment or en-
5 forcement of orders:

6 “(A) GENETIC TESTING.—To order genetic
7 testing for the purpose of paternity establish-
8 ment as provided in section 466(a)(5).

9 “(B) DEFAULT ORDERS.—To enter a de-
10 fault order, upon a showing of service of proc-
11 ess and any additional showing required by
12 State law—

13 “(i) establishing paternity, in the case
14 of any putative father who refuses to sub-
15 mit to genetic testing; and

16 “(ii) establishing or modifying a sup-
17 port obligation, in the case of a parent (or
18 other obligor or obligee) who fails to re-
19 spond to notice to appear at a proceeding
20 for such purpose.

21 “(C) SUBPOENAS.—To subpoena any fi-
22 nancial or other information needed to estab-
23 lish, modify, or enforce an order, and to sanc-
24 tion failure to respond to any such subpoena.

1 “(D) ACCESS TO PERSONAL AND FINAN-
2 CIAL INFORMATION.—To obtain access, subject
3 to safeguards on privacy and information secu-
4 rity, to the following records (including auto-
5 mated access, in the case of records maintained
6 in automated data bases):

7 “(i) records of other State and local
8 government agencies, including—

9 “(I) vital statistics (including
10 records of marriage, birth, and di-
11 vorce);

12 “(II) State and local tax and rev-
13 enue records (including information
14 on residence address, employer, in-
15 come and assets);

16 “(III) records concerning real
17 and titled personal property;

18 “(IV) records of occupational and
19 professional licenses, and records con-
20 cerning the ownership and control of
21 corporations, partnerships, and other
22 business entities;

23 “(V) employment security
24 records;

1 “(VI) records of agencies admin-
2 istering public assistance programs;

3 “(VII) records of the motor vehi-
4 cle department; and

5 “(VIII) corrections records; and

6 “(ii) certain records held by private
7 entities, including—

8 “(I) customer records of public
9 utilities and cable television compa-
10 nies; and

11 “(II) information (including in-
12 formation on assets and liabilities) on
13 individuals who owe or are owed sup-
14 port (or against or with respect to
15 whom a support obligation is sought)
16 held by financial institutions (subject
17 to limitations on liability of such enti-
18 ties arising from affording such ac-
19 cess).

20 “(E) INCOME WITHHOLDING.—To order
21 income withholding in accordance with sub-
22 section (a)(1) and (b) of section 466.

23 “(F) CHANGE IN PAYEE.—(In cases where
24 support is subject to an assignment under sec-
25 tion 403(b)(1)(E)(i), 471(a)(17), or 1912, or to

1 a requirement to pay through the centralized
2 collections unit under section 454B) upon pro-
3 viding notice to obligor and obligee, to direct
4 the obligor or other payor to change the payee
5 to the appropriate government entity.

6 “(G) SECURE ASSETS TO SATISFY ARREAR-
7 AGES.—For the purpose of securing overdue
8 support—

9 “(i) to intercept and seize any peri-
10 odic or lump-sum payment to the obligor
11 by or through a State or local government
12 agency, including—

13 “(I) unemployment compensa-
14 tion, workers’ compensation, and
15 other benefits;

16 “(II) judgments and settlements
17 in cases under the jurisdiction of the
18 State or local government; and

19 “(III) lottery winnings;

20 “(ii) to attach and seize assets of the
21 obligor held by financial institutions;

22 “(iii) to attach public and private re-
23 tirement funds in appropriate cases, as de-
24 termined by the Secretary; and

1 “(iv) to impose liens in accordance
2 with paragraph (a)(4) and, in appropriate
3 cases, to force sale of property and dis-
4 tribution of proceeds.

5 “(H) INCREASE MONTHLY PAYMENTS.—
6 For the purpose of securing overdue support, to
7 increase the amount of monthly support pay-
8 ments to include amounts for arrearages (sub-
9 ject to such conditions or restrictions as the
10 State may provide).

11 “(I) SUSPENSION OF DRIVERS’ LI-
12 CENSES.—To suspend drivers’ licenses of indi-
13 viduals owing past-due support, in accordance
14 with subsection (a)(16).

15 “(2) SUBSTANTIVE AND PROCEDURAL RULES.—
16 The expedited procedures required under subsection
17 (a)(2) shall include the following rules and author-
18 ity, applicable with respect to all proceedings to es-
19 tablish paternity or to establish, modify, or enforce
20 support orders:

21 “(A) LOCATOR INFORMATION; PRESUMP-
22 TIONS CONCERNING NOTICE.—Procedures
23 under which—

24 “(i) the parties to any paternity or
25 child support proceedings are required

1 (subject to privacy safeguards) to file with
2 the tribunal before entry of an order, and
3 to update as appropriate, information on
4 location and identity (including Social Se-
5 curity number, residential and mailing ad-
6 dresses, telephone number, driver’s license
7 number, and name, address, and telephone
8 number of employer); and

9 “(ii) in any subsequent child support
10 enforcement action between the same par-
11 ties, the tribunal shall be authorized, upon
12 sufficient showing that diligent effort has
13 been made to ascertain such party’s cur-
14 rent location, to deem due process require-
15 ments for notice and service of process to
16 be met, with respect to such party, by de-
17 livery to the most recent residential or em-
18 ployer address so filed pursuant to clause
19 (i).

20 “(B) STATEWIDE JURISDICTION.—Proce-
21 dures under which—

22 “(i) the State agency and any admin-
23 istrative or judicial tribunal with authority
24 to hear child support and paternity cases
25 exerts statewide jurisdiction over the par-

1 ties, and orders issued in such cases have
2 statewide effect; and

3 “(ii) (in the case of a State in which
4 orders in such cases are issued by local ju-
5 risdictions) a case may be transferred be-
6 tween jurisdictions in the State without
7 need for any additional filing by the peti-
8 tioner, or service of process upon the re-
9 spondent, to retain jurisdiction over the
10 parties.”.

11 (c) EXCEPTIONS FROM STATE LAW REQUIRE-
12 MENTS.—Section 466(d) (42 U.S.C. 666(d)) is amend-
13 ed—

14 (1) by striking “(d) If” and inserting the fol-
15 lowing:

16 “(d) EXEMPTIONS FROM REQUIREMENTS.—

17 “(1) IN GENERAL.—Subject to paragraph (2),
18 if”; and

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

21 “(2) NONEXEMPT REQUIREMENTS.—The Sec-
22 retary shall not grant an exemption from the re-
23 quirements of—

24 “(A) subsection (a)(5) (concerning proce-
25 dures for paternity establishment);

1 “(B) subsection (a)(10) (concerning modi-
2 fication of orders);

3 “(C) subsection (a)(12) (concerning re-
4 cording of orders in the central State case reg-
5 istry);

6 “(D) subsection (a)(13) (concerning re-
7 cording of Social Security numbers);

8 “(E) subsection (a)(14) (concerning inter-
9 state enforcement); or

10 “(F) subsection (c) (concerning expedited
11 procedures), other than paragraph (1)(A) there-
12 of (concerning establishment or modification of
13 support amount).”.

14 (d) **AUTOMATION OF STATE AGENCY FUNCTIONS.**—
15 Section 454A, as added by section 9415(a)(2) of this Act
16 and as amended by sections 9421 and 9422(c) of this Act,
17 is amended by adding at the end the following new sub-
18 section:

19 “(h) **EXPEDITED ADMINISTRATIVE PROCEDURES.**—
20 The automated system required under this section shall
21 be used, to the maximum extent feasible, to implement any
22 expedited administrative procedures required under sec-
23 tion 466(c).”.

1 CHAPTER 5—PATERNITY ESTABLISHMENT**2 SEC. 9441. SENSE OF THE CONGRESS.**

3 It is the sense of the Congress that social services
4 should be provided in hospitals to women who have become
5 pregnant as a result of rape or incest.

**6 SEC. 9442. AVAILABILITY OF PARENTING SOCIAL SERVICES
7 FOR NEW FATHERS.**

8 Section 466(a) (42 U.S.C. 666(a)), as amended by
9 sections 9401(a), 9426(a), and 9431 of this Act, is amend-
10 ed by inserting after paragraph (14) the following:

11 “(15) Procedures for providing new fathers
12 with positive parenting counseling that stresses the
13 importance of paying child support in a timely man-
14 ner, in accordance with regulations prescribed by the
15 Secretary.”.

**16 SEC. 9443. COOPERATION REQUIREMENT AND GOOD CAUSE
17 EXCEPTION.**

18 (a) IN GENERAL.—Section 454 (42 U.S.C. 654) is
19 amended—

20 (1) by striking “and” at the end of paragraph
21 (23);

22 (2) by striking the period at the end of para-
23 graph (24) and inserting “; and”; and

24 (3) by inserting after paragraph (24) the fol-
25 lowing:

1 “(25) provide that the State agency administer-
2 ing the plan under this part—

3 “(A) will make the determination specified
4 under paragraph (4), as to whether an individ-
5 ual is cooperating with efforts to establish pa-
6 ternity and secure support (or has good cause
7 not to cooperate with such efforts) for purposes
8 of the requirements of sections 403(b)(1)(E)(i)
9 and 1912;

10 “(B) will advise individuals, both orally
11 and in writing, of the grounds for good cause
12 exceptions to the requirement to cooperate with
13 such efforts;

14 “(C) will take the best interests of the
15 child into consideration in making the deter-
16 mination whether such individual has good
17 cause not to cooperate with such efforts;

18 “(D)(i) will make the initial determination
19 as to whether an individual is cooperating (or
20 has good cause not to cooperate) with efforts to
21 establish paternity within 10 days after such in-
22 dividual is referred to such State agency by the
23 State agency administering the program under
24 part A of title XIX;

1 “(ii) will make redeterminations as to co-
2 operation or good cause at appropriate inter-
3 vals; and

4 “(iii) will promptly notify the individual,
5 and the State agencies administering such pro-
6 grams, of each such determination and redeter-
7 mination;

8 “(E) with respect to any child born on or
9 after the date 10 months after enactment of
10 this provision, will not determine (or redeter-
11 mine) the mother (or other custodial relative) of
12 such child to be cooperating with efforts to es-
13 tablish paternity unless such individual fur-
14 nishes—

15 “(i) the name of the putative father
16 (or fathers); and

17 “(ii) sufficient additional information
18 to enable the State agency, if reasonable
19 efforts were made, to verify the identity of
20 the person named as the putative father
21 (including such information as the putative
22 father’s present address, telephone num-
23 ber, date of birth, past or present place of
24 employment, school previously or currently
25 attended, and names and addresses of par-

1 ents, friends, or relatives able to provide
2 location information, or other information
3 that could enable service of process on
4 such person), and

5 “(F)(i) (where a custodial parent who was
6 initially determined not to be cooperating (or to
7 have good cause not to cooperate) is later deter-
8 mined to be cooperating or to have good cause
9 not to cooperate) will immediately notify the
10 State agencies administering the programs
11 under part A of title XIX that this eligibility
12 condition has been met; and

13 “(ii) (where a custodial parent was initially
14 determined to be cooperating (or to have good
15 cause not to cooperate)) will not later determine
16 such individual not to be cooperating (or not to
17 have good cause not to cooperate) until such in-
18 dividual has been afforded an opportunity for a
19 hearing.”.

20 (b) MEDICAID AMENDMENTS.—Section 1912(a) (42
21 U.S.C. 1396k(a)) is amended—

22 (1) in paragraph (1)(B), by inserting “(except
23 as provided in paragraph (2))” after “to cooperate
24 with the State”;

1 (2) in subparagraphs (B) and (C) of paragraph
2 (1) by striking “, unless” and all that follows and
3 inserting a semicolon; and

4 (3) by redesignating paragraph (2) as para-
5 graph (5), and inserting after paragraph (1) the fol-
6 lowing new paragraphs:

7 “(2) provide that the State agency will imme-
8 diately refer each applicant or recipient requiring
9 paternity establishment services to the State agency
10 administering the program under part D of title IV;

11 “(3) provide that an individual will not be re-
12 quired to cooperate with the State, as provided
13 under paragraph (1), if the individual is found to
14 have good cause for refusing to cooperate, as deter-
15 mined in accordance with standards prescribed by
16 the Secretary, which standards shall take into con-
17 sideration the best interests of the individuals in-
18 volved—

19 “(A) to the satisfaction of the State agency
20 administering the program under part D, as de-
21 termined in accordance with section 454(25),
22 with respect to the requirements to cooperate
23 with efforts to establish paternity and to obtain
24 support (including medical support) from a par-
25 ent; and

1 “(B) to the satisfaction of the State agen-
2 cy administering the program under this title,
3 with respect to other requirements to cooperate
4 under paragraph (1);

5 “(4) provide that (except as provided in para-
6 graph (5)) an applicant requiring paternity estab-
7 lishment services (other than an individual presump-
8 tively eligible pursuant to section 1920) shall not be
9 eligible for medical assistance under this title until
10 such applicant—

11 “(i) has furnished to the agency admin-
12 istering the State plan under part D of title IV
13 the information specified in section 454(25)(E);
14 or

15 “(ii) has been determined by such agency
16 to have good cause not to cooperate; and

17 “(5) provide that the provisions of paragraph
18 (4) shall not apply with respect to an applicant—

19 “(i) if such agency has not, within 10 days
20 after such individual was referred to such agen-
21 cy, provided the notification required by section
22 454(25)(D)(iii), until such notification is re-
23 ceived; and

24 “(ii) if such individual appeals a deter-
25 mination that the individual lacks good cause

1 for noncooperation, until after such determina-
2 tion is affirmed after notice and opportunity for
3 a hearing.”.

4 (c) **EFFECTIVE DATE.**—The amendments made by
5 this section shall be effective with respect to applications
6 filed in or after the first calendar quarter beginning 10
7 months or more after the date of the enactment of this
8 Act (or such earlier quarter as the State may select) for
9 assistance under a State plan approved under part A of
10 title IV of the Social Security Act or for medical assistance
11 under a State plan approved under title XIX of such Act.

12 **SEC. 9444. FEDERAL MATCHING PAYMENTS.**

13 (a) **INCREASED BASE MATCHING RATE.**—Section
14 455(a)(2) (42 U.S.C. 655(a)(2)) is amended to read as
15 follows:

16 “(2) The applicable percent for a quarter for
17 purposes of paragraph (1)(A) is—

18 “(A) for fiscal year 1996, 69 percent;

19 “(B) for fiscal year 1997, 72 percent; and

20 “(C) for fiscal year 1998 and succeeding
21 fiscal years, 75 percent.”.

22 (b) **MAINTENANCE OF EFFORT.**—Section 455 (42
23 U.S.C. 655) is amended—

1 (1) in subsection (a)(1), in the matter preced-
2 ing subparagraph (A), by striking “From” and in-
3 serting “Subject to subsection (c), from”; and

4 (2) by inserting after subsection (b) the follow-
5 ing:

6 “(c) MAINTENANCE OF EFFORT.—Notwithstanding
7 subsection (a), total expenditures for the State program
8 under this part for fiscal year 1996 and each succeeding
9 fiscal year, reduced by the percentage specified for such
10 fiscal year under subparagraph (A), (B), or (C)(i) of para-
11 graph (2), shall not be less than such total expenditures
12 for fiscal year 1995, reduced by 66 percent.”.

13 **SEC. 9445. STATE LAWS CONCERNING PATERNITY ESTAB-**
14 **LISHMENT.**

15 (a) STATE LAWS REQUIRED.—Section 466(a)(5) (42
16 U.S.C. 666(a)(5)) is amended—

17 (1) by striking “(5)” and inserting the follow-
18 ing:

19 “(5) PROCEDURES CONCERNING PATERNITY ES-
20 TABLISHMENT.—”;

21 (2) in subparagraph (A)—

22 (A) by striking “(A)(i)” and inserting the
23 following:

1 “(A) ESTABLISHMENT PROCESS AVAIL-
2 ABLE FROM BIRTH UNTIL AGE EIGHTEEN.—
3 (i)”; and

4 (B) by indenting clauses (i) and (ii) so
5 that the left margin of such clauses is 2 ems to
6 the right of the left margin of paragraph (4);
7 (3) in subparagraph (B)—

8 (A) by striking “(B)” and inserting the
9 following:

10 “(B) PROCEDURES CONCERNING GENETIC
11 TESTING.—(i)”;

12 (B) in clause (i), as redesignated, by in-
13 serting before the period “, where such request
14 is supported by a sworn statement (I) by such
15 party alleging paternity setting forth facts es-
16 tablishing a reasonable possibility of the req-
17 uisite sexual contact of the parties, or (II) by
18 such party denying paternity setting forth facts
19 establishing a reasonable possibility of the
20 nonexistence of sexual contact of the parties;”;

21 (C) by inserting after and below clause (i)
22 (as redesignated) the following new clause:

23 “(ii) Procedures which require the State
24 agency, in any case in which such agency orders
25 genetic testing—

1 “(I) to pay costs of such tests, subject
2 to recoupment (where the State so elects)
3 from the putative father if paternity is es-
4 tablished; and

5 “(II) to obtain additional testing in
6 any case where an original test result is
7 disputed, upon request and advance pay-
8 ment by the disputing party.”;

9 (4) by striking subparagraphs (C) and (D) and
10 inserting the following:

11 “(C) PATERNITY ACKNOWLEDGMENT.—(i)
12 Procedures for a simple civil process for volun-
13 tarily acknowledging paternity under which the
14 State must provide that, before a mother and a
15 putative father can sign an acknowledgment of
16 paternity, the putative father and the mother
17 must be given notice, orally, in writing, and in
18 a language that each can understand, of the al-
19 ternatives to, the legal consequences of, and the
20 rights (including, if 1 parent is a minor, any
21 rights afforded due to minority status) and re-
22 sponsibilities that arise from, signing the ac-
23 knowledgment.

24 “(ii) Such procedures must include a hos-
25 pital-based program for the voluntary acknowl-

1 edgment of paternity focusing on the period im-
2 mediately before or after the birth of a child.

3 “(iii) Such procedures must require the
4 State agency responsible for maintaining birth
5 records to offer voluntary paternity establish-
6 ment services.

7 “(iv) The Secretary shall prescribe regula-
8 tions governing voluntary paternity establish-
9 ment services offered by hospitals and birth
10 record agencies. The Secretary shall prescribe
11 regulations specifying the types of other entities
12 that may offer voluntary paternity establish-
13 ment services, and governing the provision of
14 such services, which shall include a requirement
15 that such an entity must use the same notice
16 provisions used by, the same materials used by,
17 provide the personnel providing such services
18 with the same training provided by, and evalu-
19 ate the provision of such services in the same
20 manner as, voluntary paternity establishment
21 programs of hospitals and birth record agen-
22 cies.

23 “(v) Such procedures must require the
24 State and those required to establish paternity
25 to use only the affidavit developed under section

1 452(a)(7) for the voluntary acknowledgment of
2 paternity, and to give full faith and credit to
3 such an affidavit signed in any other State.

4 “(D) STATUS OF SIGNED PATERNITY AC-
5 KNOWLEDGMENT.—(i) Procedures under which
6 a signed acknowledgment of paternity is consid-
7 ered a legal finding of paternity, subject to the
8 right of any signatory to rescind the acknowl-
9 edgment within 60 days.

10 “(ii)(I) Procedures under which, after the
11 60-day period referred to in clause (i), a signed
12 acknowledgment of paternity may be challenged
13 in court only on the basis of fraud, duress, or
14 material mistake of fact, with the burden of
15 proof upon the challenger, and under which the
16 legal responsibilities (including child support
17 obligations) of any signatory arising from the
18 acknowledgment may not be suspended during
19 the challenge, except for good cause shown.

20 “(II) Procedures under which, after the
21 60-day period referred to in clause (i), a minor
22 who signs an acknowledgment of paternity
23 other than in the presence of a parent or court-
24 appointed guardian ad litem may rescind the

1 acknowledgment in a judicial or administrative
2 proceeding, until the earlier of—

3 “(aa) attaining the age of majority; or

4 “(bb) the date of the first judicial or
5 administrative proceeding brought (after
6 the signing) to establish a child support
7 obligation, visitation rights, or custody
8 rights with respect to the child whose pa-
9 ternity is the subject of the acknowledg-
10 ment, and at which the minor is rep-
11 resented by a parent, guardian ad litem, or
12 attorney.”;

13 (5) by striking subparagraph (E) and inserting
14 the following:

15 “(E) BAR ON ACKNOWLEDGMENT RATIFI-
16 CATION PROCEEDINGS.—Procedures under
17 which no judicial or administrative proceedings
18 are required or permitted to ratify an unchal-
19 lenged acknowledgment of paternity.”;

20 (6) by striking subparagraph (F) and inserting
21 the following:

22 “(F) ADMISSIBILITY OF GENETIC TESTING
23 RESULTS.—Procedures—

24 “(i) requiring that the State admit
25 into evidence, for purposes of establishing

1 paternity, results of any genetic test that
2 is—

3 “(I) of a type generally acknowl-
4 edged, by accreditation bodies des-
5 ignated by the Secretary, as reliable
6 evidence of paternity; and

7 “(II) performed by a laboratory
8 approved by such an accreditation
9 body;

10 “(ii) that any objection to genetic
11 testing results must be made in writing not
12 later than a specified number of days be-
13 fore any hearing at which such results may
14 be introduced into evidence (or, at State
15 option, not later than a specified number
16 of days after receipt of such results); and

17 “(iii) that, if no objection is made, the
18 test results are admissible as evidence of
19 paternity without the need for foundation
20 testimony or other proof of authenticity or
21 accuracy.”; and

22 (7) by adding after subparagraph (H) the fol-
23 lowing new subparagraphs:

1 “(I) NO RIGHT TO JURY TRIAL.—Proce-
2 dures providing that the parties to an action to
3 establish paternity are not entitled to jury trial.

4 “(J) TEMPORARY SUPPORT ORDER BASED
5 ON PROBABLE PATERNITY IN CONTESTED
6 CASES.—Procedures which require that a tem-
7 porary order be issued, upon motion by a party,
8 requiring the provision of child support pending
9 an administrative or judicial determination of
10 parentage, where there is clear and convincing
11 evidence of paternity (on the basis of genetic
12 tests or other evidence).

13 “(K) PROOF OF CERTAIN SUPPORT AND
14 PATERNITY ESTABLISHMENT COSTS.—Proce-
15 dures under which bills for pregnancy, child-
16 birth, and genetic testing are admissible as evi-
17 dence without requiring third-party foundation
18 testimony, and shall constitute prima facie evi-
19 dence of amounts incurred for such services and
20 testing on behalf of the child.

21 “(L) WAIVER OF STATE DEBTS FOR CO-
22 OPERATION.—At the option of the State, proce-
23 dures under which the tribunal establishing pa-
24 ternity and support has discretion to waive
25 rights to all or part of amounts owed to the

1 State (but not to the mother) for costs related
2 to pregnancy, childbirth, and genetic testing
3 and for public assistance paid to the family
4 where the father cooperates or acknowledges
5 paternity before or after genetic testing.

6 “(M) STANDING OF PUTATIVE FATHERS.—
7 Procedures ensuring that the putative father
8 has a reasonable opportunity to initiate a pater-
9 nity action.”.

10 (b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFI-
11 DAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is
12 amended by inserting “, and develop an affidavit to be
13 used for the voluntary acknowledgment of paternity which
14 shall include the social security account number of each
15 parent” before the semicolon.

16 (c) TECHNICAL AMENDMENT.—Section 468 (42
17 U.S.C. 668) is amended by striking “a simple civil process
18 for voluntarily acknowledging paternity and”.

19 **SEC. 9446. OUTREACH FOR VOLUNTARY PATERNITY ESTAB-**
20 **LISHMENT.**

21 (a) STATE PLAN REQUIREMENT.—Section 454(23)
22 (42 U.S.C. 654(23)) is amended by adding at the end the
23 following new subparagraph:

24 “(C) publicize the availability and encour-
25 age the use of procedures for voluntary estab-

1 lishment of paternity and child support through
2 a variety of means, which—

3 “(i) include distribution of written
4 materials at health care facilities (includ-
5 ing hospitals and clinics), and other loca-
6 tions such as schools;

7 “(ii) may include pre-natal programs
8 to educate expectant couples on individual
9 and joint rights and responsibilities with
10 respect to paternity (and may require all
11 expectant recipients of assistance under
12 part A to participate in such pre-natal pro-
13 grams, as an element of cooperation with
14 efforts to establish paternity and child sup-
15 port);

16 “(iii) include, with respect to each
17 child discharged from a hospital after birth
18 for whom paternity or child support has
19 not been established, reasonable follow-up
20 efforts (including at least one contact of
21 each parent whose whereabouts are known,
22 except where there is reason to believe
23 such follow-up efforts would put mother or
24 child at risk), providing—

1 “(I) in the case of a child for
2 whom paternity has not been estab-
3 lished, information on the benefits of
4 and procedures for establishing pater-
5 nity; and

6 “(II) in the case of a child for
7 whom paternity has been established
8 but child support has not been estab-
9 lished, information on the benefits of
10 and procedures for establishing a
11 child support order, and an applica-
12 tion for child support services;”.

13 (b) ENHANCED FEDERAL MATCHING.—Section
14 455(a)(1)(C) (42 U.S.C. 655(a)(1)(C)) is amended—

15 (1) by inserting “(i)” before “laboratory costs”,
16 and

17 (2) by inserting before the semicolon “, and (ii)
18 costs of outreach programs designed to encourage
19 voluntary acknowledgment of paternity”.

20 (c) EFFECTIVE DATES.—(1) The amendments made
21 by subsection (a) shall become effective October 1, 1997.

22 (2) The amendments made by subsection (b) shall be
23 effective with respect to calendar quarters beginning on
24 and after October 1, 1996.

1 **CHAPTER 6—ESTABLISHMENT AND**
2 **MODIFICATION OF SUPPORT ORDERS**

3 **SEC. 9451. NATIONAL CHILD SUPPORT GUIDELINES COM-**
4 **MISSION.**

5 (a) **ESTABLISHMENT.**—There is hereby established a
6 commission to be known as the “National Child Support
7 Guidelines Commission” (in this section referred to as the
8 “Commission”).

9 (b) **GENERAL DUTIES.**—The Commission shall de-
10 velop a national child support guideline for consideration
11 by the Congress that is based on a study of various guide-
12 line models, the benefits and deficiencies of such models,
13 and any needed improvements.

14 (c) **MEMBERSHIP.**—

15 (1) **NUMBER; APPOINTMENT.**—

16 (A) **IN GENERAL.**—The Commission shall
17 be composed of 12 individuals appointed jointly
18 by the Secretary of Health and Human Services
19 and the Congress, not later than January 15,
20 1997, of which—

21 (i) 2 shall be appointed by the Chair-
22 man of the Committee on Finance of the
23 Senate, and 1 shall be appointed by the
24 ranking minority member of the Commit-
25 tee;

1 (ii) 2 shall be appointed by the Chair-
2 man of the Committee on Ways and Means
3 of the House of Representatives, and 1
4 shall be appointed by the ranking minority
5 member of the Committee; and

6 (iii) 6 shall be appointed by the Sec-
7 retary of Health and Human Services.

8 (B) QUALIFICATIONS OF MEMBERS.—

9 Members of the Commission shall have exper-
10 tise and experience in the evaluation and devel-
11 opment of child support guidelines. At least 1
12 member shall represent advocacy groups for
13 custodial parents, at least 1 member shall rep-
14 resent advocacy groups for noncustodial par-
15 ents, and at least 1 member shall be the direc-
16 tor of a State program under part D of title IV
17 of the Social Security Act.

18 (2) TERMS OF OFFICE.—Each member shall be
19 appointed for a term of 2 years. A vacancy in the
20 Commission shall be filled in the manner in which
21 the original appointment was made.

22 (d) COMMISSION POWERS, COMPENSATION, ACCESS
23 TO INFORMATION, AND SUPERVISION.—The first sentence
24 of subparagraph (C), the first and third sentences of sub-
25 paragraph (D), subparagraph (F) (except with respect to

1 the conduct of medical studies), clauses (ii) and (iii) of
2 subparagraph (G), and subparagraph (H) of section
3 1886(e)(6) of the Social Security Act shall apply to the
4 Commission in the same manner in which such provisions
5 apply to the Prospective Payment Assessment Commis-
6 sion.

7 (e) REPORT.—Not later than 2 years after the ap-
8 pointment of members, the Commission shall submit to
9 the President, the Committee on Ways and Means of the
10 House of Representatives, and the Committee on Finance
11 of the Senate, a recommended national child support
12 guideline and a final assessment of issues relating to such
13 a proposed national child support guideline.

14 (f) TERMINATION.—The Commission shall terminate
15 6 months after the submission of the report described in
16 subsection (e).

17 **SEC. 9452. SIMPLIFIED PROCESS FOR REVIEW AND ADJUST-**
18 **MENT OF CHILD SUPPORT ORDERS.**

19 (a) IN GENERAL.—Section 466(a)(10) (42 U.S.C.
20 666(a)(10)) is amended to read as follows:

21 “(10) PROCEDURES FOR MODIFICATION OF
22 SUPPORT ORDERS.—

23 “(A)(i) Procedures under which—

24 “(I) every 3 years, at the request of
25 either parent subject to a child support

1 order, the State shall review and, as appro-
2 priate, adjust the order in accordance with
3 the guidelines established under section
4 467(a) if the amount of the child support
5 award under the order differs from the
6 amount that would be awarded in accord-
7 ance with such guidelines, without a re-
8 quirement for any other change in cir-
9 cumstances; and

10 “(II) upon request at any time of ei-
11 ther parent subject to a child support
12 order, the State shall review and, as appro-
13 priate, adjust the order in accordance with
14 the guidelines established under section
15 467(a) based on a substantial change in
16 the circumstances of either such parent.

17 “(ii) Such procedures shall require both
18 parents subject to a child support order to be
19 notified of their rights and responsibilities pro-
20 vided for under clause (i) at the time the order
21 is issued and in the annual information ex-
22 change form provided under subparagraph (B).

23 “(B) Procedures under which each child
24 support order issued or modified in the State
25 after the effective date of this subparagraph

1 shall require the parents subject to the order to
2 provide each other with a complete statement of
3 their respective financial condition annually on
4 a form which shall be established by the Sec-
5 retary and provided by the State. The Secretary
6 shall establish regulations for the enforcement
7 of such exchange of information.”.

8 **CHAPTER 7—ENFORCEMENT OF SUPPORT**
9 **ORDERS**

10 **SEC. 9461. FEDERAL INCOME TAX REFUND OFFSET.**

11 (a) CHANGED ORDER OF REFUND DISTRIBUTION
12 UNDER INTERNAL REVENUE CODE.—Section 6402(c) of
13 the Internal Revenue Code of 1986 is amended by striking
14 the 3rd sentence.

15 (b) ELIMINATION OF DISPARITIES IN TREATMENT
16 OF ASSIGNED AND NON-ASSIGNED ARREARAGES.—(1)
17 Section 464(a) (42 U.S.C. 664(a)) is amended—

18 (A) by striking “(a)” and inserting “(a) OFF-
19 SET AUTHORIZED.—”;

20 (B) in paragraph (1)—

21 (i) in the first sentence, by striking “which
22 has been assigned to such State pursuant to
23 section 402(a)(26) or section 471(a)(17)”; and

1 (ii) in the second sentence, by striking “in
2 accordance with section 457 (b)(4) or (d)(3)”
3 and inserting “as provided in paragraph (2)”;

4 (C) in paragraph (2), to read as follows:

5 “(2) The State agency shall distribute amounts
6 paid by the Secretary of the Treasury pursuant to
7 paragraph (1)—

8 “(A) in accordance with section 457(a)(4)
9 or (d)(3), in the case of past-due support as-
10 signed to a State pursuant to section
11 403(b)(1)(E)(i) or 471(a)(17); and

12 “(B) to or on behalf of the child to whom
13 the support was owed, in the case of past-due
14 support not so assigned.”;

15 (D) in paragraph (3)—

16 (i) by striking “or (2)” each place it ap-
17 pears; and

18 (ii) in subparagraph (B), by striking
19 “under paragraph (2)” and inserting “on ac-
20 count of past-due support described in para-
21 graph (2)(B)”.

22 (2) Section 464(b) (42 U.S.C. 664(b)) is
23 amended—

24 (A) by striking “(b)(1)” and inserting “(b)
25 REGULATIONS.—”; and

1 (B) by striking paragraph (2).

2 (3) Section 464(c) (42 U.S.C. 664(c)) is
3 amended—

4 (A) by striking “(c)(1) Except as provided
5 in paragraph (2), as” and inserting “(c) DEFINI-
6 TION.—As”; and

7 (B) by striking paragraphs (2) and (3).

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall become effective October 1, 1999.

10 **SEC. 9462. INTERNAL REVENUE SERVICE COLLECTION OF**
11 **ARREARS.**

12 (a) AMENDMENT TO INTERNAL REVENUE CODE.—
13 Section 6305(a) of the Internal Revenue Code of 1986 is
14 amended—

15 (1) in paragraph (1), by inserting “except as
16 provided in paragraph (5)” after “collected”;

17 (2) by striking “and” at the end of paragraph
18 (3);

19 (3) by striking the period at the end of para-
20 graph (4) and inserting a comma;

21 (4) by adding after paragraph (4) the following
22 new paragraph:

23 “(5) no additional fee may be assessed for ad-
24 justments to an amount previously certified pursu-

1 ant to such section 452(b) with respect to the same
2 obligor.”; and

3 (5) by striking “Secretary of Health, Edu-
4 cation, and Welfare” each place it appears and in-
5 serting “Secretary of Health and Human Services”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall become effective October 1, 1997.

8 **SEC. 9463. AUTHORITY TO COLLECT SUPPORT FROM FED-**
9 **ERAL EMPLOYEES.**

10 (a) CONSOLIDATION AND STREAMLINING OF AU-
11 THORITIES.—

12 (1) Section 459 (42 U.S.C. 659) is amended in
13 the caption by inserting “INCOME WITHHOLDING,”
14 before “GARNISHMENT”.

15 (2) Section 459(a) (42 U.S.C. 659(a)) is
16 amended—

17 (A) by striking “(a)” and inserting “(a)
18 CONSENT TO SUPPORT ENFORCEMENT.—”;

19 (B) by striking “section 207” and insert-
20 ing “section 207 of this Act and 38 U.S.C.
21 5301”; and

22 (C) by striking all that follows “a private
23 person,” and inserting “to withholding in ac-
24 cordance with State law pursuant to subsections
25 (a)(1) and (b) of section 466 and regulations of

1 the Secretary thereunder, and to any other legal
2 process brought, by a State agency administer-
3 ing a program under this part or by an individ-
4 ual obligee, to enforce the legal obligation of
5 such individual to provide child support or ali-
6 mony.”.

7 (3) Section 459(b) (42 U.S.C. 659(b)) is
8 amended to read as follows:

9 “(b) CONSENT TO REQUIREMENTS APPLICABLE TO
10 PRIVATE PERSON.— Except as otherwise provided herein,
11 each entity specified in subsection (a) shall be subject,
12 with respect to notice to withhold income pursuant to sub-
13 section (a)(1) or (b) of section 466, or to any other order
14 or process to enforce support obligations against an indi-
15 vidual (if such order or process contains or is accompanied
16 by sufficient data to permit prompt identification of the
17 individual and the moneys involved), to the same require-
18 ments as would apply if such entity were a private per-
19 son.”.

20 (4) Section 459(c) (42 U.S.C. 659(c)) is reded-
21 signed and relocated as paragraph (2) of subsection
22 (f), and is amended—

23 (A) by striking “responding to interroga-
24 tories pursuant to requirements imposed by
25 section 461(b)(3)” and inserting “taking ac-

1 tions necessary to comply with the requirements
2 of subsection (A) with regard to any individ-
3 ual”; and

4 (B) by striking “any of his duties” and all
5 that follows and inserting “such duties.”.

6 (5) Section 461 (42 U.S.C. 661) is amended by
7 striking subsection (b), and section 459 (42 U.S.C.
8 659) is amended by inserting after subsection (b)
9 (as added by paragraph (3) of this subsection) the
10 following:

11 “(c) DESIGNATION OF AGENT; RESPONSE TO NOTICE
12 OR PROCESS.—(1) The head of each agency subject to the
13 requirements of this section shall—

14 “(A) designate an agent or agents to receive or-
15 ders and accept service of process; and

16 “(B) publish (i) in the appendix of such regula-
17 tions, (ii) in each subsequent republication of such
18 regulations, and (iii) annually in the Federal Reg-
19 ister, the designation of such agent or agents, identi-
20 fied by title of position, mailing address, and tele-
21 phone number.”.

22 (6) Section 459 (42 U.S.C. 659) is amended by
23 striking subsection (d) and by inserting after sub-
24 section (c)(1) (as added by paragraph (5) of this
25 subsection) the following:

1 “(2) Whenever an agent designated pursuant to para-
2 graph (1) receives notice pursuant to subsection (a)(1) or
3 (b) of section 466, or is effectively served with any order,
4 process, or interrogatories, with respect to an individual’s
5 child support or alimony payment obligations, such agent
6 shall—

7 “(A) as soon as possible (but not later than fif-
8 teen days) thereafter, send written notice of such no-
9 tice or service (together with a copy thereof) to such
10 individual at his duty station or last-known home
11 address;

12 “(B) within 30 days (or such longer period as
13 may be prescribed by applicable State law) after re-
14 ceipt of a notice pursuant to subsection (a)(1) or (b)
15 of section 466, comply with all applicable provisions
16 of such section 466; and

17 “(C) within 30 days (or such longer period as
18 may be prescribed by applicable State law) after ef-
19 fective service of any other such order, process, or
20 interrogatories, respond thereto.”.

21 (7) Section 461 (42 U.S.C. 661) is amended by
22 striking subsection (c), and section 459 (42 U.S.C.
23 659) is amended by inserting after subsection (c) (as
24 added by paragraph (5) and amended by paragraph
25 (6) of this subsection) the following:

1 “(d) PRIORITY OF CLAIMS.—In the event that a gov-
2 ernmental entity receives notice or is served with process,
3 as provided in this section, concerning amounts owed by
4 an individual to more than one person—

5 “(1) support collection under section 466(b)
6 must be given priority over any other process, as
7 provided in section 466(b)(7);

8 “(2) allocation of moneys due or payable to an
9 individual among claimants under section 466(b)
10 shall be governed by the provisions of such section
11 466(b) and regulations thereunder; and

12 “(3) such moneys as remain after compliance
13 with subparagraphs (A) and (B) shall be available to
14 satisfy any other such processes on a first-come,
15 first-served basis, with any such process being satis-
16 fied out of such moneys as remain after the satisfac-
17 tion of all such processes which have been previously
18 served.”.

19 (8) Section 459(e) (42 U.S.C. 659(e)) is
20 amended by striking “(e)” and inserting the follow-
21 ing:

22 “(e) NO REQUIREMENT TO VARY PAY CYCLES.—”.

23 (9) Section 459(f) (42 U.S.C. 659(f)) is amend-
24 ed by striking “(f)” and inserting the following:

25 “(f) RELIEF FROM LIABILITY.—(1)”.

1 (10) Section 461(a) (42 U.S.C. 661(a)) is re-
2 designated and relocated as section 459(g), and is
3 amended—

4 (A) by striking “(g)” and inserting the fol-
5 lowing:

6 “(g) REGULATIONS.—”; and

7 (B) by striking “section 459” and insert-
8 ing “this section”.

9 (11) Section 462 (42 U.S.C. 662) is amended
10 by striking subsection (f), and section 459 (42
11 U.S.C. 659) is amended by inserting the following
12 after subsection (g) (as added by paragraph (10) of
13 this subsection):

14 “(h) MONEYS SUBJECT TO PROCESS.—(1) Subject to
15 subsection (i), moneys paid or payable to an individual
16 which are considered to be based upon remuneration for
17 employment, for purposes of this section—

18 “(A) consist of—

19 “(i) compensation paid or payable for per-
20 sonal services of such individual, whether such
21 compensation is denominated as wages, salary,
22 commission, bonus, pay, allowances, or other-
23 wise (including severance pay, sick pay, and in-
24 centive pay);

1 “(ii) periodic benefits (including a periodic
2 benefit as defined in section 228(h)(3)) or other
3 payments—

4 “(I) under the insurance system es-
5 tablished by title II;

6 “(II) under any other system or fund
7 established by the United States which
8 provides for the payment of pensions, re-
9 tirement or retired pay, annuities, depend-
10 ents’ or survivors’ benefits, or similar
11 amounts payable on account of personal
12 services performed by the individual or any
13 other individual;

14 “(III) as compensation for death
15 under any Federal program;

16 “(IV) under any Federal program es-
17 tablished to provide ‘black lung’ benefits;
18 or

19 “(V) by the Secretary of Veterans Af-
20 fairs as pension, or as compensation for a
21 service-connected disability or death (ex-
22 cept any compensation paid by such Sec-
23 retary to a former member of the Armed
24 Forces who is in receipt of retired or re-
25 tainer pay if such former member has

1 waived a portion of his retired pay in order
2 to receive such compensation); and

3 “(iii) worker’s compensation benefits paid
4 under Federal or State law; but

5 “(B) do not include any payment—

6 “(i) by way of reimbursement or otherwise,
7 to defray expenses incurred by such individual
8 in carrying out duties associated with his em-
9 ployment; or

10 “(ii) as allowances for members of the uni-
11 formed services payable pursuant to chapter 7
12 of title 37, United States Code, as prescribed
13 by the Secretaries concerned (defined by section
14 101(5) of such title) as necessary for the effi-
15 cient performance of duty.”.

16 (12) Section 462(g) (42 U.S.C. 662(g)) is re-
17 designated and relocated as section 459(i) (42
18 U.S.C. 659(i)).

19 (13)(A) Section 462 (42 U.S.C. 662) is amend-
20 ed—

21 (i) in subsection (e)(1), by redesignating
22 subparagraphs (A), (B), and (C) as clauses (i),
23 (ii), and (iii); and

1 (ii) in subsection (e), by redesignating
2 paragraphs (1) and (2) as subparagraphs (A)
3 and (B).

4 (B) Section 459 (42 U.S.C. 659) is amended by
5 adding at the end the following:

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

7 (C) Subsections (a) through (e) of section 462
8 (42 U.S.C. 662), as amended by subparagraph (A)
9 of this paragraph, are relocated and redesignated as
10 paragraphs (1) through (4), respectively of section
11 459(j) (as added by subparagraph (B) of this para-
12 graph, (42 U.S.C. 659(j))), and the left margin of
13 each of such paragraphs (1) through (4) is indented
14 2 ems to the right of the left margin of subsection
15 (i) (as added by paragraph (12) of this subsection).

16 (b) CONFORMING AMENDMENTS.—

17 (1) TO PART D OF TITLE IV.—Sections 461 and
18 462 (42 U.S.C. 661), as amended by subsection (a)
19 of this section, are repealed.

20 (2) TO TITLE 5, UNITED STATES CODE.—Sec-
21 tion 5520a of title 5, United States Code, is amend-
22 ed, in subsections (h)(2) and (i), by striking “sec-
23 tions 459, 461, and 462 of the Social Security Act
24 (42 U.S.C. 659, 661, and 662)” and inserting “sec-

1 tion 459 of the Social Security Act (42 U.S.C.
2 659)”.

3 (c) MILITARY RETIRED AND RETAINER PAY.—(1)

4 DEFINITION OF COURT.—Section 1408(a)(1) of title 10,
5 United States Code, is amended—

6 (A) by striking “and” at the end of subpara-
7 graph (B);

8 (B) by striking the period at the end of sub-
9 paragraph (C) and inserting “; and”; and

10 (C) by adding after subparagraph (C) the fol-
11 lowing new paragraph:

12 “(D) any administrative or judicial tribu-
13 nal of a State competent to enter orders for
14 support or maintenance (including a State
15 agency administering a State program under
16 part D of title IV of the Social Security Act).”;

17 (2) DEFINITION OF COURT ORDER.—Section
18 1408(a)(2) of such title is amended by inserting “or a
19 court order for the payment of child support not included
20 in or accompanied by such a decree or settlement,” before
21 “which—”.

22 (3) PUBLIC PAYEE.—Section 1408(d) of such title is
23 amended—

24 (A) in the heading, by striking “to spouse” and
25 inserting “to (or for benefit of)”; and

1 (B) in paragraph (1), in the first sentence, by
2 inserting “(or for the benefit of such spouse or
3 former spouse to a State central collections unit or
4 other public payee designated by a State, in accord-
5 ance with part D of title IV of the Social Security
6 Act, as directed by court order, or as otherwise di-
7 rected in accordance with such part D)” before “in
8 an amount sufficient”.

9 (4) RELATIONSHIP TO PART D OF TITLE IV.—Sec-
10 tion 1408 of such title is amended by adding at the end
11 the following new subsection:

12 “(j) RELATIONSHIP TO OTHER LAWS.—In any case
13 involving a child support order against a member who has
14 never been married to the other parent of the child, the
15 provisions of this section shall not apply, and the case
16 shall be subject to the provisions of section 459 of the
17 Social Security Act.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall become effective 6 months after the date
20 of the enactment of this Act.

21 **SEC. 9464. ENFORCEMENT OF CHILD SUPPORT OBLIGA-**
22 **TIONS OF MEMBERS OF THE ARMED FORCES.**

23 (a) AVAILABILITY OF LOCATOR INFORMATION.—

24 (1) MAINTENANCE OF ADDRESS INFORMA-
25 TION.—The Secretary of Defense shall establish a

1 centralized personnel locator service that includes
2 the address of each member of the Armed Forces
3 under the jurisdiction of the Secretary. Upon re-
4 quest of the Secretary of Transportation, addresses
5 for members of the Coast Guard shall be included in
6 the centralized personnel locator service.

7 (2) TYPE OF ADDRESS.—

8 (A) RESIDENTIAL ADDRESS.—Except as
9 provided in subparagraph (B), the address for
10 a member of the Armed Forces shown in the lo-
11 cator service shall be the residential address of
12 that member.

13 (B) DUTY ADDRESS.—The address for a
14 member of the Armed Forces shown in the loca-
15 tor service shall be the duty address of that
16 member in the case of a member—

17 (i) who is permanently assigned over-
18 seas, to a vessel, or to a routinely
19 deployable unit; or

20 (ii) with respect to whom the Sec-
21 retary concerned makes a determination
22 that the member's residential address
23 should not be disclosed due to national se-
24 curity or safety concerns.

1 (3) UPDATING OF LOCATOR INFORMATION.—

2 Within 30 days after a member listed in the locator
3 service establishes a new residential address (or a
4 new duty address, in the case of a member covered
5 by paragraph (2)(B)), the Secretary concerned shall
6 update the locator service to indicate the new ad-
7 dress of the member.

8 (4) AVAILABILITY OF INFORMATION.—The Sec-
9 retary of Defense shall make information regarding
10 the address of a member of the Armed Forces listed
11 in the locator service available, on request, to the
12 Federal Parent Locator Service.

13 (b) FACILITATING GRANTING OF LEAVE FOR AT-
14 TENDANCE AT HEARINGS.—

15 (1) REGULATIONS.—The Secretary of each
16 military department, and the Secretary of Transpor-
17 tation with respect to the Coast Guard when it is
18 not operating as a service in the Navy, shall pre-
19 scribe regulations to facilitate the granting of leave
20 to a member of the Armed Forces under the juris-
21 diction of that Secretary in a case in which—

22 (A) the leave is needed for the member to
23 attend a hearing described in paragraph (2);

24 (B) the member is not serving in or with
25 a unit deployed in a contingency operation (as

1 defined in section 101 of title 10, United States
2 Code); and

3 (C) the exigencies of military service (as
4 determined by the Secretary concerned) do not
5 otherwise require that such leave not be grant-
6 ed.

7 (2) COVERED HEARINGS.—Paragraph (1) ap-
8 plies to a hearing that is conducted by a court or
9 pursuant to an administrative process established
10 under State law, in connection with a civil action—

11 (A) to determine whether a member of the
12 Armed Forces is a natural parent of a child; or

13 (B) to determine an obligation of a mem-
14 ber of the Armed Forces to provide child sup-
15 port.

16 (3) DEFINITIONS.—For purposes of this sub-
17 section:

18 (A) The term “court” has the meaning
19 given that term in section 1408(a) of title 10,
20 United States Code.

21 (B) The term “child support” has the
22 meaning given such term in section 462 of the
23 Social Security Act (42 U.S.C. 662).

24 (c) PAYMENT OF MILITARY RETIRED PAY IN COM-
25 PLIANCE WITH CHILD SUPPORT ORDERS.—

1 (1) DATE OF CERTIFICATION OF COURT
2 ORDER.—Section 1408 of title 10, United States
3 Code, is amended—

4 (A) by redesignating subsection (i) as sub-
5 section (j); and

6 (B) by inserting after subsection (h) the
7 following new subsection (i):

8 “(i) CERTIFICATION DATE.—It is not necessary that
9 the date of a certification of the authenticity or complete-
10 ness of a copy of a court order or an order of an adminis-
11 trative process established under State law for child sup-
12 port received by the Secretary concerned for the purposes
13 of this section be recent in relation to the date of receipt
14 by the Secretary.”.

15 (2) PAYMENTS CONSISTENT WITH ASSIGN-
16 MENTS OF RIGHTS TO STATES.—Section 1408(d)(1)
17 of such title is amended by inserting after the first
18 sentence the following: “In the case of a spouse or
19 former spouse who, pursuant to section
20 403(b)(1)(E)(i) of the Social Security Act, assigns
21 to a State the rights of the spouse or former spouse
22 to receive support, the Secretary concerned may
23 make the child support payments referred to in the
24 preceding sentence to that State in amounts consist-
25 ent with that assignment of rights.”.

1 (3) ARREARAGES OWED BY MEMBERS OF THE
2 UNIFORMED SERVICES.—Section 1408(d) of such
3 title is amended by adding at the end the following
4 new paragraph:

5 “(6) In the case of a court order or an order of an
6 administrative process established under State law for
7 which effective service is made on the Secretary concerned
8 on or after the date of the enactment of this paragraph
9 and which provides for payments from the disposable re-
10 tired pay of a member to satisfy the amount of child sup-
11 port set forth in the order, the authority provided in para-
12 graph (1) to make payments from the disposable retired
13 pay of a member to satisfy the amount of child support
14 set forth in a court order or an order of an administrative
15 process established under State law shall apply to payment
16 of any amount of child support arrearages set forth in that
17 order as well as to amounts of child support that currently
18 become due.”.

19 **SEC. 9465. MOTOR VEHICLE LIENS.**

20 Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amend-
21 ed—

22 (1) by striking “(4) Procedures” and inserting
23 the following:

24 “(4) LIENS.—

25 “(A) IN GENERAL.—Procedures”; and

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

3 “(B) MOTOR VEHICLE LIENS.—Procedures
4 for placing liens for arrears of child support on
5 motor vehicle titles of individuals owing such
6 arrears equal to or exceeding two months of
7 support, under which—

8 “(i) any person owed such arrears
9 may place such a lien;

10 “(ii) the State agency administering
11 the program under this part shall system-
12 atically place such liens;

13 “(iii) expedited methods are provided
14 for—

15 “(I) ascertaining the amount of
16 arrears;

17 “(II) affording the person owing
18 the arrears or other titleholder to con-
19 test the amount of arrears or to ob-
20 tain a release upon fulfilling the sup-
21 port obligation;

22 “(iv) such a lien has precedence over
23 all other encumbrances on a vehicle title
24 other than a purchase money security in-
25 terest; and

1 “(v) the individual or State agency
2 owed the arrears may execute on, seize,
3 and sell the property in accordance with
4 State law.”.

5 **SEC. 9466. VOIDING OF FRAUDULENT TRANSFERS.**

6 Section 466(a) (42 U.S.C. 666(a)), as amended by
7 sections 9401(a), 9426(a), 9431, and 9442 of this Act,
8 is amended by inserting after paragraph (15) the follow-
9 ing:

10 “(16) FRAUDULENT TRANSFERS.—Procedures
11 under which—

12 “(A) the State has in effect—

13 “(i) the Uniform Fraudulent Convey-
14 ance Act of 1981,

15 “(ii) the Uniform Fraudulent Trans-
16 fer Act of 1984, or

17 “(iii) another law, specifying indicia of
18 fraud which create a prima facie case that
19 a debtor transferred income or property to
20 avoid payment to a child support creditor,
21 which the Secretary finds affords com-
22 parable rights to child support creditors;
23 and

24 “(B) in any case in which the State knows
25 of a transfer by a child support debtor with re-

1 spect to which such a prima facie case is estab-
2 lished, the State must—

3 “(i) seek to void such transfer; or

4 “(ii) obtain a settlement in the best
5 interests of the child support creditor.”.

6 **SEC. 9467. STATE LAW AUTHORIZING SUSPENSION OF LI-**
7 **CENSES.**

8 Section 466(a) (42 U.S.C. 666(a)), as amended by
9 sections 9401(a), 9426(a), 9431, 9442, and 9466 of this
10 Act, is amended by inserting after paragraph (16) the fol-
11 lowing:

12 “(17) AUTHORITY TO WITHHOLD OR SUSPEND
13 LICENSES.—Procedures under which the State has
14 (and uses in appropriate cases) authority (subject to
15 appropriate due process safeguards) to withhold or
16 suspend, or to restrict the use of driver’s licenses,
17 and professional and occupational licenses of individ-
18 uals owing overdue child support or failing, after re-
19 ceiving appropriate notice, to comply with subpoenas
20 or warrants relating to paternity or child support
21 proceedings.”.

22 **SEC. 9468. REPORTING ARREARAGES TO CREDIT BUREAUS.**

23 Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended
24 to read as follows:

1 “(7) REPORTING ARREARAGES TO CREDIT BU-
2 REAUS.—(A) Procedures (subject to safeguards pur-
3 suant to subparagraph (B)) requiring the State to
4 report periodically to consumer reporting agencies
5 (as defined in section 603(f) of the Fair Credit Re-
6 porting Act (15 U.S.C. 1681a(f)) the name of any
7 absent parent who is delinquent by 90 days or more
8 in the payment of support, and the amount of over-
9 due support owed by such parent.

10 “(B) Procedures ensuring that, in carrying out
11 subparagraph (A), information with respect to an
12 absent parent is reported—

13 “(i) only after such parent has been af-
14 forded all due process required under State law,
15 including notice and a reasonable opportunity
16 to contest the accuracy of such information;
17 and

18 “(ii) only to an entity that has furnished
19 evidence satisfactory to the State that the en-
20 tity is a consumer reporting agency.”.

21 **SEC. 9469. EXTENDED STATUTE OF LIMITATION FOR COL-**
22 **LECTION OF ARREARAGES.**

23 (a) AMENDMENTS.—Section 466(a)(9) (42 U.S.C.
24 666(a)(9)) is amended—

1 (1) by striking “(9) Procedures” and inserting
2 the following:

3 “(9) LEGAL TREATMENT OF ARREARS.—

4 “(A) FINALITY.—Procedures”;

5 (2) by redesignating subparagraphs (A), (B),
6 and (C) as clauses (i), (ii), and (iii), respectively,
7 and by indenting each of such clauses 2 additional
8 ems to the right; and

9 (3) by adding after and below subparagraph
10 (A), as redesignated, the following new subpara-
11 graph:

12 “(B) STATUTE OF LIMITATIONS.—Proce-
13 dures under which the statute of limitations on
14 any arrearages of child support extends at least
15 until the child owed such support is 30 years of
16 age.”.

17 (b) APPLICATION OF REQUIREMENT.—The amend-
18 ment made by this section shall not be read to require
19 any State law to revive any payment obligation which had
20 lapsed prior to the effective date of such State law.

21 **SEC. 9470. CHARGES FOR ARREARAGES.**

22 (a) STATE LAW REQUIREMENT.—Section 466(a) (42
23 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a),
24 9431, 9442, 9466, and 9467 of this Act, is amended by
25 inserting after paragraph (17) the following:

1 “(1) IN GENERAL.—Where the Secretary re-
2 ceives a certification by a State agency in accord-
3 ance with the requirements of section 454(28) that
4 an individual owes arrearages of child support in an
5 amount exceeding \$5,000 or in an amount exceeding
6 24 months’ worth of child support, the Secretary
7 shall transmit such certification to the Secretary of
8 State for action (with respect to denial, revocation,
9 or limitation of passports) pursuant to section
10 9471(b) of the Omnibus Budget Reconciliation Act
11 of 1995.

12 “(2) LIMIT ON LIABILITY.—The Secretary shall
13 not be liable to an individual for any action with re-
14 spect to a certification by a State agency under this
15 section.”.

16 (2) STATE CSE AGENCY RESPONSIBILITY.—Sec-
17 tion 454 (42 U.S.C. 654), as amended by sections
18 9404(a), 9414(b), and 9422(a) of this Act, is
19 amended—

20 (A) by striking “and” at the end of para-
21 graph (26);

22 (B) by striking the period at the end of
23 paragraph (27) and inserting “; and”; and

24 (C) by adding after paragraph (27) the fol-
25 lowing new paragraph:

1 “(28) provide that the State agency will have in
2 effect a procedure (which may be combined with the
3 procedure for tax refund offset under section 464)
4 for certifying to the Secretary, for purposes of the
5 procedure under section 452(1) (concerning denial of
6 passports) determinations that individuals owe ar-
7 rearages of child support in an amount exceeding
8 \$5,000 or in an amount exceeding 24 months’ worth
9 of child support, under which procedure—

10 “(A) each individual concerned is afforded
11 notice of such determination and the con-
12 sequences thereof, and an opportunity to con-
13 test the determination; and

14 “(B) the certification by the State agency
15 is furnished to the Secretary in such format,
16 and accompanied by such supporting docu-
17 mentation, as the Secretary may require.”.

18 (b) STATE DEPARTMENT PROCEDURE FOR DENIAL
19 OF PASSPORTS.—

20 (1) IN GENERAL.—The Secretary of State,
21 upon certification by the Secretary of Health and
22 Human Services, in accordance with section 452(1)
23 of the Social Security Act, that an individual owes
24 arrearages of child support in excess of \$5,000, shall
25 refuse to issue a passport to such individual, and

1 may revoke, restrict, or limit a passport issued pre-
2 viously to such individual.

3 (2) LIMIT ON LIABILITY.—The Secretary of
4 State shall not be liable to an individual for any ac-
5 tion with respect to a certification by a State agency
6 under this section.

7 (c) EFFECTIVE DATE.—This section and the amend-
8 ments made by this section shall become effective October
9 1, 1996.

10 **SEC. 9472. INTERNATIONAL CHILD SUPPORT ENFORCE-**
11 **MENT.**

12 (a) SENSE OF THE CONGRESS THAT THE UNITED
13 STATES SHOULD RATIFY THE UNITED NATIONS CON-
14 VENTION OF 1956.—It is the sense of the Congress that
15 the United States should ratify the United Nations Con-
16 vention of 1956.

17 (b) TREATMENT OF INTERNATIONAL CHILD SUP-
18 PORT CASES AS INTERSTATE CASES.—Section 454 (42
19 U.S.C. 654), as amended by sections 9404(a), 9414(b),
20 9422(a), and 9471(a)(2) of this Act, is amended—

21 (1) by striking “and” at the end of paragraph
22 (27);

23 (2) by striking the period at the end of para-
24 graph (28) and inserting “; and”; and

1 (3) by inserting after paragraph (28) the fol-
2 lowing:

3 “(29) provide that the State must treat inter-
4 national child support cases in the same manner as
5 the State treats interstate child support cases.”.

6 **SEC. 9473. SEIZURE OF LOTTERY WINNINGS, SETTLEMENTS,**
7 **PAYOUTS, AWARDS, AND BEQUESTS, AND**
8 **SALE OF FORFEITED PROPERTY, TO PAY**
9 **CHILD SUPPORT ARREARAGES.**

10 Section 466(a) (42 U.S.C. 666(a)), as amended by
11 sections 9401(a), 9426(a), 9431, 9442, 9466, 9467, and
12 9470(a) of this Act, is amended by inserting after para-
13 graph (18) the following:

14 “(19) Procedures, in addition to other income
15 withholding procedures, under which a lien is im-
16 posed against property with the following effect:

17 “(A) The person required to make a pay-
18 ment under a policy of insurance or a settle-
19 ment of a claim made with respect to the policy
20 shall—

21 “(i) suspend the payment until an in-
22 quiry is made to and a response received
23 from the agency as to whether the person
24 otherwise entitled to the payment owes a
25 child support arrearage; and

1 “(ii) if there is such an arrearage,
2 withhold from the payment the lesser of
3 the amount of the payment or the amount
4 of the arrearage, and pay the amount with-
5 held to the agency for distribution.

6 “(B) The payor of any amount pursuant to
7 an award, judgment, or settlement in any ac-
8 tion brought in Federal or State court shall—

9 “(i) suspend the payment of the
10 amount until an inquiry is made to and a
11 response is received from the agency as to
12 whether the person otherwise entitled to
13 the payment owes a child support arrear-
14 age; and

15 “(ii) if there is such an arrearage,
16 withhold from the payment the lesser of
17 the amount of the payment or the amount
18 of the arrearage, and pay the amount with-
19 held to the agency for distribution.

20 “(C) If the State seizes property forfeited
21 to the State by an individual by reason of a
22 criminal conviction, the State shall—

23 “(i) hold the property until an inquiry
24 is made to and a response is received from

1 the agency as to whether the individual
2 owes a child support arrearage; and

3 “(ii) if there is such an arrearage, sell
4 the property and, after satisfying the
5 claims of all other private or public claim-
6 ants to the property and deducting from
7 the proceeds of the sale the attendant costs
8 (such as for towing, storage, and the sale),
9 pay the lesser of the remaining proceeds or
10 the amount of the arrearage directly to the
11 agency for distribution.

12 “(D) Any person required to make a pay-
13 ment in respect of a decedent shall—

14 “(i) suspend the payment until an in-
15 quiry is made to and a response received
16 from the agency as to whether the person
17 otherwise entitled to the payment owes a
18 child support arrearage; and

19 “(ii) if there is such an arrearage,
20 withhold from the payment the lesser of
21 the amount of the payment or the amount
22 of the arrearage, and pay the amount with-
23 held to the agency for distribution.”.

1 **SEC. 9474. LIABILITY OF GRANDPARENTS FOR FINANCIAL**
2 **SUPPORT OF CHILDREN OF THEIR MINOR**
3 **CHILDREN.**

4 Section 466(a) (42 U.S.C. 666(a)), as amended by
5 sections 9401(a), 9426(a), 9431, 9442, 9466, 9467,
6 9470(a), and 9473 of this Act, is amended by inserting
7 after paragraph (19) the following:

8 “(20) Procedures under which each parent of
9 an individual who has not attained 18 years of age
10 is liable for the financial support of any child of the
11 individual to the extent that the individual is unable
12 to provide such support. The preceding sentence
13 shall not apply to the State if the State plan explic-
14 itly provides for such inapplicability.”.

15 **SEC. 9475. SENSE OF THE CONGRESS REGARDING PRO-**
16 **GRAMS FOR NONCUSTODIAL PARENTS UN-**
17 **ABLE TO MEET CHILD SUPPORT OBLIGA-**
18 **TIONS.**

19 It is the sense of the Congress that the States should
20 develop programs, such as the program of the State of
21 Wisconsin known as the “Children’s First Program”, that
22 are designed to work with noncustodial parents who are
23 unable to meet their child support obligations.

CHAPTER 8—MEDICAL SUPPORT**SEC. 9481. TECHNICAL CORRECTION TO ERISA DEFINITION
OF MEDICAL CHILD SUPPORT ORDER.**

(a) IN GENERAL.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—

(1) by striking “issued by a court of competent jurisdiction”;

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

(3) by adding, after and below clause (ii), the following:

“if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued by an administrative adjudicator and has the force and effect of law under applicable State law.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1996.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the

1 first plan year beginning on or after January 1,
2 1996, if—

3 (A) during the period after the date before
4 the date of the enactment of this Act and be-
5 fore such first plan year, the plan is operated
6 in accordance with the requirements of the
7 amendments made by this section, and

8 (B) such plan amendment applies retro-
9 actively to the period after the date before the
10 date of the enactment of this Act and before
11 such first plan year.

12 A plan shall not be treated as failing to be operated
13 in accordance with the provisions of the plan merely
14 because it operates in accordance with this para-
15 graph.

16 **CHAPTER 9—FOOD STAMP PROGRAM**
17 **REQUIREMENTS**

18 **SEC. 9491. COOPERATION WITH CHILD SUPPORT AGENCIES.**

19 Section 6 of the Food Stamp Act of 1977 (7 U.S.C.
20 2015) is amended adding at the end the following:

21 “(i) CUSTODIAL PARENT’S COOPERATION WITH
22 CHILD SUPPORT AGENCIES.—

23 “(1) IN GENERAL.—At the option of a State
24 agency, subject to paragraphs (2) and (3), no natu-
25 ral or adoptive parent or other individual (collec-

1 tively referred to in this subsection as ‘the individ-
2 ual’) who is living with and exercising parental con-
3 trol over a child under the age of 18 who has an ab-
4 sent parent shall be eligible to participate in the food
5 stamp program unless the individual cooperates with
6 the State agency administering the program estab-
7 lished under part D of title IV of the Social Security
8 Act (42 U.S.C. 651 et seq.)—

9 “(A) in establishing the paternity of the
10 child (if the child is born out of wedlock); and

11 “(B) in obtaining support for—

12 “(i) the child; or

13 “(ii) the individual and the child.

14 “(2) GOOD CAUSE FOR NONCOOPERATION.—

15 Paragraph (1) shall not apply to the individual if
16 good cause is found for refusing to cooperate, as de-
17 termined by the State agency in accordance with
18 standards prescribed by the Secretary in consulta-
19 tion with the Secretary of Health and Human Serv-
20 ices. The standards shall take into consideration cir-
21 cumstances under which cooperation may be against
22 the best interests of the child.

23 “(3) FEES.—Paragraph (1) shall not require
24 the payment of a fee or other cost for services pro-

1 vided under part D of title IV of the Social Security
2 Act (42 U.S.C. 651 et seq.).

3 “(j) NON-CUSTODIAL PARENT’S COOPERATION WITH
4 CHILD SUPPORT AGENCIES.—

5 “(1) IN GENERAL.—At the option of a State
6 agency, subject to paragraphs (2) and (3), a puta-
7 tive or identified non-custodial parent of a child
8 under the age of 18 (referred to in this subsection
9 as ‘the individual’) shall not be eligible to participate
10 in the food stamp program if the individual refuses
11 to cooperate with the State agency administering the
12 program established under part D of title IV of the
13 Social Security Act (42 U.S.C. 651 et seq.)—

14 “(A) in establishing the paternity of the
15 child (if the child is born out of wedlock); and

16 “(B) in providing support for the child.

17 “(2) REFUSAL TO COOPERATE.—

18 “(A) GUIDELINES.—The Secretary, in con-
19 sultation with the Secretary of Health and
20 Human Services, shall develop guidelines on
21 what constitutes a refusal to cooperate under
22 paragraph (1).

23 “(B) PROCEDURES.—The State agency
24 shall develop procedures, using guidelines devel-
25 oped under subparagraph (A), for determining

1 whether an individual is refusing to cooperate
2 under paragraph (1).

3 “(3) FEES.—Paragraph (1) shall not require
4 the payment of a fee or other cost for services pro-
5 vided under part D of title IV of the Social Security
6 Act (42 U.S.C. 651 et seq.).

7 “(4) PRIVACY.—The State agency shall provide
8 safeguards to restrict the use of information col-
9 lected by a State agency administering the program
10 established under part D of title IV of the Social Se-
11 curity Act (42 U.S.C. 651 et seq.) to purposes for
12 which the information is collected.”.

13 **SEC. 9492. DISQUALIFICATION FOR CHILD SUPPORT AR-**
14 **REARS.**

15 Section 6 of the Food Stamp Act of 1977 (7 U.S.C.
16 2015), as amended by section 9491 of this Act, is amend-
17 ed by adding at the end the following:

18 “(k) DISQUALIFICATION FOR CHILD SUPPORT AR-
19 REARS.—

20 “(1) IN GENERAL.—At the option of a State
21 agency, except as provided in paragraph (2), no indi-
22 vidual shall be eligible to participate in the food
23 stamp program as a member of any household dur-
24 ing any month that the individual is delinquent in

1 any payment due under a court order for the sup-
2 port of a child of the individual.

3 “(2) EXCEPTIONS.—Paragraph (1) shall not
4 apply if—

5 “(A) a court is allowing the individual to
6 delay payment; or

7 “(B) the individual is complying with a
8 payment plan approved by a court or the State
9 agency designated under part D of title IV of
10 the Social Security Act (42 U.S.C. 651 et seq.)
11 to provide support for the child of the individ-
12 ual.”.

13 **CHAPTER 10—EFFECT OF ENACTMENT**

14 **SEC. 9498. EFFECTIVE DATES.**

15 (a) IN GENERAL.—Except as otherwise specifically
16 provided (but subject to subsections (b) and (c))—

17 (1) provisions of this title requiring enactment
18 or amendment of State laws under section 466 of
19 the Social Security Act, or revision of State plans
20 under section 454 of such Act, shall be effective with
21 respect to periods beginning on and after October 1,
22 1996; and

23 (2) all other provisions of this title shall become
24 effective upon enactment.

1 (b) GRACE PERIOD FOR STATE LAW CHANGES.—The
2 provisions of this title shall become effective with respect
3 to a State on the later of—

4 (1) the date specified in this title, or

5 (2) the effective date of laws enacted by the leg-
6 islature of such State implementing such provisions,
7 but in no event later than the first day of the first cal-
8 endar quarter beginning after the close of the first regular
9 session of the State legislature that begins after the date
10 of enactment of this Act. For purposes of the previous
11 sentence, in the case of a State that has a 2-year legisla-
12 tive session, each year of such session shall be deemed to
13 be a separate regular session of the State legislature.

14 (c) GRACE PERIOD FOR STATE CONSTITUTIONAL
15 AMENDMENT.—A State shall not be found out of compli-
16 ance with any requirement enacted by this title if it is
17 unable to comply without amending the State constitution
18 until the earlier of—

19 (1) the date one year after the effective date of
20 the necessary State constitutional amendment, or

21 (2) the date five years after enactment of this
22 title.

23 **SEC. 9499. SEVERABILITY.**

24 If any provision of this title or the application thereof
25 to any person or circumstance is held invalid, the invalid-

1 ity shall not affect other provisions or applications of this
2 title which can be given effect without regard to the invalid
3 provision or application, and to this end the provisions of
4 this title shall be severable.

5 **Subtitle E—Teen Pregnancy and**
6 **Family Stability**

7 **SEC. 9501. STATE OPTION TO DENY TEMPORARY EMPLOY-**
8 **MENT ASSISTANCE FOR ADDITIONAL CHIL-**
9 **DREN.**

10 (a) IN GENERAL.—Section 402(d)(1), as added by
11 section 9101(a) of this Act, is amended—

12 (1) by striking “(1) DETERMINATION OF
13 NEED.—” and inserting the following:

14 “(1) DETERMINATION OF NEED.—

15 “(A) IN GENERAL.—”; and

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

17 “(B) OPTIONAL DENIAL OF ASSISTANCE
18 TO FAMILIES HAVING ADDITIONAL CHILDREN
19 WHILE RECEIVING ASSISTANCE.—At the option
20 of the State, the State plan may provide that—

21 “(i)(I) a child shall not be considered
22 a needy child if the child is born (other
23 than as a result of rape or incest) to a
24 member of a family—

1 “(aa) while the family was a re-
2 cipient of assistance under the State
3 plan; or

4 “(bb) during the 6-month period
5 ending with the date the family ap-
6 plied for such assistance; and

7 “(II) if the value of assistance to a
8 family under the State plan approved
9 under this part is reduced by reason of
10 subclause (I), each member of the family
11 shall be considered to be receiving such as-
12 sistance for purposes of eligibility for medi-
13 cal assistance under the State plan ap-
14 proved under title XIX for so long as as-
15 sistance to the family under the State plan
16 approved under this part would otherwise
17 not be so reduced; and

18 “(ii) if the State exercises the option,
19 the State may provide the family with
20 vouchers, in amounts not exceeding the
21 amount of any such reduction in assist-
22 ance, that may be used only to pay for
23 particular goods and services specified by
24 the State as suitable for the care of the

1 child of the parent (such as diapers, cloth-
2 ing, or school supplies).”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) of this section shall take effect in the same
5 manner as the amendment made by section 9101(a) takes
6 effect.

7 **SEC. 9502. SUPERVISED LIVING ARRANGEMENTS FOR MI-**
8 **NORS.**

9 (a) **IN GENERAL.**—Section 402(c), as added by sec-
10 tion 9101(a) of this Act, is amended by adding at the end
11 the following:

12 “(8) **SUPERVISED LIVING ARRANGEMENTS FOR**
13 **MINORS.**—The State plan shall provide that—

14 “(A) except as provided in subparagraph
15 (B), in the case of any individual who is under
16 age 18 and has never married, and who has a
17 needy child in his or her care (or is pregnant
18 and is eligible for temporary employment assist-
19 ance under the State plan)—

20 “(i) such individual may receive such
21 assistance for the individual and such child
22 (or for herself in the case of a pregnant
23 woman) only if such individual and child
24 (or such pregnant woman) reside in a
25 place of residence maintained by a parent,

1 legal guardian, or other adult relative of
2 such individual as such parent's, guard-
3 ian's, or adult relative's own home; and

4 “(ii) such assistance (where possible)
5 shall be provided to the parent, legal
6 guardian, or other adult relative on behalf
7 of such individual and child; and

8 “(B)(i) in the case of an individual de-
9 scribed in clause (ii)—

10 “(I) the State agency shall assist such
11 individual in locating an appropriate adult-
12 supervised supportive living arrangement
13 taking into consideration the needs and
14 concerns of the individual, unless the State
15 agency determines that the individual's
16 current living arrangement is appropriate,
17 and thereafter shall require that the indi-
18 vidual (and child, if any) reside in such liv-
19 ing arrangement as a condition of the con-
20 tinued receipt of assistance under the plan
21 (or in an alternative appropriate arrange-
22 ment, should circumstances change and the
23 current arrangement cease to be appro-
24 priate), or

1 “(II) if the State agency is unable,
2 after making diligent efforts, to locate any
3 such appropriate living arrangement, the
4 State agency shall provide for comprehen-
5 sive case management, monitoring, and
6 other social services consistent with the
7 best interests of the individual (and child)
8 while living independently (as determined
9 by the State agency); and

10 “(ii) for purposes of clause (i), an individ-
11 ual is described in this clause if—

12 “(I) such individual has no parent or
13 legal guardian of his or her own who is liv-
14 ing and whose whereabouts are known;

15 “(II) no living parent or legal guard-
16 ian of such individual allows the individual
17 to live in the home of such parent or
18 guardian;

19 “(III) the State agency determines
20 that the physical or emotional health of
21 such individual or any needy child of the
22 individual would be jeopardized if such in-
23 dividual and such needy child lived in the
24 same residence with such individual’s own
25 parent or legal guardian; or

1 “(IV) the State agency otherwise de-
2 termines (in accordance with regulations
3 issued by the Secretary) that it is in the
4 best interest of the needy child to waive
5 the requirement of subparagraph (A) with
6 respect to such individual.”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 subsection (a) of this section shall take effect in the same
9 manner as the amendment made by section 9101(a) takes
10 effect.

11 **SEC. 9503. NATIONAL CLEARINGHOUSE ON ADOLESCENT**
12 **PREGNANCY.**

13 (a) IN GENERAL.—Title XX (42 U.S.C. 1397–
14 1397f), as amended by section 9205(b) of this Act, is
15 amended by adding at the end the following:

16 **“SEC. 2010. NATIONAL CLEARINGHOUSE ON ADOLESCENT**
17 **PREGNANCY.**

18 “(a) NATIONAL CLEARINGHOUSE ON ADOLESCENT
19 PREGNANCY.—

20 “(1) ESTABLISHMENT.—The responsible Fed-
21 eral officials shall establish, through grant or con-
22 tract, a national center for the collection and provi-
23 sion of programmatic information and technical as-
24 sistance that relates to adolescent pregnancy preven-
25 tion programs, to be known as the ‘National Clear-

1 inghouse on Adolescent Pregnancy Prevention Pro-
2 grams’.

3 “(2) FUNCTIONS.—The national center estab-
4 lished under paragraph (1) shall serve as a national
5 information and data clearinghouse, and as a train-
6 ing, technical assistance, and material development
7 source for adolescent pregnancy prevention pro-
8 grams. Such center shall—

9 “(A) develop and maintain a system for
10 disseminating information on all types of ado-
11 lescent pregnancy prevention programs and on
12 the state of adolescent pregnancy prevention
13 program development, including information
14 concerning the most effective model programs;

15 “(B) develop and sponsor a variety of
16 training institutes and curricula for adolescent
17 pregnancy prevention program staff;

18 “(C) identify model programs representing
19 the various types of adolescent pregnancy pre-
20 vention programs;

21 “(D) develop technical assistance materials
22 and activities to assist other entities in estab-
23 lishing and improving adolescent pregnancy
24 prevention programs;

1 “(E) develop networks of adolescent preg-
2 nancy prevention programs for the purpose of
3 sharing and disseminating information; and

4 “(F) conduct such other activities as the
5 responsible Federal officials find will assist in
6 developing and carrying out programs or activi-
7 ties to reduce adolescent pregnancy.

8 “(b) FUNDING.—The responsible Federal officials
9 shall make grants to eligible entities for the establishment
10 and operation of a National Clearinghouse on Adolescent
11 Pregnancy Prevention Programs under subsection (a) so
12 that in the aggregate the expenditures for such grants do
13 not exceed \$2,000,000 for fiscal year 1996, \$4,000,000
14 for fiscal year 1997, \$8,000,000 for fiscal year 1998, and
15 \$10,000,000 for fiscal year 1999 and each subsequent fis-
16 cal year.

17 “(c) DEFINITIONS.—As used in this section:

18 “(1) ADOLESCENTS.—The term ‘adolescents’
19 means youth who are ages 10 through 19.

20 “(2) ELIGIBLE ENTITY.—The term ‘eligible en-
21 tity’ means a partnership that includes—

22 “(A) a local education agency, acting on
23 behalf of one or more schools, together with

1 “(B) one or more community-based organi-
2 zations, institutions of higher education, or
3 public or private agencies or organizations.

4 “(3) ELIGIBLE AREA.—The term ‘eligible area’
5 means a school attendance area in which—

6 “(A) at least 75 percent of the children are
7 from low-income families as that term is used
8 in part A of title I of the Elementary and Sec-
9 ondary Education Act of 1965; or

10 “(B) the number of children receiving as-
11 sistance under a State plan approved under
12 part A of title IV of this Act is substantial as
13 determined by the responsible Federal officials;
14 or

15 “(C) the unmarried adolescent birth rate is
16 high, as determined by the responsible Federal
17 officials.

18 “(4) SCHOOL.—The term ‘school’ means a pub-
19 lic elementary, middle, or secondary school.

20 “(5) RESPONSIBLE FEDERAL OFFICIALS.—The
21 term ‘responsible Federal officials’ means the Sec-
22 retary of Education, the Secretary of Health and
23 Human Services, and the Chief Executive Officer of
24 the Corporation for National and Community Serv-
25 ice.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall become effective January 1, 1996.

3 **SEC. 9504. REQUIRED COMPLETION OF HIGH SCHOOL OR**
4 **OTHER TRAINING FOR TEENAGE PARENTS.**

5 (a) IN GENERAL.—Section 403(b)(1)(D), as added
6 by section 9101(a) of this Act, is amended—

7 (1) by inserting “(i)” after “(D)”; and

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

9 “(ii) in the case of a client who is a custo-
10 dial parent who is under age 18 (or age 19, at
11 the option of the State), has not successfully
12 completed a high-school education (or its equiv-
13 alent), and is required to participate in the
14 Work First program (including an individual
15 who would otherwise be exempt from participa-
16 tion in the program), shall provide that—

17 “(I) such parent participate in—

18 “(aa) educational activities di-
19 rected toward the attainment of a
20 high school diploma or its equivalent
21 on a full-time (as defined by the edu-
22 cational provider) basis; or

23 “(bb) an alternative educational
24 or training program on a full-time (as
25 defined by the provider) basis; and

1 “(II) child care be provided in accord-
2 ance with section 2009 with respect to the
3 family.”.

4 (b) STATE OPTION TO PROVIDE ADDITIONAL INCEN-
5 TIVES AND PENALTIES TO ENCOURAGE TEEN PARENTS
6 TO COMPLETE HIGH SCHOOL AND PARTICIPATE IN
7 PARENTING ACTIVITIES.—

8 (1) STATE PLAN.—Section 403(b)(1)(D), as
9 amended by subsection (a) of this section, is amend-
10 ed by adding at the end the following:

11 “(iii) at the option of the State, may pro-
12 vide that the client who is a custodial parent or
13 pregnant woman who is under age 19 (or age
14 21, at the option of the State) participate in a
15 program of monetary incentives and penalties
16 which—

17 “(I) may, at the option of the State,
18 require full-time participation by such cus-
19 todial parent or pregnant woman in sec-
20 ondary school or equivalent educational ac-
21 tivities, or participation in a course or pro-
22 gram leading to a skills certificate found
23 appropriate by the State agency or
24 parenting education activities (or any com-

1 bination of such activities and secondary
2 education);

3 “(II) shall require that the needs of
4 such custodial parent or pregnant woman
5 be reviewed and the program assure that,
6 either in the initial development or revision
7 of such individual’s individual responsibil-
8 ity plan, there will be included a descrip-
9 tion of the services that will be provided to
10 the client and the way in which the pro-
11 gram and service providers will coordinate
12 with the educational or skills training ac-
13 tivities in which the client is participating;

14 “(III) shall provide monetary incen-
15 tives (to be treated as assistance under the
16 State plan) for more than minimally ac-
17 ceptable performance of required edu-
18 cational activities;

19 “(IV) shall provide penalties (which
20 may be those required by subsection (e) or,
21 with the approval of the Secretary, other
22 monetary penalties that the State finds will
23 better achieve the objectives of the pro-
24 gram) for less than minimally acceptable
25 performance of required activities;

1 “(V) shall provide that when a mone-
2 tary incentive is payable because of the
3 more than minimally acceptable perform-
4 ance of required educational activities by a
5 custodial parent, the incentive be paid di-
6 rectly to such parent, regardless of wheth-
7 er the State agency makes payment of as-
8 sistance under the State plan directly to
9 such parent; and

10 “(VI) for purposes of any other Fed-
11 eral or federally-assisted program based on
12 need, shall not consider any monetary in-
13 centive paid under the State plan as in-
14 come in determining a family’s eligibility
15 for or amount of benefits under such pro-
16 gram, and if assistance is reduced by rea-
17 son of a penalty under this clause, such
18 other program shall treat the family in-
19 volved as if no such penalty has been ap-
20 plied.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect in the same manner as the
23 amendment made by section 9101(a) takes effect.

1 **SEC. 9505. DENIAL OF FEDERAL HOUSING BENEFITS TO MI-**
2 **NORS WHO BEAR CHILDREN OUT-OF-WED-**
3 **LOCK.**

4 (a) PROHIBITION OF ASSISTANCE.—Notwithstanding
5 any other provision of law, a household whose head of
6 household is an individual who has borne a child out-of-
7 wedlock before attaining 18 years of age may not be pro-
8 vided Federal housing assistance for a dwelling unit until
9 attaining such age, unless—

10 (1) after the birth of the child—

11 (A) the individual marries an individual
12 who has been determined by the relevant State
13 to be the biological father of the child; or

14 (B) the biological parent of the child has
15 legal custody of the child and marries an indi-
16 vidual who legally adopts the child;

17 (2) the individual is a biological and custodial
18 parent of another child who was not born out-of-
19 wedlock; or

20 (3) eligibility for such Federal housing assist-
21 ance is based in whole or in part on any disability
22 or handicap of a member of the household.

23 (4) the state deems it necessary.

24 (b) DEFINITIONS.—For purposes of this section, the
25 following definitions shall apply:

1 (1) COVERED PROGRAM.—The term “covered
2 program” means—

3 (A) the program of rental assistance on be-
4 half of low-income families provided under sec-
5 tion 8 of the United States Housing Act of
6 1937 (42 U.S.C. 1437f);

7 (B) the public housing program under title
8 I of the United States Housing Act of 1937 (42
9 U.S.C. 1437 et seq.);

10 (C) the program of rent supplement pay-
11 ments on behalf of qualified tenants pursuant
12 to contracts entered into under section 101 of
13 the Housing and Urban Development Act of
14 1965 (12 U.S.C. 1701s);

15 (D) the program of interest reduction pay-
16 ments pursuant to contracts entered into by the
17 Secretary of Housing and Urban Development
18 under section 236 of the National Housing Act
19 (12 U.S.C. 1715z–1);

20 (E) the program for mortgage insurance
21 provided pursuant to sections 221(d) (3) or (4)
22 of the National Housing Act (12 U.S.C.
23 1715l(d)) for multifamily housing for low- and
24 moderate-income families;

1 (F) the rural housing loan program under
2 section 502 of the Housing Act of 1949 (42
3 U.S.C. 1472);

4 (G) the rural housing loan guarantee pro-
5 gram under section 502(h) of the Housing Act
6 of 1949 (42 U.S.C. 1472(h));

7 (H) the loan and grant programs under
8 section 504 of the Housing Act of 1949 (42
9 U.S.C. 1474) for repairs and improvements to
10 rural dwellings;

11 (I) the program of loans for rental and co-
12 operative rural housing under section 515 of
13 the Housing Act of 1949 (42 U.S.C. 1485);

14 (J) the program of rental assistance pay-
15 ments pursuant to contracts entered into under
16 section 521(a)(2)(A) of the Housing Act of
17 1949 (42 U.S.C. 1490a(a)(2)(A));

18 (K) the loan and assistance programs
19 under sections 514 and 516 of the Housing Act
20 of 1949 (42 U.S.C. 1484, 1486) for housing for
21 farm labor;

22 (L) the program of grants and loans for
23 mutual and self-help housing and technical as-
24 sistance under section 523 of the Housing Act
25 of 1949 (42 U.S.C. 1490c);

1 (M) the program of grants for preservation
2 and rehabilitation of housing under section 533
3 of the Housing Act of 1949 (42 U.S.C.
4 1490m); and

5 (N) the program of site loans under sec-
6 tion 524 of the Housing Act of 1949 (42
7 U.S.C. 1490d).

8 (2) COVERED PROJECT.—The term “covered
9 project” means any housing for which Federal hous-
10 ing assistance is provided that is attached to the
11 project or specific dwelling units in the project.

12 (3) FEDERAL HOUSING ASSISTANCE.—The term
13 “Federal housing assistance” means—

14 (A) assistance provided under a covered
15 program in the form of any contract, grant,
16 loan, subsidy, cooperative agreement, loan or
17 mortgage guarantee or insurance, or other fi-
18 nancial assistance; or

19 (B) occupancy in a dwelling unit that is—

20 (i) provided assistance under a cov-
21 ered program; or

22 (ii) located in a covered project and
23 subject to occupancy limitations under a
24 covered program that are based on income.

1 (4) STATE.—The term “State” means the
2 States of the United States, the District of Colum-
3 bia, the Commonwealth of Puerto Rico, the Com-
4 monwealth of the Northern Mariana Islands, Guam,
5 the Virgin Islands, American Samoa, and any other
6 territory or possession of the United States.

7 (c) LIMITATIONS ON APPLICABILITY.—Subsection
8 (a) shall not apply to Federal housing assistance provided
9 for a household pursuant to an application or request for
10 such assistance made by such household before the effec-
11 tive date of this Act if the household was receiving such
12 assistance on the effective date of this Act.

13 **SEC. 9506. STATE OPTION TO DENY TEMPORARY EMPLOY-**
14 **MENT ASSISTANCE TO MINOR PARENTS.**

15 (a) IN GENERAL.—Section 402(d)(1), as added by
16 section 9101(a) of this Act and as amended by section
17 9501(a) of this Act, is amended by adding at the end the
18 following:

19 “(C) OPTIONAL DENIAL OF ASSISTANCE
20 TO MINOR PARENTS.—At the option of the
21 State, the State plan may provide that—

22 “(i)(I) in determining the need of a
23 family, the State may disregard the needs
24 of any family member who is a parent and

1 has not attained 18 years of age or such
2 lesser age as the State may prescribe; and

3 “(II) if the value of the assistance
4 provided to a family under the State plan
5 approved under this part is reduced by
6 reason of subclause (I), each member of
7 the family shall be considered to be receiv-
8 ing such assistance for purposes of eligi-
9 bility for medical assistance under the
10 State plan approved under title XIX for so
11 long as such assistance under the State
12 plan approved under this part would other-
13 wise not be so reduced; and

14 “(ii) if the State exercises the option, the
15 State may provide the family with vouchers, in
16 amounts not exceeding the value of any such re-
17 duction in assistance, that may be used only to
18 pay for—

19 “(I) particular goods and services
20 specified by the State as suitable for the
21 care of the child of the parent (such as
22 diapers, clothing, or cribs); and

23 “(II) the costs associated with a ma-
24 ternity home, foster home, or other adult-

1 supervised supportive living arrangement
2 in which the parent and the child live.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall take effect in the same manner in
5 which the amendment made by section 9101(a) takes ef-
6 fect.

7 **Subtitle F—SSI Reform**

8 **SEC. 9601. DEFINITION AND ELIGIBILITY RULES.**

9 (a) DEFINITION OF CHILDHOOD DISABILITY.—Sec-
10 tion 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended—

11 (1) in subparagraph (A), by striking “An indi-
12 vidual” and inserting “Except as provided in sub-
13 paragraph (C), an individual”;

14 (2) in subparagraph (A), by striking “(or, in
15 the case of an individual under the age of 18, if he
16 suffers from any medically determinable physical or
17 mental impairment of comparable severity)”;

18 (3) by redesignating subparagraphs (C) through
19 (H) as subparagraphs (D) through (I), respectively;

20 (4) by inserting after subparagraph (B) the fol-
21 lowing new subparagraph:

22 “(C) An individual under the age of 18 shall be con-
23 sidered disabled for the purposes of this title if that indi-
24 vidual has a medically determinable physical or mental im-
25 pairment, which results in marked and severe functional

1 limitations, and which can be expected to result in death
2 or which has lasted or can be expected to last for a contin-
3 uous period of not less than 12 months.”; and

4 (5) in subparagraph (F), as so redesignated by
5 paragraph (3) of this subsection, by striking “(D)”
6 and inserting “(E)”.

7 (b) CHANGES TO CHILDHOOD SSI REGULATIONS.—

8 (1) MODIFICATION TO MEDICAL CRITERIA FOR
9 EVALUATION OF MENTAL AND EMOTIONAL DIS-
10 ORDERS.—The Commissioner of Social Security
11 shall modify sections 112.00C.2. and
12 112.02B.2.c.(2) of appendix 1 to subpart P of part
13 404 of title 20, Code of Federal Regulations, to
14 eliminate references to maladaptive behavior in the
15 domain of personal/behaviorial function.

16 (2) DISCONTINUANCE OF INDIVIDUALIZED
17 FUNCTIONAL ASSESSMENT.—The Commissioner of
18 Social Security shall discontinue the individualized
19 functional assessment for children set forth in sec-
20 tions 416.924d and 416.924e of title 20, Code of
21 Federal Regulations.

22 (c) EFFECTIVE DATE; REGULATIONS; APPLICATION
23 TO CURRENT RECIPIENTS.—

24 (1) IN GENERAL.—The amendments made by
25 subsections (a) and (b) shall apply to applicants for

1 benefits for months beginning on or after January
2 1, 1997.

3 (2) REGULATIONS.—The Commissioner of So-
4 cial Security shall issue such regulations as the
5 Commissioner determines to be necessary to imple-
6 ment the amendments made by subsections (a) and
7 (b), not later than January 1, 1997.

8 (3) APPLICATION TO CURRENT RECIPIENTS.—

9 (A) ELIGIBILITY DETERMINATIONS.—Be-
10 ginning on January 1, 1997, and ending not
11 later than January 1, 1998, the Commissioner
12 of Social Security shall redetermine the eligi-
13 bility of any individual under age 18 who is re-
14 ceiving supplemental security income benefits
15 based on a disability under title XVI of the So-
16 cial Security Act as of the date of the enact-
17 ment of this Act and whose eligibility for such
18 benefits may terminate by reason of the amend-
19 ments made by subsection (a) or (b). With re-
20 spect to any redetermination under this sub-
21 paragraph—

22 (i) section 1614(a)(4) of the Social
23 Security Act (42 U.S.C. 1382c(a)(4)) shall
24 not apply;

1 (ii) the Commissioner of Social Secu-
2 rity shall apply the eligibility criteria for
3 new applicants for benefits under title XVI
4 of such Act;

5 (iii) the Commissioner shall give such
6 redetermination priority over all continuing
7 eligibility reviews and other reviews under
8 such title; and

9 (iv) such redetermination shall be
10 counted as a review or redetermination
11 otherwise required to be made under sec-
12 tion 208 of the Social Security Independ-
13 ence and Program Improvements Act of
14 1994 or any other provision of title XVI of
15 the Social Security Act.

16 (B) NOTICE.—Not later than 90 days
17 after the date of the enactment of this Act, the
18 Commissioner of Social Security shall notify an
19 individual described in subparagraph (A) of the
20 provisions of this paragraph.

21 **SEC. 9602. ELIGIBILITY REDETERMINATIONS AND CON-**
22 **TINUING DISABILITY REVIEWS.**

23 (a) CONTINUING DISABILITY REVIEWS RELATING TO
24 CERTAIN CHILDREN.—Section 1614(a)(3)(H) (42 U.S.C.

1 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3)
2 of this Act, is amended—

3 (1) by inserting “(i)” after “(H)”; and

4 (2) by adding at the end the following new
5 clause:

6 “(ii)(I) Not less frequently than once every 3 years,
7 the Commissioner shall review in accordance with para-
8 graph (4) the continued eligibility for benefits under this
9 title of each individual who has not attained 18 years of
10 age and is eligible for such benefits by reason of an im-
11 pairment (or combination of impairments) which may im-
12 prove (or, which is unlikely to improve, at the option of
13 the Commissioner).

14 “(II) A parent or guardian of a recipient whose case
15 is reviewed under this clause shall present, at the time
16 of review, evidence demonstrating that the recipient is,
17 and has been, receiving treatment, to the extent consid-
18 ered medically necessary and available, of the condition
19 which was the basis for providing benefits under this
20 title.”.

21 (b) DISABILITY ELIGIBILITY REDETERMINATIONS
22 REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS
23 OF AGE.—

24 (1) IN GENERAL.—Section 1614(a)(3)(H) (42
25 U.S.C. 1382c(a)(3)(H)), as so redesignated by sec-

1 tion 9601(a)(3) of this Act and as amended by sub-
2 section (a) of this section, is amended by adding at
3 the end the following new clause:

4 “(iii) If an individual is eligible for benefits under this
5 title by reason of disability for the month preceding the
6 month in which the individual attains the age of 18 years,
7 the Commissioner shall redetermine such eligibility—

8 “(I) during the 1-year period beginning on the
9 individual’s 18th birthday; and

10 “(II) by applying the criteria used in determin-
11 ing the initial eligibility for applicants who have at-
12 tained the age of 18 years.

13 With respect to a redetermination under this clause, para-
14 graph (4) shall not apply and such redetermination shall
15 be considered a substitute for a review or redetermination
16 otherwise required under any other provision of this sub-
17 paragraph during that 1-year period.”.

18 (2) CONFORMING REPEAL.—Section 207 of the
19 Social Security Independence and Program Improve-
20 ments Act of 1994 (42 U.S.C. 1382 note; 108 Stat.
21 1516) is hereby repealed.

22 (c) CONTINUING DISABILITY REVIEW REQUIRED FOR
23 LOW BIRTH WEIGHT BABIES.—Section 1614(a)(3)(H)
24 (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section
25 9601(a)(3) of this Act and as amended by subsections (a)

1 and (b) of this section, is amended by adding at the end
2 the following new clause:

3 “(iv)(I) Not later than 12 months after the birth of
4 an individual, the Commissioner shall review in accordance
5 with paragraph (4) the continuing eligibility for benefits
6 under this title by reason of disability of such individual
7 whose low birth weight is a contributing factor material
8 to the Commissioner’s determination that the individual
9 is disabled.

10 “(II) A review under subclause (I) shall be considered
11 a substitute for a review otherwise required under any
12 other provision of this subparagraph during that 12-
13 month period.

14 “(III) A parent or guardian of a recipient whose case
15 is reviewed under this clause shall present, at the time
16 of review, evidence demonstrating that the recipient is,
17 and has been, receiving treatment, to the extent consid-
18 ered medically necessary and available, of the condition
19 which was the basis for providing benefits under this
20 title.”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to benefits for months beginning
23 on or after the date of the enactment of this Act, without
24 regard to whether regulations have been issued to imple-
25 ment such amendments.

1 **SEC. 9603. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.**

2 (a) TIGHTENING OF REPRESENTATIVE PAYEE RE-
3 QUIREMENTS.—

4 (1) CLARIFICATION OF ROLE.—Section
5 1631(a)(2)(B)(ii) (42 U.S.C. 1383(a)(2)(B)(ii)) is
6 amended by striking “and” at the end of subclause
7 (II), by striking the period at the end of subclause
8 (IV) and inserting “; and”, and by adding after
9 subclause (IV) the following new subclause:

10 “(V) advise such person through the notice of
11 award of benefits, and at such other times as the
12 Commissioner of Social Security deems appropriate,
13 of specific examples of appropriate expenditures of
14 benefits under this title and the proper role of a rep-
15 resentative payee.”.

16 (2) DOCUMENTATION OF EXPENDITURES RE-
17 QUIRED.—

18 (A) IN GENERAL.—Subparagraph (C)(i) of
19 section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is
20 amended to read as follows:

21 “(C)(i) In any case where payment is made to a rep-
22 resentative payee of an individual or spouse, the Commis-
23 sioner of Social Security shall—

24 “(I) require such representative payee to docu-
25 ment expenditures and keep contemporaneous

1 records of transactions made using such payment;
2 and

3 “(II) implement statistically valid procedures
4 for reviewing a sample of such contemporaneous
5 records in order to identify instances in which such
6 representative payee is not properly using such pay-
7 ment.”.

8 (B) CONFORMING AMENDMENT WITH RE-
9 SPECT TO PARENT PAYEES.—Clause (ii) of sec-
10 tion 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C))
11 is amended by striking “Clause (i)” and insert-
12 ing “Subclauses (II) and (III) of clause (i)”.

13 (3) EFFECTIVE DATE.—The amendments made
14 by this subsection shall apply to benefits paid after
15 the date of the enactment of this Act.

16 (b) DEDICATED SAVINGS ACCOUNTS.—

17 (1) IN GENERAL.—Section 1631(a)(2)(B) (42
18 U.S.C. 1383(a)(2)(B)) is amended by adding at the
19 end the following:

20 “(xiv) Notwithstanding clause (x), the Commissioner
21 of Social Security may, at the request of the representative
22 payee, pay any lump sum payment for the benefit of a
23 child into a dedicated savings account that could only be
24 used to purchase for such child—

25 “(I) education and job skills training;

1 “(II) special equipment or housing modifica-
2 tions or both specifically related to, and required by
3 the nature of, the child’s disability; and

4 “(III) appropriate therapy and rehabilitation.”.

5 (2) DISREGARD OF TRUST FUNDS.—Section
6 1613(a) (42 U.S.C. 1382b(a)) is amended—

7 (A) by striking “and” at the end of para-
8 graph (10),

9 (B) by striking the period at the end of
10 paragraph (11) and inserting “; and”, and

11 (C) by inserting after paragraph (11) the
12 following:

13 “(12) all amounts deposited in, or interest cred-
14 ited to, a dedicated savings account described in sec-
15 tion 1631(a)(2)(B)(xiv).”.

16 (3) EFFECTIVE DATE.—The amendments made
17 by this subsection shall apply to payments made
18 after the date of the enactment of this Act.

19 **SEC. 9604. DENIAL OF SSI BENEFITS BY REASON OF DIS-**
20 **ABILITY TO DRUG ADDICTS AND ALCOHOL-**
21 **ICS.**

22 (a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C.
23 1382c(a)(3)), as amended by section 9601(a)(3) of this
24 Act, is amended by adding at the end the following:

1 “(J) Notwithstanding subparagraph (A), an individ-
2 ual shall not be considered to be disabled for purposes of
3 this title if alcoholism or drug addiction would (but for
4 this subparagraph) be a contributing factor material to
5 the Commissioner’s determination that the individual is
6 disabled.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 1611(e) (42 U.S.C. 1382(e)) is
9 amended by striking paragraph (3).

10 (2) Section 1613(a)(12) (42 U.S.C.
11 1382b(a)(12)) is amended by striking
12 “1631(a)(2)(B)(xiv)” and inserting
13 “1631(a)(2)(B)(xiii)”.

14 (3) Section 1631(a)(2)(A)(ii) (42 U.S.C.
15 1383(a)(2)(A)(ii)) is amended—

16 (A) by striking “(I)”; and

17 (B) by striking subclause (II).

18 (4) Section 1631(a)(2)(B) (42 U.S.C.
19 1383(a)(2)(B)) is amended—

20 (A) by striking clause (vii);

21 (B) in clause (viii), by striking “(ix)” and
22 inserting “(viii)”;

23 (C) in clause (ix)—

24 (i) by striking “(viii)” and inserting

25 “(vii)”; and

1 (ii) in subclause (II), by striking all
2 that follows “15 years” and inserting a pe-
3 riod;

4 (D) in clause (xiii)—

5 (i) by striking “(xii)” and inserting
6 “(xi)”; and

7 (ii) by striking “(xi)” and inserting
8 “(x)”;

9 (E) in clause (xiv) (as added by section
10 9603(b)(1) of this Act), by striking “(x)” and
11 inserting “(ix)”; and

12 (F) by redesignating clauses (viii) through
13 (xiv) as clauses (vii) through (xiii), respectively.

14 (5) Section 1631(a)(2)(D)(i)(II) (42 U.S.C.
15 1383(a)(2)(D)(i)(II)) is amended by striking all that
16 follows “\$25.00 per month” and inserting a period.

17 (6) Section 1634 (42 U.S.C. 1383c) is amended
18 by striking subsection (e).

19 (7) Section 201(c)(1) of the Social Security
20 Independence and Program Improvements Act of
21 1994 (42 U.S.C. 425 note) is amended—

22 (A) by striking “—” and all that follows
23 through “(A)” the 1st place such term appears;

24 (B) by striking “and” the 3rd place such
25 term appears;

1 (C) by striking subparagraph (B);

2 (D) by striking “either subparagraph (A)
3 or subparagraph (B)” and inserting “the pre-
4 ceding sentence”; and

5 (E) by striking “subparagraph (A) or (B)”
6 and inserting “the preceding sentence”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on October 1, 1995, and shall
9 apply with respect to months beginning on or after such
10 date.

11 (d) FUNDING OF CERTAIN PROGRAMS FOR DRUG
12 ADDICTS AND ALCOHOLICS.—Out of any money in the
13 Treasury of the United States not otherwise appropriated,
14 the Secretary of the Treasury shall pay to the Director
15 of the National Institute on Drug Abuse—

16 (1) \$95,000,000, for each of fiscal years 1997,
17 1998, 1999, and 2000, for expenditure through the
18 Federal Capacity Expansion Program to expand the
19 availability of drug treatment; and

20 (2) \$5,000,000 for each of fiscal years 1997,
21 1998, 1999, and 2000 to be expended solely on the
22 medication development project to improve drug
23 abuse and drug treatment research.

1 **SEC. 9605. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDI-**
2 **VIDUALS FOUND TO HAVE FRAUDULENTLY**
3 **MISREPRESENTED RESIDENCE IN ORDER TO**
4 **OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR**
5 **MORE STATES.**

6 Section 1614(a) (42 U.S.C. 1382c(a)) is amended by
7 adding at the end the following:

8 “(5) An individual shall not be considered an eligible
9 individual for purposes of this title during the 10-year pe-
10 riod beginning on the date the individual is found by a
11 State to have made, or is convicted in Federal or State
12 court of having made, a fraudulent statement or represen-
13 tation with respect to the place of residence of the individ-
14 ual in order to receive benefits simultaneously from 2 or
15 more States under programs that are funded under part
16 A of title IV, or title XIX of this Act, the consolidated
17 program of food assistance under chapter 2 of subtitle E
18 of title XIV of the Omnibus Budget Reconciliation Act of
19 1995, or the Food Stamp Act of 1977 (as in effect before
20 the effective date of such chapter), or benefits in 2 or more
21 States under the supplemental security income program
22 under title XVI of this Act.”.

1 **SEC. 9606. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS**
2 **AND PROBATION AND PAROLE VIOLATORS.**

3 (a) IN GENERAL.—Section 1611(e) (42 U.S.C.
4 1382(e)), as amended by section 9604(b)(1) of this Act,
5 is amended by inserting after paragraph (2) the following:

6 “(3) A person shall not be an eligible individual
7 or eligible spouse for purposes of this title with re-
8 spect to any month if, throughout the month, the
9 person is—

10 “(A) fleeing to avoid prosecution, or cus-
11 tody or confinement after conviction, under the
12 laws of the place from which the person flees,
13 for a crime, or an attempt to commit a crime,
14 which is a felony under the laws of the place
15 from which the person flees, or which, in the
16 case of the State of New Jersey, is a high mis-
17 demeanor under the laws of such State; or

18 “(B) violating a condition of probation or
19 parole imposed under Federal or State law.”.

20 (b) EXCHANGE OF INFORMATION WITH LAW EN-
21 FORCEMENT AGENCIES.—Section 1631(e) of such Act (42
22 U.S.C. 1383(e)) is amended by inserting after paragraph
23 (3) the following:

24 “(4) Notwithstanding any other provision of law, the
25 Commissioner shall furnish any Federal, State, or local
26 law enforcement officer, upon the request of the officer,

1 with the current address of any recipient of benefits under
2 this title, if the officer furnishes the agency with the name
3 of the recipient and notifies the agency that—

4 “(A) the recipient—

5 “(i) is fleeing to avoid prosecution, or cus-
6 tody or confinement after conviction, under the
7 laws of the place from which the person flees,
8 for a crime, or an attempt to commit a crime,
9 which is a felony under the laws of the place
10 from which the person flees, or which, in the
11 case of the State of New Jersey, is a high mis-
12 demeanor under the laws of such State;

13 “(ii) is violating a condition of probation or
14 parole imposed under Federal or State law; or

15 “(iii) has information that is necessary for
16 the officer to conduct the officer’s official du-
17 ties;

18 “(B) the location or apprehension of the recipi-
19 ent is within the official duties of the officer; and

20 “(C) the request is made in the proper exercise
21 of such duties.”.

1 **Subtitle D—Supplemental Security Income**

2 **SEC. 9607 VERIFICATION OF ELIGIBILITY FOR CERTAIN SSI**
3 **DISABILITY BENEFITS.**

4 Section 1631 (42 U.S.C. 1383) is amended by adding
5 at the end the following new subsection:

6 “(o)(1) Notwithstanding any other provision of law,
7 if the Commissioner of Social Security determines that an
8 individual, who is 18 years of age or older, is eligible to
9 receive benefits pursuant to section 1614(a)(3), the Com-
10 missioner shall, at the time of the determination, either
11 exempt the individual from an eligibility review or estab-
12 lish a schedule for reviewing the individual’s continuing
13 eligibility in accordance with paragraph (2).

14 “(2)(A) The Commissioner shall establish a periodic
15 review with respect to the continuing eligibility of an indi-
16 vidual to receive benefits, unless the individual is exempt
17 from review under subparagraph (C) or is subject to a
18 scheduled review under subparagraph (B). A periodic re-
19 view under this subparagraph shall be initiated by the
20 Commissioner not later than 30 months after the date a
21 determination is made that the individual is eligible for
22 benefits and every 30 months thereafter, unless a waiver
23 is granted under section 221(i)(2). However, the Commis-
24 sioner shall not postpone the initiation of a periodic review
25 for more than 12 months in any case in which such waiver

1 has been granted unless exigent circumstances require
2 such postponement.

3 “(B)(i) In the case of an individual, other than an
4 individual who is exempt from review under subparagraph
5 (C) or with respect to whom subparagraph (A) applies,
6 the Commissioner shall schedule a review regarding the
7 individual’s continuing eligibility to receive benefits at any
8 time the Commissioner determines, based on the evidence
9 available, that there is a significant possibility that the
10 individual may cease to be entitled to such benefits.

11 “(ii) The Commissioner may establish classifications
12 of individuals for whom a review of continuing eligibility
13 is scheduled based on the impairments that are the basis
14 for such individuals’ eligibility for benefits. A review of
15 an individual covered by a classification shall be scheduled
16 in accordance with the applicable classification, unless the
17 Commissioner determines that applying such schedule is
18 inconsistent with the purpose of this Act or the integrity
19 of the supplemental security income program.

20 “(C)(i) The Commissioner may exempt an individual
21 from review under this subsection, if the individual’s eligi-
22 bility for benefits is based on a condition that, as a prac-
23 tical matter, has no substantial likelihood of improving to
24 a point where the individual will be able to perform sub-
25 stantial gainful activity.

1 “(ii) The Commissioner may establish classifications
2 of individuals who are exempt from review under this sub-
3 section based on the impairments that are the basis for
4 such individuals’ eligibility for benefits. Notwithstanding
5 any such classification, the Commissioner may, at the time
6 of determining an individual’s eligibility, schedule a review
7 of such individual’s continuing eligibility if the Commis-
8 sioner determines that a review is necessary to preserve
9 the integrity of the supplemental security income program.

10 “(3) The Commissioner may revise a determination
11 made under paragraph (1) and schedule a review under
12 paragraph (2)(B), if the Commissioner obtains credible
13 evidence that an individual may no longer be eligible for
14 benefits or the Commissioner determines that a review is
15 necessary to maintain the integrity of the supplemental
16 security income program. Information obtained under sec-
17 tion 1137 may be used as the basis to schedule a review.

18 “(4)(i) The requirements of sections 1614(a)(4) and
19 1633 shall apply to reviews conducted under this sub-
20 section.

21 “(ii) Such reviews may be conducted by the applicable
22 State agency or the Commissioner, whichever is appro-
23 priate.”.

1 MODIFICATION TO ACCELERATE IMPLEMENTATION OF
2 CONRAD CONTINUING DISABILITY REVIEW PROVISION

3 At the end of section 841 of S. 840, insert after “is
4 appropriate.” the following:

5 “(5) TRANSITION RULE.—Not later than three
6 months after the date of enactment of this sub-
7 section, the Commissioner shall establish a schedule
8 for reviewing the continuing eligibility of each indi-
9 vidual receiving benefits pursuant to section
10 1614(a)(3) on the date of enactment and who is 18
11 years of age or older unless such individual is ex-
12 empt under subparagraph (2)(C). Such reviews shall
13 be scheduled under the procedures set out in para-
14 graph (2), except that the reviews shall be scheduled
15 so that the eligibility of one-third of all such non-ex-
16 empt individuals is reviewed within one year after
17 the date of enactment, the eligibility of two-thirds of
18 such non-exempt individuals is reviewed within two
19 years of the date of enactment, and all remaining
20 non-exempt individuals receiving benefits on the date
21 of enactment of this subsection who continue receiv-
22 ing benefits shall have their eligibility reviewed with-
23 in three years of the date of enactment. Each indi-
24 vidual determined eligible to continue receiving bene-
25 fits in a review scheduled under this paragraph

1 shall, at the time of such determination, be subject
2 to paragraph (1).”.

3 **Subtitle H—Treatment of Aliens**

4 **SEC. 9801. EXTENSION OF DEEMING OF INCOME AND RE-** 5 **SOURCES UNDER TEA, SSI, AND FOOD STAMP** 6 **PROGRAMS.**

7 (a) IN GENERAL.—Except as provided in subsections
8 (b) and (c), in applying sections 407 and 1621 of the So-
9 cial Security Act and section 5(i) of the Food Stamp Act
10 of 1977, the period in which each respective section other-
11 wise applies with respect to an alien shall be extended
12 through the date (if any) on which the alien becomes a
13 citizen of the United States (under chapter 2 of title III
14 of the Immigration and Nationality Act).

15 (b) EXCEPTION.—Subsection (a) shall not apply to
16 an alien if—

17 (1) the alien has been lawfully admitted to the
18 United States for permanent residence, has attained
19 75 years of age, and has resided in the United
20 States for at least 5 years;

21 (2) the alien—

22 (A) is a veteran (as defined in section 101
23 of title 38, United States Code) with a dis-
24 charge characterized as an honorable discharge,

1 (B) is on active duty (other than active
2 duty for training) in the Armed Forces of the
3 United States, or

4 (C) is the spouse or unmarried dependent
5 child of an individual described in subparagraph
6 (A) or (B);

7 (3) the alien is the subject of domestic violence
8 by the alien's spouse and a divorce between the alien
9 and the alien's spouse has been initiated through the
10 filing of an appropriate action in an appropriate
11 court; or

12 (4) there has been paid with respect to the self-
13 employment income or employment of the alien, or
14 of a parent or spouse of the alien, taxes under chap-
15 ter 2 or chapter 21 of the Internal Revenue Code of
16 1986 in each of 20 different calendar quarters.

17 (c) **HOLD HARMLESS FOR MEDICAID ELIGIBILITY.**—
18 Subsection (a) shall not apply with respect to determina-
19 tions of eligibility for benefits under a State plan approved
20 under part A of title IV of the Social Security Act or under
21 the supplemental income security program under title XVI
22 of such Act but only insofar as such determinations pro-
23 vide for eligibility for medical assistance under title XIX
24 of such Act.

1 (d) EXCEPTION FOR ALIENS RECEIVING BENEFIT.—
2 Subsection (a) shall not apply with respect to determina-
3 tions of eligibility for a benefit for an alien receiving such
4 a benefit on the date of the enactment of the Common
5 Sense Budget Act of 1996 who otherwise continues to be
6 eligible for and continues to receive such benefit after such
7 date.

8 (e) RULES REGARDING INCOME AND RESOURCE
9 DEEMING UNDER TEA PROGRAM.—Subpart 1 of part A
10 of title IV of the Social Security Act, as added by section
11 9101(a) of this Act, is amended by adding at the end the
12 following:

13 **“SEC. 407. ATTRIBUTION OF SPONSOR’S INCOME AND RE-**
14 **SOURCES TO ALIEN.**

15 “(a) For purposes of determining eligibility for and
16 the amount of assistance under a State plan approved
17 under this part for an individual who is an alien lawfully
18 admitted for permanent residence or otherwise perma-
19 nently residing in the United States under color of law
20 (including any alien who is lawfully present in the United
21 States as a result of the application of the provisions of
22 section 207(c) of the Immigration and Nationality Act (or
23 of section 203(a)(7) of such Act prior to April 1, 1980),
24 or as a result of the application of the provisions of section
25 208 or 212(d)(5) of such Act), the income and resources

1 of any person who (as a sponsor of such individual's entry
2 into the United States) executed an affidavit of support
3 or similar agreement with respect to such individual, and
4 the income and resources of the sponsor's spouse, shall
5 be deemed to be the unearned income and resources of
6 such individual (in accordance with subsections (b) and
7 (c)) for a period of three years after the individual's entry
8 into the United States, except that this section is not ap-
9 plicable if such individual is a dependent child and such
10 sponsor (or such sponsor's spouse) is the parent of such
11 child.

12 “(b)(1) The amount of income of a sponsor (and his
13 spouse) which shall be deemed to be the unearned income
14 of an alien for any month shall be determined as follows:

15 “(A) the total amount of earned and unearned
16 income of such sponsor and such sponsor's spouse
17 (if such spouse is living with the sponsor) shall be
18 determined for such month;

19 “(B) the amount determined under subpara-
20 graph (A) shall be reduced by an amount equal to
21 the sum of—

22 “(i) the lesser of (I) 20 percent of the total
23 of any amounts received by the sponsor and his
24 spouse in such month as wages or salary or as
25 net earnings from self-employment, plus the full

1 amount of any costs incurred by them in pro-
2 ducing self-employment income in such month,
3 or (II) \$175;

4 “(ii) the cash needs standard established
5 by the State under its plan for a family of the
6 same size and composition as the sponsor and
7 those other individuals living in the same house-
8 hold as the sponsor who are claimed by him as
9 dependents for purposes of determining his
10 Federal personal income tax liability but whose
11 needs are not taken into account in making a
12 determination under section 402(d);

13 “(iii) any amounts paid by the sponsor (or
14 his spouse) to individuals not living in such
15 household who are claimed by him as depend-
16 ents for purposes of determining his Federal
17 personal income tax liability; and

18 “(iv) any payments of alimony or child
19 support with respect to individuals not living in
20 such household.

21 “(2) The amount of resources of a sponsor (and his
22 spouse) which shall be deemed to be the resources of an
23 alien for any month shall be determined as follows:

24 “(A) the total amount of the resources (deter-
25 mined as if the sponsor were applying for assistance

1 under the State plan approved under this part) of
2 such sponsor and such sponsor's spouse (if such
3 spouse is living with the sponsor) shall be deter-
4 mined; and

5 “(B) the amount determined under subpara-
6 graph (A) shall be reduced by \$1,500.

7 “(c)(1) Any individual who is an alien and whose
8 sponsor was a public or private agency shall be ineligible
9 for assistance under a State plan approved under this part
10 during the period of three years after his or her entry into
11 the United States, unless the State agency administering
12 such plan determines that such sponsor either no longer
13 exists or has become unable to meet such individual's
14 needs; and such determination shall be made by the State
15 agency based upon such criteria as it may specify in the
16 State plan, and upon such documentary evidence as it may
17 therein require. Any such individual, and any other indi-
18 vidual who is an alien (as a condition of his or her eligi-
19 bility for assistance under a State plan approved under
20 this part during the period of three years after his or her
21 entry into the United States), shall be required to provide
22 to the State agency administering such plan such informa-
23 tion and documentation with respect to his sponsor as may
24 be necessary in order for the State agency to make any
25 determination required under this section, and to obtain

1 any cooperation from such sponsor necessary for any such
2 determination. Such alien shall also be required to provide
3 to the State agency such information and documentation
4 as it may request and which such alien or his sponsor pro-
5 vided in support of such alien's immigration application.

6 “(2) The Secretary shall enter into agreements with
7 the Secretary of State and the Attorney General whereby
8 any information available to them and required in order
9 to make any determination under this section will be pro-
10 vided by them to the Secretary (who may, in turn, make
11 such information available, upon request, to a concerned
12 State agency), and whereby the Secretary of State and
13 Attorney General will inform any sponsor of an alien, at
14 the time such sponsor executes an affidavit of support or
15 similar agreement, of the requirements imposed by this
16 section.

17 “(d) Any sponsor of an alien, and such alien, shall
18 be jointly and severally liable for an amount equal to any
19 overpayment of assistance under the State plan made to
20 such alien during the period of three years after such
21 alien's entry into the United States, on account of such
22 sponsor's failure to provide correct information under the
23 provisions of this section, except where such sponsor was
24 without fault, or where good cause of such failure existed.
25 Any such overpayment which is not repaid to the State

1 or recovered in accordance with the procedures generally
2 applicable under the State plan to the recoupment of over-
3 payments shall be withheld from any subsequent payment
4 to which such alien or such sponsor is entitled under any
5 provision of this Act.

6 “(e)(1) In any case where a person is the sponsor
7 of two or more alien individuals who are living in the same
8 home, the income and resources of such sponsor (and his
9 spouse), to the extent they would be deemed the income
10 and resources of any one of such individuals under the
11 preceding provisions of this section, shall be divided into
12 two or more equal shares (the number of shares being the
13 same as the number of such alien individuals) and the in-
14 come and resources of each such individual shall be
15 deemed to include one such share.

16 “(2) Income and resources of a sponsor (and his
17 spouse) which are deemed under this section to be the in-
18 come and resources of any alien individual in a family
19 shall not be considered in determining the need of other
20 family members except to the extent such income or re-
21 sources are actually available to such other members.

22 “(f) The provisions of this section shall not apply
23 with respect to any alien who is—

24 “(1) admitted to the United States as a result
25 of the application, prior to April 1, 1980, of the pro-

1 visions of section 203(a)(7) of the Immigration and
2 Nationality Act;

3 “(2) admitted to the United States as a result
4 of the application, after March 31, 1980, of the pro-
5 visions of section 207(c) of such Act;

6 “(3) paroled into the United States as a refugee
7 under section 212(d)(5) of such Act;

8 “(4) granted political asylum by the Attorney
9 General under section 208 of such Act; or

10 “(5) a Cuban and Haitian entrant, as defined
11 in section 501(e) of the Refugee Education Assist-
12 ance Act of 1980 (Public Law 96-422).’.

13 **SEC. 9802. REQUIREMENTS FOR SPONSOR’S AFFIDAVITS OF**
14 **SUPPORT.**

15 (a) IN GENERAL.—Title II of the Immigration and
16 Nationality Act is amended by inserting after section 213
17 the following new section:

18 “REQUIREMENTS FOR SPONSOR’S AFFIDAVIT OF SUPPORT

19 “SEC. 213A. (a) ENFORCEABILITY.—

20 “(1) IN GENERAL.—No affidavit of support
21 may be accepted by the Attorney General or by any
22 consular officer to establish that an alien is not ex-
23 cludable under section 212(a)(4) unless such affida-
24 vit is executed as a contract—

25 “(A) which is legally enforceable against
26 the sponsor by the Federal Government, by a

1 State, or by any political subdivision of a State,
2 providing cash benefits under a public cash as-
3 sistance program (as defined in subsection
4 (f)(2)), but not later than 5 years after the date
5 the alien last receives any such cash benefit;
6 and

7 “(B) in which the sponsor agrees to submit
8 to the jurisdiction of any Federal or State court
9 for the purpose of actions brought under sub-
10 section (e)(2).

11 “(2) EXPIRATION OF LIABILITY.—Such con-
12 tract shall only apply with respect to cash benefits
13 described in paragraph (1)(A) provided to an alien
14 before the earliest of the following:

15 “(A) CITIZENSHIP.—The date the alien be-
16 comes a citizen of the United States under
17 chapter 2 of title III.

18 “(B) VETERAN.—The first date the alien
19 is described in section 9801(b)(2)(A) of the
20 Omnibus Budget Reconciliation Act of 1995.

21 “(C) PAYMENT OF SOCIAL SECURITY
22 TAXES.—The first date as of which the condi-
23 tion described in section 9801(b)(4) of the Om-
24 nibus Budget Reconciliation Act of 1995 is met
25 with respect to the alien.

1 “(3) NONAPPLICATION DURING CERTAIN PERI-
2 ODS.—Such contract also shall not apply with re-
3 spect to cash benefits described in paragraph (1)(A)
4 provided during any period in which the alien is de-
5 scribed in section 9801(b)(2)(B) or 9801(b)(2)(C) of
6 the Omnibus Budget Reconciliation Act of 1995.

7 “(b) FORMS.—Not later than 90 days after the date
8 of enactment of this section, the Attorney General, in con-
9 sultation with the Secretary of State and the Secretary
10 of Health and Human Services, shall formulate an affida-
11 vit of support consistent with the provisions of this sec-
12 tion.

13 “(c) NOTIFICATION OF CHANGE OF ADDRESS.—

14 “(1) REQUIREMENT.—The sponsor shall notify
15 the Federal Government and the State in which the
16 sponsored alien is currently resident within 30 days
17 of any change of address of the sponsor during the
18 period specified in subsection (a)(1)(A).

19 “(2) ENFORCEMENT.—Any person subject to
20 the requirement of paragraph (1) who fails to satisfy
21 such requirement shall be subject to a civil penalty
22 of—

23 “(A) not less than \$250 or more than
24 \$2,000, or

1 “(B) if such failure occurs with knowledge
2 that the sponsored alien has received any bene-
3 fit under any means-tested public benefits pro-
4 gram, not less than \$2,000 or more than
5 \$5,000.

6 “(d) REIMBURSEMENT OF GOVERNMENT EX-
7 PENSES.—

8 “(1) REQUEST FOR REIMBURSEMENT.—

9 “(A) IN GENERAL.—Upon notification that
10 a sponsored alien has received any cash benefits
11 described in subsection (a)(1)(A), the appro-
12 priate Federal, State, or local official shall re-
13 quest reimbursement by the sponsor in the
14 amount of such cash benefits.

15 “(B) REGULATIONS.—The Attorney Gen-
16 eral, in consultation with the Secretary of
17 Health and Human Services, shall prescribe
18 such regulations as may be necessary to carry
19 out subparagraph (A).

20 “(2) INITIATION OF ACTION.—If within 45 days
21 after requesting reimbursement, the appropriate
22 Federal, State, or local agency has not received a re-
23 sponse from the sponsor indicating a willingness to
24 commence payments, an action may be brought

1 against the sponsor pursuant to the affidavit of sup-
2 port.

3 “(3) FAILURE TO ABIDE BY REPAYMENT
4 TERMS.—If the sponsor fails to abide by the repay-
5 ment terms established by such agency, the agency
6 may, within 60 days of such failure, bring an action
7 against the sponsor pursuant to the affidavit of sup-
8 port.

9 “(4) LIMITATION ON ACTIONS.—No cause of
10 action may be brought under this subsection later
11 than 5 years after the date the alien last received
12 any cash benefit described in subsection (a)(1)(A).

13 “(f) DEFINITIONS.—For the purposes of this section:

14 “(1) SPONSOR.—The term ‘sponsor’ means an
15 individual who—

16 “(A) is a citizen or national of the United
17 States or an alien who is lawfully admitted to
18 the United States for permanent residence;

19 “(B) is 18 years of age or over; and

20 “(C) is domiciled in any State.

21 “(2) PUBLIC CASH ASSISTANCE PROGRAM.—
22 The term ‘public cash assistance program’ means a
23 program of the Federal Government or of a State or
24 political subdivision of a State that provides direct
25 cash assistance for the purpose of income mainte-

1 nance and in which the eligibility of an individual,
2 household, or family eligibility unit for cash benefits
3 under the program, or the amount of such cash ben-
4 efits, or both are determined on the basis of income,
5 resources, or financial need of the individual, house-
6 hold, or unit. Such term does not include any pro-
7 gram insofar as it provides medical, housing, edu-
8 cation, job training, food, or in-kind assistance or
9 social services.”.

10 (b) CLERICAL AMENDMENT.—The table of contents
11 of such Act is amended by inserting after the item relating
12 to section 213 the following:

“Sec. 213A. Requirements for sponsor’s affidavit of support.”.

13 (c) EFFECTIVE DATE.—Subsection (a) of section
14 213A of the Immigration and Nationality Act, as inserted
15 by subsection (a) of this section, shall apply to affidavits
16 of support executed on or after a date specified by the
17 Attorney General, which date shall be not earlier than 60
18 days (and not later than 90 days) after the date the Attor-
19 ney General formulates the form for such affidavits under
20 subsection (b) of such section 213A.

1 **SEC. 9803. EXTENDING REQUIREMENT FOR AFFIDAVITS OF**
2 **SUPPORT TO FAMILY-RELATED AND DIVER-**
3 **SITY IMMIGRANTS.**

4 (a) IN GENERAL.—Section 212(a)(4) of the Immi-
5 gration and Nationality Act (8 U.S.C. 1182(a)(4)) is
6 amended to read as follows:

7 “(4) PUBLIC CHARGE AND AFFIDAVITS OF SUP-
8 PORT.—

9 “(A) PUBLIC CHARGE.—Any alien who, in
10 the opinion of the consular officer at the time
11 of application for a visa, or in the opinion of
12 the Attorney General at the time of application
13 for admission or adjustment of status, is likely
14 at any time to become a public charge is exclud-
15 able.

16 “(B) AFFIDAVITS OF SUPPORT.—Any im-
17 migrant who seeks admission or adjustment of
18 status as any of the following is excludable un-
19 less there has been executed with respect to the
20 immigrant an affidavit of support pursuant to
21 section 213A:

22 “(i) As an immediate relative (under
23 section 201(b)(2)).

24 “(ii) As a family-sponsored immigrant
25 under section 203(a) (or as the spouse or

1 child under section 203(d) of such an im-
2 migrant).

3 “(iii) As the spouse or child (under
4 section 203(d)) of an employment-based
5 immigrant under section 203(b).

6 “(iv) As a diversity immigrant under
7 section 203(c) (or as the spouse or child
8 under section 203(d) of such an immi-
9 grant).”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall apply to aliens with respect to whom
12 an immigrant visa is issued (or adjustment of status is
13 granted) after the date specified by the Attorney General
14 under section 9802(c)

15 **SEC. 6102. REDUCTION IN TITLE XX BLOCK GRANTS TO**
16 **STATES FOR SOCIAL SERVICES.**

17 Section 2003(c) of the Social Security Act (42 U.S.C.
18 1397b(c)) is amended—

19 (1) by striking “and” at the end of paragraph
20 (4);

21 (2) in paragraph (5), by striking “fiscal year
22 after fiscal year 1989.” and inserting “of fiscal
23 years 1990 through 1995; and”; and

24 (3) by adding at the end the following:

1 “(6) \$2,520,000,000 for fiscal year 1996 and
2 each succeeding fiscal year.”.

3 **PART 1—FOOD STAMPS**

4 SHORT TITLE

5 SEC. 12001. This part may be cited as “The Food
6 Stamp Act Amendments of 1995”.

7 INCLUDE MINOR CHILDREN UNDER 18 YEARS OLD IN 8 THEIR PARENTS’ HOUSEHOLDS

9 SEC. 12011. Section 3(i) of the Food Stamp Act of
10 1997 (7 U.S.C. 2012(i)) is amended by striking the first
11 parenthetical phrase in the second sentence and inserting
12 in lieu thereof—“(except children who have reached the
13 age of 18 and are themselves parents living with their chil-
14 dren or married and living with their spouses)”.

15 USE THE COST OF THE THRIFTY FOOD PLAN FOR 16 ALLOTMENT ADJUSTMENTS

17 SEC. 12012. Section 3(o) of the Food Stamp Act of
18 1977 (7 U.S.C. 2012(o)) is amended by—

19 (1) inserting in paragraph (11) of the second
20 sentence immediately following “and each October 1
21 thereafter,” the words “through the last day of the
22 first month after the month of enactment of the Bal-
23 anced Budget Act of 1995 for Economic Growth and
24 Fairness”; and

25 (2) inserting a new third sentence as follows—

1 “On the first day of the second month
2 after the month of enactment of the Balanced
3 Budget Act of 1995 for Economic Growth and
4 Fairness and each October 1 thereafter, adjust
5 the cost of the diet to reflect the cost of the
6 diet, in the preceding June, and round the re-
7 sult to the nearest lower dollar increment for
8 each household size, except that on the first day
9 of the second month after the month of enact-
10 ment of the Balanced Budget Act of 1995 for
11 Economic Growth and Fairness, the Secretary
12 may not reduce the cost of the diet in effect on
13 September 30, 1995.”.

14 LOWER AGE FOR EXCLUDING STUDENTS’ EARNINGS

15 SEC. 12013. Section 5(d)(7) of the Food Stamp Act
16 of 1977 (7 U.S.C. 2014(d)(7)) is amended by striking “is
17 21 years of age or younger” and inserting “has not
18 reached the age of 18”.

19 COUNT GOVERNMENTAL ENERGY ASSISTANCE AS INCOME

20 SEC. 12014. (a) Section 5(d) of the Food Stamp Act
21 of 1977 (7 U.S.C. 2014(d)) is amended by striking para-
22 graph (11) and renumbering paragraphs (12) through
23 (16) as paragraphs (11) through (15), respectively.

24 (b) Section 5(e) of the Food Stamp Act of 1977 (7
25 U.S.C. 2014(e)) is amended by striking “If a State agency

1 elects” and all that follows through “season for which it
2 was provided.”.

3 (c) Section 5(k) of the Food Stamp Act of 1977 (7
4 U.S.C. 2014(k)) is amended—

5 (1) in paragraph (1)(B), by striking “, not in-
6 cluding energy or utility-cost assistance,”;

7 (2) in paragraph (2), by striking subparagraph
8 (C); and

9 (3) by adding at the end the following—

10 “(4)(A) For purposes of subsection (d)(1),
11 a payment made under a Federal or State law
12 to provide energy assistance to a household
13 shall be considered money payable directly to
14 the household.

15 “(B) For purposes of subsection (e), an ex-
16 pense paid on behalf of a household under a
17 Federal or State law to provide energy assist-
18 ance shall be considered an out-of-pocket ex-
19 pense incurred and paid by the household.”.

20 (d) Section 2605(f) of the Low-Income Home Energy
21 Assistance Act of 1981 (42 U.S.C. 8624(f)) is amended—

22 (1) by striking “(1) Notwithstanding any other
23 provision of law unless” and inserting “Notwith-
24 standing any other provision of law except the Food

1 Stamp Act of 1977 (7 U.S.C. 2011 et seq.), and
 2 any”;

3 (2) in paragraph (1), by striking “food
 4 stamps,”; and (3) by striking paragraph (2).

5 REDUCE THE STANDARD DEDUCTION

6 SEC. 12015. Section 5(e) of the Food Stamp Act of
 7 1977 (7 U.S.C. 2014(e)) is amended by striking the first
 8 two sentences and inserting in lieu thereof the following—
 9 “The Secretary shall allow a standard deduction for each
 10 household in the 48 contiguous States and the District
 11 of Columbia, Alaska, Hawaii, Guam, and the Virgin Is-
 12 lands of the United States of—

13 “for fiscal year 1995, \$134, \$, \$, \$
 14 , and \$, respectively;

15 “(i) for fiscal year 1996, \$130, \$, \$
 16 , \$, and \$, respectively;

17 “(ii) for fiscal year 1997, \$115, \$, \$
 18 , \$, and \$, respectively; and

19 “(iii) on October 1, 1997, and each October 1
 20 thereafter, the Secretary shall adjust the standard
 21 deduction to the nearest lower dollar increment to
 22 reflect changes in the Consumer Price Index for all
 23 urban consumers published by the Bureau of Labor
 24 Statistics, for items other than food, for the 12-
 25 month period ending the preceding June 30.”.

1 MAKE MANDATORY USE OF STANDARD UTILITY

2 ALLOWANCES A STATE OPTION

3 SEC. 12016. Section 5(e) of the Food Stamp Act of
4 1977 (7 U.S.C. 2014(e)) is amended by inserting imme-
5 diately before “No such allowance may be used” the fol-
6 lowing new sentence—“A State agency may make the use
7 of a standard utility allowance mandatory for all house-
8 holds with qualifying utility costs if (1) the State agency
9 has developed one or more standards that include the cost
10 of heating and cooling and one or more standards that
11 do not include the cost of heating and cooling; and (2)
12 the Secretary finds that the standards will not result in
13 increased program costs.”.

14 FREEZE AMOUNT OF VEHICLE ASSET LIMITATION

15 SEC. 12017. The first sentence of section 5(g)(2) of
16 the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(2)) is
17 amended by striking “through September 30, 1995” and
18 all that follows through “such date and on” and inserting
19 “and shall be adjusted on October 1, 1996, and”.

20 REQUIRE COOPERATION WITH CHILD SUPPORT

21 ENFORCEMENT AGENCIES AT STATE OPTION

22 SEC. 12018. (a) Section 6 of the Food Stamp Act
23 of 1977 (7 U.S.C. 2015) is amended by adding new sub-
24 sections (i) and (j) at the end thereof as follows—“(i) At
25 the option of the State, no natural or adoptive parent or
26 other individual who is living with and exercising parental

1 control over a child under the age of eighteen who has
2 an absent parent shall be eligible to participate in the food
3 stamp program unless such parent or individual cooper-
4 ates with the State agency administering the program
5 under part D of title IV of the Social Security Act (or
6 is determined by such State agency to have good cause
7 not to cooperate) in (1) establishing the paternity of such
8 child (if born out of wedlock), and (2) obtaining support
9 for such child or for herself/himself and for such child.
10 Notwithstanding any provision of part D of title IV of the
11 Social Security Act, no person required under this sub-
12 section to cooperate with the State agency administering
13 the program under part D of title IV of the Social Security
14 Act may be required to pay a fee or other costs for services
15 provided under such program.”.

16 “(j) At the option of the State agency, no person who
17 fails to make legally obligated child support payments
18 shall be eligible to participate in the food stamp program
19 unless such person is unemployed or establishes that the
20 child support award is inconsistent with applicable guide-
21 lines.”.

22 FACILITATE IMPLEMENTATION OF A NATIONAL
23 ELECTRONIC BENEFIT TRANSFER DELIVERY SYSTEM

24 SEC. 12019. Section 7 of the Food Stamp Act of
25 1977 (7 U.S.C. 2016) is amended by—

26 (1) striking in subsection (g) “(1)”;

1 (2) striking paragraph (g)(2); and

2 (3) striking in subsection (g) “(A)” and “(B)”
3 and inserting in lieu thereof “(1)” and “(2)”, re-
4 spectively.

5 REPEAL MINIMUM BENEFIT ADJUSTMENTS

6 SEC. 12020. Section 8(a) of the Food Stamp Act of
7 1977 (7 U.S.C. 2017(a)) is amended by striking in the
8 proviso “, and shall be adjusted” and all that follows
9 through “\$5”.

10 PRORATE BENEFITS ON RECERTIFICATION

11 SEC. 12021. Section 8(c)(2)(B) of the Food Stamp
12 Act of 1977 (7 U.S.C. 2017(c)(2)(B)) is amended by
13 striking “of more than one month”.

14 PROHIBIT ALLOTMENT INCREASES FOR PENALTIES
15 UNDER OTHER WELFARE AND PUBLIC ASSISTANCE
16 PROGRAMS

17 SEC. 12022. Section 8 of the Food Stamp Act of
18 1977 (7 U.S.C. 2017) is amended by striking subsection
19 (d) and inserting in lieu thereof the following—“(d) If the
20 benefits of a household are reduced under a Federal,
21 State, or local law relating to a welfare or public assist-
22 ance program because of a penalty or for the failure to
23 perform an action required under the law or program, for
24 the duration of the reduction the household may not re-
25 ceive an increased allotment as the result of a decrease

1 in the income of the household to the extent that the de-
2 crease is the result of the reduction.”.

3 PERMIT STATES TO DETERMINE MOST USEFUL AND
4 RELIABLE MEANS OF VERIFICATION

5 SEC. 12023. Section 11 of the Food Stamp Act of
6 1977 (7 U.S.C. 2020) is amended by—

7 (1) striking in subsection (e)(3) all that follows
8 “, and that the State agency shall” through “(E)”;

9 (2) inserting after the paragraph designation
10 (19) of subsection (e) “at the option of the State
11 agency,”; and

12 (3) by adding at the end thereof the following
13 new subsection—

14 “(p) Notwithstanding any other provision
15 of law, State agencies (described in section
16 3(n)(1) of this Act) shall not be required to use
17 an income and eligibility verification system es-
18 tablished under section 1137 of the Social Secu-
19 rity Act (42 U.S.C. 1320b–7) or the immigra-
20 tion status verification system established under
21 section 1137(d) of the Social Security Act (42
22 U.S.C. 1320b–71d)).”.

23 EXPAND CLAIMS COLLECTION METHODS

24 SEC. 12024. (a) Section 11(e)(8) of the Food Stamp
25 Act of 1977 (7 U.S.C. 2020(e)(8)) is amended by insert-
26 ing before the semicolon at the end thereof the following—

1 “or refunds of Federal taxes as authorized pursuant to
2 31 U.S.C. 3720A”.

3 (b) Section 13 of the Food Stamp Act of 1977 (7
4 U.S.C. 2022) is amended by—

5 (1) striking paragraph (1) of subsection (b);

6 (2) redesignating subparagraph (A) of para-
7 graph (b)(2) as paragraph (b)(1);

8 (3) striking in paragraph (b)(1), as redesign-
9 nated by this subsection, “, other than claims the
10 collection of which is provided for in paragraph (1)
11 of this subsection and claims arising from an error
12 of the State agency,”;

13 (4) inserting at the end of paragraph (b)(1), as
14 redesignated by this subsection, the following new
15 sentence—“A State agency may waive the use of al-
16 lotment reduction as a means of collecting a claim
17 arising from an error of the State agency if such
18 collection would cause a hardship (as defined by the
19 State agency) on the household but shall continue to
20 pursue all other lawful methods of collection of such
21 claims as prescribed in subsection (b)(2).”;

22 (5) striking in paragraph (b)(1), as redesign-
23 nated by this subsection, “, except that the house-
24 hold shall” and inserting in lieu thereof “. At the
25 option of the State, the household may”;

1 (6) redesignating subparagraph (b)(2)(B) as
2 paragraph (b)(2);

3 (7) striking in paragraph (b)(2), as redesignig-
4 nated by this subsection, “or subparagraph (A)”;

5 (8) striking in subsection (d) “and except for
6 claims arising from an error of the State agency,”;

7 (9) striking in subsection (d) “may” and insert-
8 ing in lieu thereof “shall”; and

9 (10) inserting before the period at the end of
10 subsection (d) the following—“or refunds of Federal
11 taxes as authorized pursuant to 31 U.S.C. 3720A”.

12 (c) Section 16(a) of the Food Stamp Act of 1977 (7
13 U.S.C. 2025(a)) is amended by striking “25 percent dur-
14 ing the period beginning October 1, 1990” and all that
15 follows through “error of a State agency.” and inserting
16 in lieu thereof the following—“25 percent of
17 overissuances, except those arising from an error of the
18 State agency, which are recovered or collected pursuant
19 to subsections (b), (c), and (d) of section 13.”.

20 (d) Section 6402(d) of the Internal Revenue Code (26
21 U.S.C. 6402(d)) is amended by—

22 (1) inserting in paragraph (1) immediately fol-
23 lowing “any Federal agency” the following—

24 “(or any State agency that has the respon-
25 sibility for the administration of the food stamp

1 program operated pursuant to the Food Stamp
2 Act of 1977”); and

3 (inserting in the second sentence of paragraph
4 (2) immediately following “a Federal agency” the
5 following—

6 “(or a State agency that has the respon-
7 sibility for the administration of the food stamp
8 program operated pursuant to the Food Stamp
9 Act of 1977)”.

10 EFFECTIVE DATES

11 SEC. 12025. Except as otherwise provided in this
12 part, the provisions of this part shall become effective the
13 first day of the second month after the month of enact-
14 ment.

15 **PART 2—CHILD NUTRITION**

16 IMPROVED TARGETING OF DAY CARE HOME

17 REIMBURSEMENTS

18 SEC. 12031. (a) RESTRUCTURED DAY CARE HOME
19 REIMBURSEMENTS.—Section 17(f)(3) of the National
20 School Lunch Act (42 U.S.C. 1766(f)(3)) is amended by
21 striking “(3)(A) Institutions” and all that follows through
22 the end of subparagraph (A) and inserting the following—

23 “(3) REIMBURSEMENT OF FAMILY OR GROUP
24 DAY CARE HOME SPONSORING ORGANIZATIONS.—

25 “(A) REIMBURSEMENT FACTOR.—

1 “(i) IN GENERAL.—An institution
2 that participates in the program under this
3 section as a family or group day care home
4 sponsoring organization shall be provided,
5 for payment to a home sponsored by the
6 organization, reimbursement factors in ac-
7 cordance with this subparagraph for the
8 cost of obtaining and preparing food and
9 prescribed labor costs involved in providing
10 meals under this section.

11 “(ii) TIER I FAMILY OR GROUP DAY
12 CARE HOMES.—

13 “(I) DEFINITION.—In this para-
14 graph, the term ‘tier I family or group
15 day care home’ means—

16 “(aa) a family or group day
17 care home that is located in a ge-
18 ographic area, as defined by the
19 Secretary based on census data,
20 in which at least 50 percent of
21 the children residing in the area
22 are members of households whose
23 incomes meet the income eligi-
24 bility guidelines for free or re-

1 duced price meals under section
2 9;

3 “(bb) a family or group day
4 care home that is located in an
5 area served by a school enrolling
6 elementary students in which at
7 least 50 percent of the total num-
8 ber of children enrolled are cer-
9 tified eligible to receive free or
10 reduced price school meals under
11 this Act or the Child Nutrition
12 Act of 1966 (42 U.S.C. 1771 et
13 seq.); or

14 “(cc) a family or group day
15 care home that is operated by a
16 provider whose household meets
17 the eligibility requirements for
18 free or reduced price meals under
19 section 9 and whose eligibility is
20 verified by the sponsoring organi-
21 zation of the home under regula-
22 tions established by the Sec-
23 retary.

24 “(II) REIMBURSEMENT.—Except
25 as provided in subclause (III), a tier

1 I family or group day care home shall
2 be provided reimbursement factors
3 under this clause without a require-
4 ment for documentation of the costs
5 described in clause (i), except that re-
6 imbursement shall not be provided
7 under this subclause for meals or sup-
8 plements served to the children of a
9 person acting as a family or group
10 day care home provider unless the
11 children meet the eligibility require-
12 ments for free or reduced price meals
13 under section 9.

14 “(III) FACTORS.—Except as pro-
15 vided in subclause (IV), the reim-
16 bursement factors applied to a home
17 referred to in subclause (II) shall be
18 the factors in effect on the date of en-
19 actment of this subclause.

20 “(IV) ADJUSTMENTS.—The re-
21 imbursement factors under this sub-
22 paragraph shall be adjusted on Octo-
23 ber 1, 1996, July 1, 1997, and each
24 July 1 thereafter, to reflect changes in
25 the Consumer Price Index for food at

1 home for the most recent 12-month
2 period for which the data are avail-
3 able. The reimbursement factors
4 under this subparagraph shall be
5 rounded to the nearest lower cent in-
6 crement and based on the unrounded
7 adjustment in effect on June 30 of
8 the preceding school year.

9 “(iii) TIER II FAMILY OR GROUP DAY
10 CARE HOMES.—

11 “(I) IN GENERAL.—

12 “(aa) FACTORS.—Except as
13 provided in subclause (II), with
14 respect to meals or supplements
15 served under this clause by a
16 family or group day care home
17 that does not meet the criteria
18 set forth in clause (ii)(I), the re-
19 imbursement factors shall be \$1
20 for lunches and suppers, 30 cents
21 for breakfasts, and 15 cents for
22 supplements.

23 “(bb) ADJUSTMENTS.—The
24 factors shall be adjusted on July
25 1, 1997, and each July 1 there-

1 after, to reflect changes in the
2 Consumer Price Index for food at
3 home for the most recent 12-
4 month period for which the data
5 are available. The reimbursement
6 factors under this item shall be
7 rounded down to the nearest
8 lower cent increment and based
9 on the unrounded adjustment for
10 the preceding 12-month period.

11 “(cc) REIMBURSEMENT.—A
12 family or group day care home
13 shall be provided reimbursement
14 factors under this subclause with-
15 out a requirement for docu-
16 mentation of the costs described
17 in clause (i), except that reim-
18 bursement shall not be provided
19 under this subclause for meals or
20 supplements served to the chil-
21 dren of a person acting as a fam-
22 ily or group day care home pro-
23 vider unless the children meet the
24 eligibility requirements for free

1 or reduced price meals under sec-
2 tion 9.

3 “(II) OTHER FACTORS.—A fam-
4 ily or group day care home that does
5 not meet the criteria set forth in
6 clause (ii)(I) may elect to be provided
7 reimbursement factors determined in
8 accordance with the following require-
9 ments:

10 “(aa) CHILDREN ELIGIBLE
11 FOR FREE OR REDUCED PRICE
12 MEALS.—In the case of meals or
13 supplements served under this
14 subsection to children who meet
15 the eligibility requirements for
16 free or reduced price meals under
17 section 9, the family or group
18 day care home shall be provided
19 reimbursement factors set by the
20 Secretary in accordance with
21 clause (ii)(III).

22 “(bb) INELIGIBLE CHIL-
23 DREN.—In the case of meals or
24 supplements served under this
25 subsection to children who do not

1 meet the eligibility requirements
2 for free or reduced priced meals
3 under section 9, the family or
4 group day care home shall be
5 provided reimbursement factors
6 in accordance with subclause (I).

7 “(III) INFORMATION AND DE-
8 TERMINATIONS.—

9 “(aa) IN GENERAL.—If a
10 family or group day care home
11 elects to claim the factors de-
12 scribed in subclause (II), the
13 family or group day care home
14 sponsoring organization serving
15 the home shall collect the nec-
16 essary eligibility information, as
17 determined by the Secretary,
18 from any parent or other care-
19 taker to make the determinations
20 specified in subclause (II) and
21 shall make the determinations in
22 accordance with rules prescribed
23 by the Secretary.

24 “(bb) CATEGORICAL ELIGI-
25 BILITY—In making a determina-

1 tion under item (aa), a family or
2 group day care home sponsoring
3 organization may consider a child
4 participating in or subsidized
5 under, or a child with a parent
6 participating in or subsidized
7 under, a federally or State sup-
8 ported child care or other benefit
9 program with an income eligi-
10 bility limit that does not exceed
11 the income eligibility guidelines
12 for free or reduced price meals
13 under section 9 to be a child who
14 is eligible for free or reduced
15 price meals under section 9.

16 “(cc) FACTORS FOR CHIL-
17 DREN ONLY.—A family or group
18 day care home may elect to re-
19 ceive the reimbursement factors
20 prescribed under clause (ii) (III)
21 solely for the children participat-
22 ing in a program referred to in
23 item (bb) if the home elects not
24 to have eligibility information col-

1 lected from parents or other care-
2 takers.”.

3 (b) GRANTS TO STATES TO PROVIDE ASSISTANCE TO
4 FAMILY OR GROUP DAY CARE HOMES.—Section 17(f)(3)
5 of the National School Lunch Act (42 U.S.C. 1766(f)(3))
6 is amended by adding at the end the following—

7 “(D) GRANTS TO STATES TO
8 PROVIDE ASSISTANCE TO FAMILY
9 OR GROUP DAY CARE HOMES.—

10 “(i) IN GENERAL.—

11 “(I) RESERVATION.—The Secretary
12 shall reserve \$5,000,000 of the amount
13 made available to carry out this section for
14 fiscal year 1996.

15 “(II) PURPOSE.—The Secretary shall
16 use the funds made available under
17 subclause (I) to provide grants to States
18 for the purpose of providing—

19 “(aa) assistance, including
20 grants, to family or group day care
21 home sponsoring organizations and
22 other appropriate organization, in se-
23 curing and providing training, mate-
24 rials, automated data processing as-
25 sistance, and other assistance for the

1 staff of the sponsoring organizations;
2 and

3 “(bb) training and other assist-
4 ance to family or group day care
5 homes in the implementation of the
6 amendments to subparagraph (A)
7 made by section 12031(a) of the Bal-
8 anced Budget Act of 1995 for Eco-
9 nomic Growth and Fairness.

10 “(ii) ALLOCATION.—The Secretary shall
11 allocate from the funds reserved under clause
12 (i)(I)—

13 “(I) \$30,000 in base funding to each
14 State; and

15 “(II) any remaining amount among
16 the States, based on the number of family
17 or group day care homes participating in
18 the program in a State during fiscal year
19 1994 as a percentage of the number of all
20 family or group day care homes participat-
21 ing in the program during fiscal year
22 1994.

23 “(iii) RETENTION OF FUNDS.—of the
24 amount of funds made available to a State for
25 fiscal year 1996 under clause (i), the State may

1 retain not to exceed 30 percent of the amount
2 to carry out this subparagraph.

3 “(iv) ADDITIONAL PAYMENTS.—Any pay-
4 ments received under this subparagraph shall
5 be in addition to payments that a State receives
6 under subparagraph (A) (as amended by section
7 12031(a) of the Balanced Budget Act of 1995
8 for Economic Growth and Fairness).”.

9 (c) PROVISION OF DATA.—Section 17(f)(3) of the
10 National School Lunch Act (42 U.S.C. 1766(f)(3)), as
11 amended by subsection (b), is further amended by adding
12 at the end the following—

13 “(E) PROVISION OF DATA TO FAMILY OR
14 GROUP DAY CARE HOME SPONSORING ORGANIZA-
15 TIONS.—

16 “(i) CENSUS DATA.—The Secretary shall
17 provide to each State agency administering a
18 child and adult care food program under this
19 section data from the most recent decennial
20 census survey or other appropriate census sur-
21 vey for which the data are available showing
22 which areas in the State meet the requirements
23 of subparagraph (A)(ii)(I)(aa). The State agen-
24 cy shall provide the data to family or group day

1 care home sponsoring organizations located in
2 the State.

3 “(ii) SCHOOL DATA.—

4 “(I) IN GENERAL.—A State agency
5 administering the school lunch program
6 under this Act or the school breakfast pro-
7 gram under the Child Nutrition Act of
8 1966 (42 U.S.C. 1771 et seq.) shall pro-
9 vide data for each elementary school in the
10 State, or shall direct each school within the
11 State to provide data for the school, to ap-
12 proved family or group day care home
13 sponsoring organizations that request the
14 data, on the percentage of enrolled children
15 who are certified eligible for free or re-
16 duced price meals.

17 “(II) USE OF DATA FROM PRECEDING
18 SCHOOL YEAR.—In determining for a fiscal
19 year or other annual period whether a
20 home qualifies as a tier I family or group
21 day care home under subparagraph
22 (A)(ii)(I), the State agency administering
23 the program under this section, and a fam-
24 ily or group day care home sponsoring or-
25 ganization, shall use the most current

1 available data at the time of the deter-
2 mination.

3 “(iii) DURATION OF DETERMINATION.—

4 For purposes of this section, a determination
5 that a family or group day care home is located
6 in an area that qualifies the home as a tier I
7 family or group day care home (as the term is
8 defined in subparagraph (A)(ii)(I)), shall be in
9 effect for 3 years (unless the determination is
10 made on the basis of census data, in which case
11 the determination shall remain in effect until
12 more recent census data are available) unless
13 the State agency determines that the area in
14 which the home is located no longer qualifies
15 the home as a tier I family or group day care
16 home.”.

17 (d) CONFORMING AMENDMENTS.—Section 17(c) of
18 the National School Lunch Act (42 U.S.C. 1766(c)) is
19 amended by inserting “except as provided in subsection
20 (f)(3),” after “For purposes of this section,” each place
21 it appears in paragraphs (1), (2), and (3).

22 (e) EFFECTIVE DATE.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (2), the amendments made by this section

1 shall become effective on the date of enactment of
2 this part.

3 (2) IMPROVED TARGETING OF DAY CARE HOME
4 REIMBURSEMENTS.—The amendments made by sub-
5 sections (a), (c), and (d) shall become effective on
6 October 7, 1996.

7 **SEC. . REIMBURSEMENT RATE ADJUSTMENTS.**

8 (a) IN GENERAL.—

9 (1) COMMODITY RATE.—Section 6(a)(1)(B) of
10 the National School Lunch Act (42 U.S.C.
11 1755(g)(1)(M) is amended by striking “ $\frac{1}{4}$ cent”
12 and inserting “lower cent increment”.

13 (2) LUNCH, BREAKFAST AND SUPPLEMENT
14 RATES.—Section 11(a)(3)(b) of the National School
15 Lunch Act (42 U.S.C. 1759a(a)(3)(B)) is amended
16 by striking “one fourth cent” and inserting “lower
17 cent increment”.

18 (3) SUMMER PROGRAM RATES.—Section
19 13(b)(1) of the National School Lunch Act (42
20 U.S.C. 1761(b)(1)) is amended by striking “one-
21 fourth cent” and inserting “lower cent increment”.

22 (4) FAMILY DAY CARE RATES.—Section
23 17(f)(3(A) of the National School Lunch Act (42
24 U.S.C. 1766(f)(3)(A)) is amended in the last sen-

1 tence by striking “one-fourth cent” and inserting
2 “lower cent increment”.

3 (5) SPECIAL MILK PROGRAM RATES.—Section
4 3(a)(8) of the Child Nutrition Act (42 U.S.C.
5 1772(a)(8)) is amended by striking “one-fourth
6 cent” and inserting “lower cent increment”.

7 (6) SEVERE NEED RATES.—Section
8 4(b)(2)(B)(ii) of the Child Nutrition Act (42 U.S.C.
9 1773(b)(B)(ii)) is amended by striking “one-fourth
10 cent” and inserting “lower cent increment”.

11 (b) EFFECTIVE DATES.—The amendments made by
12 subsection (a) shall become effective on July 1, 1996.

13 **SEC. . ELIMINATION OF START-UP AND EXPANSION**
14 **GRANTS.**

15 (a) Section 4 of the Child Nutrition Act (42 U.S.C.
16 1773) is amended by striking subsection (g).

17 (b) The amendment made by this subsection (a) shall
18 become effective on October 1, 1996.

19 **SEC. . AUTHORIZATION OF APPROPRIATIONS.**

20 Section 19(i) of the Child Nutrition Act (42 U.S.C.
21 1788(i)) is amended—

22 (a) in the first sentence of paragraph (2)(A), by
23 striking “and each succeeding fiscal year”;

24 (b) by redesignating paragraphs (3) and (4) as
25 paragraphs (4) and (5), respectively; and

1 (c) by inserting after paragraph (2) the follow-
2 ing: “(3) FISCAL YEARS 1997 THROUGH 2002—

3 “(A) IN GENERAL.—There are authorized
4 to be appropriated to carry out this section
5 \$10,000,00 for each of the fiscal years 1997
6 through 2002.

7 “(B) GRANTS.—

8 “(i) IN GENERAL.—Grants to each
9 State from the amounts made available
10 under subparagraph (A) shall be based on
11 a rate of 50 cents for each child enrolled
12 in schools or institutions within the State,
13 except that no State shall * * * an
14 amount less than \$75,000 per fiscal year.

15 “(ii) INSUFFICIENT FUNDS.—If an
16 amount made available for any fiscal year
17 is insufficient to pay the amount to which
18 each State is entitled under clause (i), the
19 amount of each grant shall be ratably re-
20 duced.”

21 **SEC. 12035. DIRECT FEDERAL EXPENDITURES.**

22 (a) COMMODITY ASSISTANCE.—

23 (1) Section 6(g) of the National School Lunch
24 Act (42 U.S.C. 1755(g)) is amended by striking “12
25 percent” and inserting “8 percent”.

1 **SEC. 1016. DEFINITION OF HOMELESS INDIVIDUAL.**

2 Section 3(s)(2)(C) of the Food Stamp Act of 1977
3 (7 U.S.C. 2012(s)(2)(C)) is amended by inserting “for not
4 more than 90 days” after “temporary accommodation”.

5 **SEC. 1017. STATE OPTION FOR ELIGIBILITY STANDARDS.**

6 Section 5(b) of the Food Stamp Act of 1977 (7
7 U.S.C. 2014(d)) is amended by striking “(b) The Sec-
8 retary” and inserting the following:

9 “(b) ELIGIBILITY STANDARDS.—Except as otherwise
10 provided in this Act, the Secretary”.

11 **SEC. 1023. DOUBLE PENALTIES FOR VIOLATING FOOD**
12 **STAMP PROGRAM REQUIREMENTS.**

13 Section 6(b)(1) of the Food Stamp Act of 1977 (7
14 U.S.C. 2015(b)(1)) is amended—

15 (1) in clause (i), by striking “six months” and
16 inserting “1 year”; and

17 (2) in clause (ii), by striking “1 year” and in-
18 serting “2 years”.

19 **SEC. 1024. DISQUALIFICATION OF CONVICTED INDIVID-**
20 **UALS.**

21 Section 6(b)(1)(iii) of the Food Stamp Act of 1977
22 (7 U.S.C. 2015(b)(1)(iii)) is amended—

23 (1) in subclause (II), by striking “or” at the
24 end;

25 (2) in subclause (III), by striking the period at
26 the end and inserting “; or”; and

1 (3) by inserting after subclause (III) the follow-
2 ing:

3 “(IV) a conviction of an offense under sub-
4 section (b) or (c) of section 15 involving an
5 item covered by subsection (b) or (c) of section
6 15 having a value of \$500 or more.”.

7 **SEC. 1027. EMPLOYMENT AND TRAINING.**

8 (a) IN GENERAL.—Section 6(d)(4) of the Food
9 Stamp Act of 1977 (7 U.S.C. 2015(d)(4)) is amended—

10 (1) in subparagraph (A)—

11 (A) by striking “Not later than April 1,
12 1987, each” and inserting “Each”;

13 (B) by inserting “work,” after “skills,
14 training,”; and

15 (C) by adding at the end the following:

16 “Each component of an employment and train-
17 ing program carried out under this paragraph
18 shall be delivered through a statewide workforce
19 development system, unless the component is
20 not available locally through the statewide
21 workforce development system.”;

22 (2) in subparagraph (B)—

23 (A) in the matter preceding clause (i), by
24 striking the colon at the end and inserting the
25 following: “, except that the State agency shall

1 retain the option to apply employment require-
2 ments prescribed under this subparagraph to a
3 program applicant at the time of application.”;

4 (B) in clause (i), by striking “with terms
5 and conditions” and all that follows through
6 “time of application”; and

7 (C) in clause (iv)—

8 (i) by striking subclauses (I) and (II);

9 and

10 (ii) by redesignating subclauses (III)

11 and (IV) as subclauses (I) and (II), respec-

12 tively;

13 (3) in subparagraph (D)—

14 (A) in clause (i), by striking “to which the
15 application” and all that follows through “30
16 days or less”;

17 (B) in clause (ii), by striking “but with re-
18 spect” and all that follows through “child
19 care”; and

20 (C) in clause (iii), by striking “, on the
21 basis of” and all that follows through “clause
22 (ii)” and inserting “the exemption continues to
23 be valid”;

24 (4) in subparagraph (E), by striking the third
25 sentence;

1 (5) in subparagraph (G)—

2 (A) by striking “(G)(i) The State” and in-
3 serting “(G) The State”; and

4 (B) by striking clause (ii);

5 (6) in subparagraph (H), by striking “(H)(i)
6 The Secretary” and all that follows through “(ii)
7 Federal funds” and inserting “(H) Federal funds”;

8 (7) in subparagraph (I)(i)(II), by striking “, or
9 was in operation,” and all that follows through “So-
10 cial Security Act” and inserting the following: “),
11 except that no such payment or reimbursement shall
12 exceed the applicable local market rate”;

13 (8)(A) by striking subparagraphs (K) and (L)
14 and inserting the following:

15 “(K) LIMITATION ON FUNDING.—Notwith-
16 standing any other provision of this paragraph,
17 the amount of funds a State agency uses to
18 carry out this paragraph (including under sub-
19 paragraph (I)) for participants who are receiv-
20 ing benefits under a State program funded
21 under part A of title IV of the Social Security
22 Act (42 U.S.C. 601 et seq.) shall not exceed the
23 amount of funds the State agency used in fiscal
24 year 1995 to carry out this paragraph for par-
25 ticipants who were receiving benefits in fiscal

1 year 1995 under a State program funded under
2 part A of title IV of the Act (42 U.S.C. 601 et
3 seq.).”; and

4 (B) by redesignating subparagraphs (M)
5 and (N) as subparagraphs (L) and (M), respec-
6 tively; and

7 (9) in subparagraph (L), as redesignated by
8 paragraph (8)(B)—

9 (A) by striking “(L)(i) The Secretary” and
10 inserting “(L) The Secretary”; and

11 (B) by striking clause (ii).

12 (b) FUNDING.—Section 16(h) of the Act (7 U.S.C.
13 2025(h)) is amended by striking “(h)(1)(A) The Sec-
14 retary” and all that follows through the end of paragraph
15 (1) and inserting the following:

16 “(h) FUNDING OF EMPLOYMENT AND TRAINING
17 PROGRAMS.—

18 “(1) IN GENERAL.—

19 “(A) AMOUNTS.—To carry out employ-
20 ment and training programs, the Secretary
21 shall reserve for allocation to State agencies
22 from funds made available for each fiscal year
23 under section 18(a)(1) the amount of—

24 “(i) for fiscal year 1996, \$77,000,000;

1 “(ii) for fiscal year 1997,
2 \$79,000,000;

3 “(iii) for fiscal year 1998,
4 \$81,000,000;

5 “(iv) for fiscal year 1999,
6 \$84,000,000;

7 “(v) for fiscal year 2000,
8 \$86,000,000;

9 “(vi) for fiscal year 2001,
10 \$88,000,000; and

11 “(vii) for fiscal year 2002,
12 \$90,000,000.

13 “(B) ALLOCATION.—The Secretary shall
14 allocate the amounts reserved under subpara-
15 graph (A) among the State agencies using a
16 reasonable formula (as determined by the Sec-
17 retary) that gives consideration to the popu-
18 lation in each State affected by section 6(o).

19 “(C) REALLOCATION.—

20 “(i) NOTIFICATION.—A State agency
21 shall promptly notify the Secretary if the
22 State agency determines that the State
23 agency will not expend all of the funds al-
24 located to the State agency under subpara-
25 graph (B).

1 “(ii) REALLOCATION.—On notification
2 under clause (i), the Secretary shall reallo-
3 cate the funds that the State agency will
4 not expend as the Secretary considers ap-
5 propriate and equitable.

6 “(D) MINIMUM ALLOCATION.—Notwith-
7 standing subparagraphs (A) through (C), the
8 Secretary shall ensure that each State agency
9 operating an employment and training program
10 shall receive not less than \$50,000 in each fis-
11 cal year.”.

12 (c) ADDITIONAL MATCHING FUNDS.—Section
13 16(h)(2) of the Act (7 U.S.C. 2025(h)(2)) is amended by
14 inserting before the period at the end the following: “, in-
15 cluding the costs for case management and casework to
16 facilitate the transition from economic dependency to self-
17 sufficiency through work”.

18 (d) REPORTS.—Section 16(h) of the Act (7 U.S.C.
19 2025(h)) is amended—

20 (1) in paragraph (5)—

21 (A) by striking “(5)(A) The Secretary”
22 and inserting “(5) The Secretary”; and

23 (B) by striking subparagraph (B); and

24 (2) by striking paragraph (6).

1 **SEC. 1030. DISQUALIFICATION OF FLEEING FELONS.**

2 Section 6 of the Food Stamp Act of 1977 (7 U.S.C.
3 2015), as amended by section 1029, is further amended
4 by inserting after subsection (j) the following:

5 “(k) DISQUALIFICATION OF FLEEING FELONS.—No
6 member of a household who is otherwise eligible to partici-
7 pate in the food stamp program shall be eligible to partici-
8 pate in the program as a member of that or any other
9 household during any period during which the individual
10 is—

11 (1) fleeing to avoid prosecution, or custody or
12 confinement after conviction, under the law of the
13 place from which the individual is fleeing, for a
14 crime, or attempt to commit a crime, that is a felony
15 under the law of the place from which the individual
16 is fleeing or that, in the case of New Jersey, is a
17 high misdemeanor under the law of New Jersey; or

18 “(2) violating a condition of probation or parole
19 imposed under a Federal or State law.”.

20 **SEC. 1034. ENCOURAGE ELECTRONIC BENEFIT TRANSFER**
21 **SYSTEMS.**

22 (a) IN GENERAL.—Section 7(i) of the Food Stamp
23 Act of 1977 (7 U.S.C. 2016(i)) is amended—

24 (1) by striking paragraph (1) and inserting the
25 following:

26 “(1) ELECTRONIC BENEFIT TRANSFERS.—

1 “(A) IMPLEMENTATION.—Each State
2 agency shall implement an electronic benefit
3 transfer system in which household benefits de-
4 termined under section 8(a) or 24 are issued
5 from and stored in a central databank before
6 October 1, 2002, unless the Secretary provides
7 a waiver for a State agency that faces unusual
8 barriers to implementing an electronic benefit
9 transfer system.

10 “(C) STATE FLEXIBILITY.—Subject to
11 paragraph (2), a State agency may procure and
12 implement an electronic benefit transfer system
13 under the terms, conditions, and design that
14 the State agency considers appropriate.

15 “(D) OPERATION.—An electronic benefit
16 transfer system should take into account gen-
17 erally accepted standard operating rules based
18 on—

19 “(i) commercial electronic funds
20 transfer technology;

21 “(ii) the need to permit interstate op-
22 eration and law enforcement monitoring;
23 and

1 “(iii) the need to permit monitoring
2 and investigations by authorized law en-
3 forcement agencies.”;

4 “(8) REPLACEMENT CARD FEE.—A State agen-
5 cy may collect a charge for replacement of an elec-
6 tronic benefit transfer card by reducing the monthly
7 allotment of the household receiving the replacement
8 card.

9 “(9) OPTIONAL PHOTOGRAPHIC IDENTIFICA-
10 TION.—

11 “(A) IN GENERAL.—A State agency may
12 require that an electronic benefit card contain
13 a photograph of 1 or more members of a house-
14 hold.

15 “(B) OTHER AUTHORIZED USERS.—If a
16 State agency requires a photograph on an elec-
17 tronic benefit card under subparagraph (A), the
18 State agency shall establish procedures to en-
19 sure that any other appropriate member of the
20 household or any authorized representative of
21 the household may utilize the card.”.

22 **SEC. 1035. VALUE OF MINIMUM ALLOTMENT.**

23 The proviso in section 8(a) of the Food Stamp Act
24 of 1977 (7 U.S.C. 2017(a)) is amended by striking “, and
25 shall be adjusted” and all that follows through “\$5.”.

1 **SEC. 1036. BENEFITS ON RECERTIFICATION.**

2 Section 8(c)(2)(B) of the Food Stamp Act of 1977
3 (7 U.S.C. 2017(c)(2)(B)) is amended by striking “of more
4 than one month”.

5 **SEC. 1037. OPTIONAL COMBINED ALLOTMENT AND EXPE-**
6 **DITED HOUSEHOLDS.**

7 Section 8(c) of the Food Stamp Act of 1977 (7
8 U.S.C. 2017(c)) is amended by striking paragraph (3) and
9 inserting the following:

10 “(3) OPTIONAL COMBINED ALLOTMENT FOR
11 EXPEDITED HOUSEHOLDS.—A State agency may
12 provide to an eligible household applying after the
13 15th day of a month, in lieu of the initial allotment
14 of the household and the regular allotment of the
15 household for the following month, an allotment that
16 is equal to the total amount of the initial allotment
17 and the first regular allotment. The allotment shall
18 be provided in accordance with section 11(e)(3) in
19 the case of a household that is not entitled to expe-
20 dited service and in accordance with paragraphs (3)
21 and (9) of section 11(e) in the case of a household
22 that is entitled to expedited service.”.

1 **SEC. 1038. FAILURE TO COMPLY WITH OTHER MEANS-TEST-**
2 **ED PUBLIC ASSISTANCE PROGRAMS.**

3 Section 8 of the Food Stamp Act of 1977 (7 U.S.C.
4 2017) is amended by striking subsection (d) and inserting
5 the following:

6 “(d) REDUCTION OF PUBLIC ASSISTANCE BENE-
7 FITS.—

8 “(1) IN GENERAL.—If the benefits of a house-
9 hold are reduced under a Federal, State, or local law
10 relating to a means-tested public assistance program
11 for the failure of a member of the household to per-
12 form an action required under the law or program,
13 for the duration of the reduction—

14 “(A) the household may not receive an in-
15 creased allotment as the result of a decrease in
16 the income of the household to the extent that
17 the decrease is the result of the reduction; and

18 “(B) the State agency may reduce the al-
19 lotment of the household by not more than 25
20 percent.

21 **SEC. 1037. OPTIONAL COMBINED ALLOTMENT FOR EXPE-**
22 **DITED HOUSEHOLDS.**

23 Section 8(c) of the Food Stamp Act of 1977 (7
24 U.S.C. 2017(c)) is amended by striking paragraph (3) and
25 inserting the following:

1 “(A) the center as an authorized represent-
2 ative of the individual for a period that is less
3 than 1 month; and

4 “(B) the individual, if the individual leaves
5 the center.

6 “(2) DIRECT PAYMENT.—A State agency may
7 require an individual referred to in paragraph (1) to
8 designate the center in which the individual resides
9 as the authorized representative of the individual for
10 the purpose of receiving an allotment.”.

11 **SEC. 1046. EXCHANGE OF LAW ENFORCEMENT INFORMA-**
12 **TION.**

13 Section 11(e)(8) of the Food Stamp Act of 1977 (7
14 U.S.C. 2020(e)(8)) is amended—

15 (1) by striking “that (A) such” and inserting
16 the following: “that—

17 “(A) the”;

18 (2) by striking “law, (B) notwithstanding” and
19 inserting the following: “law;

20 “(B) notwithstanding”;

21 (3) by striking “Act, and (C) such” and insert-
22 ing the following: “Act;

23 “(C) the”; and

24 (4) by adding at the end the following:

1 “(D) notwithstanding any other provision
2 of law, the address, social security number, and,
3 if available, photograph of any member of a
4 household shall be made available, on request,
5 to any Federal, State, or local law enforcement
6 officer if the officer furnishes the State agency
7 with the name of the member and notifies the
8 agency that—

9 “(i) the member—

10 “(I) is fleeing to avoid prosecu-
11 tion, or custody or confinement after
12 conviction, for a crime (or attempt to
13 commit a crime) that, under the law
14 of the place the member is fleeing, is
15 a felony (or, in the case of New Jer-
16 sey, a high misdemeanor), or is violat-
17 ing a condition of probation or parole
18 imposed under Federal or State law;
19 or

20 “(II) has information that is nec-
21 essary for the officer to conduct an of-
22 ficial duty related to subclause (I);

23 “(ii) locating or apprehending the
24 member is an official duty; and

1 “(iii) the request is being made in the
2 proper exercise of an official duty; and

3 “(E) the safeguards shall not prevent com-
4 pliance with paragraph (16);”.

5 **SEC. 1047. EXPEDITED COUPON SERVICE.**

6 Section 11(e)(9) of the Food Stamp Act of 1977 (7
7 U.S.C. 2020(e)(9)) is amended—

8 (1) in subparagraph (A)—

9 (A) by striking “five days” and inserting
10 “7 days”; and

11 (B) by inserting “and” at the end;

12 (2) by striking subparagraphs (B) and (C);

13 (3) by redesignating subparagraph (D) as sub-
14 paragraph (B); and

15 (4) in subparagraph (B), as redesignated by
16 paragraph (3), by striking “, (B), or (C)”.

17 **SEC. 1048. WITHDRAWING FAIR HEARING REQUESTS.**

18 Section 11(e)(10) of the Food Stamp Act of 1977 (7
19 U.S.C. 2020(e)(10)) is amended by inserting before the
20 semicolon at the end a period and the following: “At the
21 option of a State, at any time prior to a fair hearing deter-
22 mination under this paragraph, a household may with-
23 draw, orally or in writing, a request by the household for
24 the fair hearing. If the withdrawal request is an oral re-
25 quest, the State agency shall provide a written notice to

1 the household confirming the withdrawal request and pro-
2 viding the household with an opportunity to request a
3 hearing”.

4 **SEC. 1049. INCOME, ELIGIBILITY, AND IMMIGRATION STA-**
5 **TUS VERIFICATION SYSTEMS.**

6 Section 11 of the Food Stamp Act of 1977 (7 U.S.C.
7 2020) is amended—

8 (1) in subsection (e)(18), as redesignated by
9 section 1044(1)(D)—

10 (A) by striking “that information is” and
11 inserting “at the option of the State agency,
12 that information may be”; and

13 (B) by striking “shall be requested” and
14 inserting “may be requested”; and

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

16 “(p) STATE VERIFICATION OPTION—Notwithstand-
17 ing any other provision of law, in carrying out the food
18 stamp program, a State agency shall not be required to
19 use an income and eligibility or an immigration status ver-
20 ification system established under section 1137 of the So-
21 cial Security Act (42 U.S.C. 1320b–7).”.

22 **SEC. 1059. AUTHORIZATION OF PILOT PROJECTS.**

23 Section 17(b)(1)(B) of the Food Stamp Act of 1977
24 (7 U.S.C. 2026(b)(1)(B)), as amended by section 1058,
25 is further amended—

1 (1) in clause (iv), by striking “coupons. Any
2 pilot” and inserting the following: “coupons.

3 “(v) CASH PAYMENT PILOT
4 PROJECTS.—Any pilot”; and

5 (2) in clause (v), as so amended, by striking
6 “1995” and inserting “2002”.

7 **SEC. 1060. RESPONSE TO WAIVERS.**

8 Section 17(b)(1) of the Food Stamp Act of 1977 (7
9 U.S.C. 2026(b)(1)), as amended by section 1058, is fur-
10 ther amended by adding at the end the following:

11 “(D) RESPONSE TO WAIVERS.—

12 “(i) RESPONSE.—Not later than 60
13 days after the date of receiving a request
14 for a waiver under subparagraph (A), the
15 Secretary shall provide a response that—

16 “(I) approves the waiver request;

17 “(II) denies the waiver request
18 and explains any modification needed
19 for approval of the waiver request;

20 “(III) denies the waiver request
21 and explains the grounds for the de-
22 nial; or

23 “(IV) requests clarification of the
24 waiver request.

1 “(ii) FAILURE TO RESPOND.—If the
2 Secretary does not provide a response in
3 accordance with clause (i), the waiver shall
4 be considered approved, unless the ap-
5 proval is specifically prohibited by this Act.

6 “(iii) NOTICE OF DENIAL.—On denial
7 of a waiver request under clause (i)(III),
8 the Secretary shall provide a copy of the
9 waiver request and a description of the
10 reasons for the denial to the Committee on
11 Agriculture of the House of Representa-
12 tives and the Committee on Agriculture,
13 Nutrition, and Forestry of the Senate.”.

14 **Subtitle B—Commodity Distribution Programs**

15 **SEC. 1071. COMMODITY DISTRIBUTION PROGRAM; COM-**
16 **MODITY SUPPLEMENTAL FOOD PROGRAM.**

17 (a) REAUTHORIZATION.—The first sentence of sec-
18 tion 4(a) of the Agriculture and Consumer Protection Act
19 of 1973 (Public Law 93–86; 7 U.S.C. 612c note) is
20 amended by striking “1995” and inserting “2002”.

21 (b) FUNDING.—Section 5 of the Act (Public Law 93–
22 86; 7 U.S.C. 612c note) is amended—

23 (1) in subsection (a)(2), by striking “1995” and
24 inserting “2002”; and

1 (2) in subsection (d)(2), by striking “1995”
2 and inserting “2002”.

3 **SEC. 1073. FOOD BANK DEMONSTRATION PROJECT.**

4 Section 3 of the Charitable Assistance and Food
5 Bank Act of 1987 (Public Law 100–232; 7 U.S.C. 612e
6 note) is repealed.

7 **SEC. 1074. HUNGER PREVENTION PROGRAMS.**

8 The Hunger Prevention Act of 1988 (Public Law
9 100–435; 7 U.S.C 612e note) is amended—

10 (1) by striking section 110;

11 (2) by striking subtitle C of title II; and

12 (3) by striking section 502.

13 **SEC. 1075. REPORT ON ENTITLEMENT COMMODITY PROC-**
14 **ESSING.**

15 Section 1773 of the Food, Agriculture, Conservation,
16 and Trade Act of 1990 (Public Law 101–624; 7 U.S.C.
17 612e note) is amended by striking subsection (f).

18 **TITLE XI—MISCELLANEOUS**

19 **SEC. 1101. EXPENDITURE OF FEDERAL FUNDS IN ACCORD-**
20 **ANCE WITH LAWS AND PROCEDURES APPLI-**
21 **CABLE TO EXPENDITURE OF STATE FUNDS.**

22 (a) IN GENERAL.—Notwithstanding any other provi-
23 sion of law, any funds received by a State under the provi-
24 sions of law specified in subsection (b) shall be expended
25 only in accordance with the laws and procedures applicable

1 to expenditures of the State’s own revenues, including ap-
 2 propriation by the State legislature, consistent with the
 3 terms and conditions required under such provisions of
 4 law.

5 **TITLE VI—FEDERAL RETIREMENT AND RELATED**
 6 **PROVISIONS**

7 **Subtitle A—Civil Service and Postal Service**
 8 **Provisions**

9 **SEC. 6001. EXTENSION OF DELAY IN COST-OF-LIVING AD-**
 10 **JUSTMENTS IN FEDERAL EMPLOYEE RETIRE-**
 11 **MENT BENEFITS THROUGH FISCAL YEAR**
 12 **2002.**

13 Section 11001(a) of the Omnibus Budget Reconcili-
 14 ation Act of 1993 (Public Law 103–66; 107 Stat. 408)
 15 is amended in the matter preceding paragraph (1) by
 16 striking out “or 1996,” and inserting in lieu thereof
 17 “1996, 1997, 1998, 1999, 2000, 2001, or 2002,”.

18 **SEC. 6002. INCREASED CONTRIBUTIONS TO FEDERAL CI-**
 19 **VILIAN RETIREMENT SYSTEMS.**

20 (a) CIVIL SERVICE RETIREMENT SYSTEM.—

21 (1) DEDUCTIONS.—The first sentence of section
 22 8334(a)(1) of title 5, United States Code, is amend-
 23 ed to read as follows: “The employing agency shall
 24 deduct and withhold from the basic pay of an em-
 25 ployee, Member, Congressional employee, law en-

1 forcement officer, firefighter, bankruptcy judge,
2 judge of the United States Court of Appeals for the
3 Armed Forces, United States magistrate, or Claims
4 Court judge, as the case may be, the percentage of
5 basic pay applicable under subsection (e).”.

6 (2) AGENCY CONTRIBUTIONS.—

7 (A) INCREASE IN AGENCY CONTRIBUTION
8 DURING CALENDAR YEARS 1996 THROUGH
9 2002.—Section 8334(a)(1) of title 5, United
10 States Code (as amended by this section) is fur-
11 ther amended—

12 (i) by inserting “(A)” after “(1)”; and

13 (ii) by adding at the end thereof the

14 following new subparagraph;

15 “(B)(i) Notwithstanding subparagraph
16 (A), the agency contribution under the second
17 sentence of such subparagraph, during the pe-
18 riod beginning on January 1, 1996, through
19 December 31, 2002—

20 “(I) for each employing agency (other
21 than the United States Postal Service or
22 the Washington Metropolitan Airport Au-
23 thority) shall be 8.51 percent of the basic
24 pay of an employee, Congressional em-
25 ployee, and a Member of Congress, 9.01

1 percent of the basic pay of a law enforce-
2 ment officer, a member of the Capitol Po-
3 lice, and a firefighter, and 8.51 percent of
4 the basic pay of a Claims Court judge, a
5 United States magistrate, a judge of the
6 United States Court of Appeals for the
7 Armed Services, and a bankruptcy judge,
8 as the case may be; and

9 “(II) for the United States Postal
10 Service and the Washington Metropolitan
11 Airport Authority shall be 7 percent of the
12 basic pay of an employee and 7.5 percent
13 of the basic pay of a law enforcement offi-
14 cer or firefighter.”.

15 (B) NO REDUCTION IN AGENCY CONTRIBU-
16 TIONS BY THE POSTAL SERVICE.—Agency con-
17 tributions by the United States Postal Service
18 under section 8348(h) of title 5, United States
19 Code—

20 (i) shall not be reduced as a result of
21 the amendments made under paragraph
22 (3) of this subsection; and

23 (ii) shall be computed as through such
24 amendments had not been enacted.

1 (3) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS,
2 AND DEPOSITS.—The table under section 8334(c) of
3 title 5, United States Code, is amended—

4 (A) in the matter relating to an employee
5 by striking out

“7 After December 31, 1969.”

6 and inserting in lieu thereof the following:

“7 January 1, 1970, to December 31, 1995.
7.25 January 1, 1996, to December 31, 1996.
7.4 January 1, 1997, to December 31, 1997.
7.5 January 1, 1998, to December 31, 2002.
7 After December 31, 2002.”;

7 (B) in the matter relating to a Member or
8 employee for Congressional employee service by
9 striking out

“7½ After December 31, 1969.”

10 and inserting in lieu thereof the following:

“7.5 January 1, 1970, to December 31, 1995.
7.25 January 1, 1996, to December 31, 1996.
7.4 January 1, 1997, to December 31, 1997.
7.5 January 1, 1998, to December 31, 2002.
7 After December 31, 2002.”;

11 (C) in the matter relating to a Member for
12 Member service by striking out

“8 After December 31, 1969.”

13 and inserting in lieu thereof the following:

“8 January 1, 1970, to December 31, 1995.
7.25 January 1, 1996, to December 31, 1996.
7.4 January 1, 1997, to December 31, 1997.
7.5 January 1, 1998, to December 31, 2002.
7 After December 31, 2002.”;

1 (D) in the matter relating to a law enforce-
 2 ment officer for law enforcement service and
 3 firefighter for firefighter service by striking out

“7½ After December 31, 1974.”

4 and inserting in lieu thereof the following:

“7.5 January 1, 1975, to December 31, 1995.
 7.75 January 1, 1996, to December 31, 1996.
 7.9 January 1, 1997, to December 31, 1997.
 8 January 1, 1998, to December 31, 2002.
 7.5 After December 31, 2002.”;

5 (E) in the matter relating to a bankruptcy
 6 judge by striking out

“8 After December 31, 1983.”

7 and inserting in lieu thereof the following:

“8 January 1, 1984, to December 31, 1995.
 7.5 January 1, 1996, to December 31, 1996.
 7.4 January 1, 1997, to December 31, 1997.
 7.5 January 1, 1998, to December 31, 2002.
 7 After December 31, 2002.”;

8 (F) in the matter relating to a judge of the
 9 United States Court of Appeals for the Armed
 10 Forces for service as a judge of that court by
 11 striking out

“8 On and after the date of the enactment of
 the Department of Defense Authoriza-
 tion Act, 1984.”

12 and inserting in lieu thereof the following:

“8 The date of the enactment of the Depart-
 ment of Defense Authorization Act,
 1984, to December 31, 1995.
 7.25 January 1, 1996, to December 31, 1996.
 7.4 January 1, 1997, to December 31, 1997.”

7.5 January 1, 1998, to December 31, 2002.
7 After December 31, 2002.”;

1 (G) in the matter relating to a United
2 States magistrate by striking out

“8 After September 30, 1987.”

3 and inserting in lieu thereof the following:

“8 October 1, 1987, to December 31, 1995.
7.25 January 1, 1996, to December 31, 1996.
7.4 January 1, 1997, to December 31, 1997.
7.5 January 1, 1998, to December 31, 2002.
7 After December 31, 2002.”;

4 (H) in the matter relating to a Claims
5 Court judge by striking out

“8 After September 30, 1988.”

6 and inserting in lieu thereof the following:

“8 October 1, 1988, to December 31, 1995.
7.25 January 1, 1996, to December 31, 1996.
7.4 January 1, 1997, to December 31, 1997.
7.5 January 1, 1998, to December 31, 2002.
7 After December 31, 2002.”;

7 and

8 (I) by inserting after the matter relating to
9 a Claims Court judge the following:

“Member of the Capitol Police 2.5 August 1, 1920, to June 30, 1926.
3.5 July 1, 1926, to June 30, 1942.
5 July 1, 1942, to June 30, 1948.
6 July 1, 1948, to October 31, 1956.
6.5 November 1, 1956, to December 31, 1969.
7.5 January 1, 1970, to December 31, 1995.
7.75 January 1, 1996, to December 31, 1996.
7.9 January 1, 1997, to December 31, 1997.
8 January 1, 1998, to December 31, 2002.
7.5 After December 31, 2002.”.

10 (4) OTHER SERVICE.—

1 (A) MILITARY SERVICE.—Section 8334(j)
2 of title 5, United States Code, is amended—

3 (i) in paragraph (1)(A) by inserting
4 “and subject to paragraph (5),” after “Ex-
5 cept as provided in subparagraph (B),”;
6 and

7 (ii) by adding at the end thereof the
8 following new paragraph:

9 “(5) Effective with respect to any period of
10 military service after December 31, 1995, the per-
11 centage of basic pay under section 204 of title 37
12 payable under paragraph (1) shall be equal to the
13 same percentage as would be applicable under sec-
14 tion 8334(c) for that same period for service as an
15 employee, subject to paragraph (1)(B).”.

16 (B) VOLUNTEER SERVICE.—Section
17 8334(l) of title 5, United States Code, is
18 amended—

19 (i) in paragraph (1) by adding at the
20 end thereof the following: “This paragraph
21 shall be subject to paragraph (4).”; and

22 (ii) by adding at the end thereof the
23 following new paragraph:

24 “(4) Effective with respect to any period of
25 service after December 31, 1995, the percentage of

1 the readjustment allowance or stipend (as the case
2 may be) payable under paragraph (1) shall be equal
3 to the same percentage as would be applicable under
4 section 8334(c) for that same period for service as
5 an employee.”.

6 (b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

7 (1) INDIVIDUAL DEDUCTIONS AND
8 WITHHOLDINGS.—

9 (A) IN GENERAL.—Section 8422(a) of title
10 5, United States Code, is amended by striking
11 out paragraph (2) and inserting in lieu thereof
12 the following:

13 “(2) The percentage to be deducted and with-
14 held from basic pay for any pay period shall be
15 equal to—

16 “(A) the applicable percentage under para-
17 graph (3), minus

18 “(B) the percentage then in effect under
19 section 3101(a) of the Internal Revenue Code
20 of 1986 (relating to rate of tax for old-age, sur-
21 vivors, and disability insurance).

22 “(3) The applicable percentage under this para-
23 graph, for civilian service shall be as follows:

Employee	7	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.
	7.4	January 1, 1997, to December 31, 1997.
	7.5	January 1, 1998, to December 31, 2002.
	7	After December 31, 2002.
Congressional employee	7.5	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.

	7.4	.....	January 1, 1997, to December 31, 1997.
	7.5	.....	January 1, 1998, to December 31, 2002.
	7	.....	After December 31, 2002.
Member	7.5	.....	Before January 1, 1996.
	7.25	.....	January 1, 1996, to December 31, 1996.
	7.4	.....	January 1, 1997, to December 31, 1997.
	7.5	.....	January 1, 1998, to December 31, 2002.
	7	.....	After December 31, 2002.
Law enforcement officer, firefighter, mem- ber of the Capitol Police, or air traffic controller.	7.5	.....	Before January 1, 1996.
	7.75	.....	January 1, 1996, to December 31, 1996.
	7.9	.....	January 1, 1997, to December 31, 1997.
	8	.....	January 1, 1998, to December 31, 2002.
	7.5	.....	After December 31, 2002.

1 (B) MILITARY SERVICE.—Section 8422(e)
2 of title 5, United States Code, is amended—

3 (i) in paragraph (1)(A) by inserting
4 “and subject to paragraph (6),” after “Ex-
5 cept as provided in subparagraph (B),”;
6 and

7 (ii) by adding at the end thereof the
8 following:

9 “(6) The percentage of basic pay under section
10 204 of title 37 payable under paragraph (1), with
11 respect to any period of military service performed
12 during—

13 “(A) January 1, 1996, through December
14 31, 1996, shall be 3.25 percent;

15 “(B) January 1, 1997, through December
16 31, 1997, shall be 3.4 percent; and

17 “(C) January 1, 1998, through December
18 31, 2002, shall be 3.5 percent.”.

1 (C) VOLUNTEER SERVICE.—Section
2 8422(f) of title 5, United States Code, is
3 amended—

4 (i) in paragraph (1) by adding at the
5 end thereof the following: “This paragraph
6 shall be subject to paragraph (4).”; and

7 (ii) by adding at the end the follow-
8 ing:

9 “(4) The percentage of the readjustment allow-
10 ance or stipend (as the case may be) payable under
11 paragraph (1), with respect to any period of volun-
12 teer service performed during—

13 “(A) January 1, 1996, through December
14 31, 1996, shall be 3.25 percent;

15 “(B) January 1, 1997, through December
16 31, 1997, shall 3.4 percent; and

17 “(C) January 1, 1998, through December
18 31, 2002, shall be 3.5 percent.”.

19 (2) NO REDUCTION IN AGENCY CONTRIBU-
20 TIONS.—Agency contributions under section 8423
21 (a) and (b) of title 5, United States Code, shall not
22 be reduced as a result of the amendments made
23 under paragraph (1) of this subsection.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect on the first day of the first

1 applicable pay period beginning on or after January 1,
2 1996.

3 **SEC. 6003. FEDERAL RETIREMENT PROVISIONS RELATING**
4 **TO MEMBERS OF CONGRESS AND CONGRES-**
5 **SIONAL EMPLOYEES.**

6 (a) RELATING TO THE YEARS OF SERVICE AS A
7 MEMBER OF CONGRESS AND CONGRESSIONAL EMPLOY-
8 EES FOR PURPOSES OF COMPUTING AN ANNUITY.—

9 (1) CSRS.—Section 8339 of title 5, United
10 States Code, is amended—

11 (A) in subsection (a) inserting “or Mem-
12 ber” after “employee”; and

13 (B) by striking out subsections (b) and (c).

14 (2) FERS.—Section 8415 of title 5, United
15 States Code, is amended—

16 (A) by striking out subsections (b) and (c);

17 (B) in subsections (a) and (g) by inserting
18 “or Member” after “employee” each place it
19 appears; and

20 (C) in subsection (g)(2) by striking out
21 “Congressional employee”.

22 (b) ACCRUAL RATE FOR MEMBER AND CONGRES-
23 SIONAL EMPLOYEE SERVICE PERFORMED BUT NOT
24 VESTED BEFORE EFFECTIVE DATE.—

1 (1) APPLICATION.—This subsection shall apply
2 to an individual who—

3 (A) is a Member of Congress or Congress-
4 sional employee on December 31, 1995;

5 (B) has performed less than 5 years of
6 service as a Member of Congress or Congress-
7 sional employee on December 31, 1995; and

8 (C) after December 31, 1995, completes 5
9 years of service as a Member of Congress or
10 Congressional employee, that includes a period
11 of service performed as a Member of Congress
12 or Congressional employee before January 1,
13 1996.

14 (2) COMPUTATION OF ANNUITY.—In computing
15 the annuity of an individual described under para-
16 graph (1)—

17 (A) any period of service as a Member of
18 Congress or Congressional employee performed
19 before January 1, 1996, shall be computed
20 under section 8339 or 8415 of title 5, United
21 States Code (as though the amendments under
22 subsection (a) of this section were not enacted);
23 and

24 (B) the 5 year service requirement under
25 subsections (b) and (c) of section 8339 or 8415

1 of such title (as in effect before the date of en-
2 actment of this Act) shall be deemed fulfilled.

3 (c) CAPITOL POLICE.—Section 8339(q) of title 5,
4 United States Code, is amended by striking out “with sub-
5 section (b), except that, in the case of a member who re-
6 tires under section 8335(d) or 8336(m), and who meets
7 the requirements of subsection (b)(2),” and inserting in
8 lieu thereof “with subsection (a), except that in the case
9 of a member who retires under section 8335(d) or
10 8336(m), and who has deductions withheld from his pay
11 or has made deposit covering his last 5 years of civilian
12 service,”.

13 (d) ADMINISTRATIVE REGULATIONS.—The Office of
14 Personnel Management, in consultation with the Secretary
15 of the Senate and the Clerk of the House of Representa-
16 tives, may prescribe regulations to carry out the provisions
17 of this section and the amendments made by this section
18 for applicable employees and Members of Congress.

19 (e) EFFECTIVE DATES.—

20 (1) YEARS OF SERVICE; ANNUITY COMPUTA-
21 TION.—

22 (A) SERVICE AFTER EFFECTIVE DATE.—

23 The amendments made by subsection (a) shall
24 take effect on January 1, 1996, and shall apply

1 only with respect to the computation of an an-
2 nuity relating to—

3 (i) the service of a Member of Con-
4 gress as a Member or as a Congressional
5 employee performed on or after January 1,
6 1996; and

7 (ii) the service of a Congressional em-
8 ployee as a Congressional employee per-
9 formed on or after January 1, 1996.

10 (B) SERVICE BEFORE EFFECTIVE DATE.—

11 An annuity shall be computed as though the
12 amendments made under subsection (a) had not
13 been enacted with respect to—

14 (i) the service of a Member of Con-
15 gress as a Member or a Congressional em-
16 ployee or military service performed before
17 January 1, 1996; and

18 (ii) the service of a Congressional em-
19 ployee as a Congressional employee or mili-
20 tary service performed before January 1,
21 1996.

22 (C) ALTERNATIVE EFFECTIVE DATE RE-

23 LATING TO MEMBERS OF CONGRESS.—If a
24 court of competent jurisdiction makes a final
25 determination that a provision of this para-

1 graph violates the 27th amendment of the Unit-
2 ed States Constitution, the effective date and
3 application dates relating to Members of Con-
4 gress shall be January 1, 1997.

5 (2) ADMINISTRATIVE PROVISIONS.—The provi-
6 sions of subsections (b), (c), and (d) shall take effect
7 on the date of the enactment of this Act.

8 **SEC. 6004. ACCRUAL RATES RELATING TO CERTAIN**
9 **JUDGES WITH SIMILAR TREATMENT AS CON-**
10 **GRESSIONAL SERVICE.**

11 (a) JUDGE OF THE UNITED STATES COURT OF MILI-
12 TARY APPEALS.—Section 8339(d)(7) of title 5, United
13 States Code, is amended by striking out “service.” and
14 inserting in lieu thereof “service performed before Janu-
15 ary 1, 1996.”

16 (b) CLAIMS COURT JUDGE, BANKRUPTCY JUDGE,
17 UNITED STATES MAGISTRATE.—Section 8339(n) of title
18 5, United States Code, is amended by striking out “serv-
19 ice.” and inserting in lieu thereof “service performed be-
20 fore January 1, 1996. The annuity of any such employee
21 is, and with respect to any service referred to in the pre-
22 ceding sentence that is performed on or after January 1,
23 1996, computed under subsection (a).”.

1 **SEC. 6005. REPEAL OF AUTHORIZATION OF TRANSITIONAL**
2 **APPROPRIATIONS FOR THE UNITED STATES**
3 **POSTAL SERVICE.**

4 (a) REPEAL.—

5 (1) IN GENERAL.—Section 2004 of title 39,
6 United States Code, is repealed.

7 (2) TECHNICAL AND CONFORMING AMEND-
8 MENT.—

9 (A) The table of sections for chapter 20 of
10 such title is amended by repealing the item re-
11 lating to section 2004.

12 (B) Section 2003(e)(2) of such title is
13 amended by striking “sections 2401 and 2004”
14 each place it appears and inserting “section
15 2401”.

16 (b) CLARIFICATION THAT LIABILITIES FORMERLY
17 PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES
18 PAYABLE BY THE POSTAL SERVICE.—Section 2003 of
19 title 39, United States Code, is amended by adding at the
20 end the following:

21 “(h) Liabilities of the former Post Office Department
22 to the Employees’ Compensation Fund (appropriations for
23 which were authorized by former section 2004, as in effect
24 before the effective date of this subsection) shall be liabil-
25 ities of the Postal Service payable out of the Fund.”.

26 (c) EFFECTIVE DATE.—

1 (1) IN GENERAL.—This section and the amend-
2 ments made by this section shall be effective as of
3 October 1, 1995.

4 (2) PROVISIONS RELATING TO PAYMENTS FOR
5 FISCAL YEAR 1996.—

6 (A) AMOUNTS NOT YET PAID.—No pay-
7 ment may be made to the Postal Service Fund,
8 on or after the date of the enactment of this
9 Act, pursuant to any appropriation for fiscal
10 year 1996 authorized by section 2004 of title
11 39, United States Code (as in effect before the
12 effective date of this section).

13 (B) AMOUNTS PAID.—If any payment to
14 the Postal Service Fund is or has been made
15 pursuant to an appropriation for fiscal year
16 1996 authorized by such section 2004, then an
17 amount equal to the amount of such payment
18 shall be paid from such Fund into the Treasury
19 as miscellaneous receipts.

20 **SEC. 13103. REQUIREMENT THAT CERTAIN AGENCIES**
21 **PREFUND GOVERNMENT HEALTH BENEFITS**
22 **CONTRIBUTIONS FOR THEIR ANNUITANTS.**

23 (a) DEFINITIONS.—For the purpose of this section—

24 (1) the term “agency” means any agency or
25 other instrumentality within the executive branch of

1 the Government, the receipts and disbursements of
2 which are not generally included in the totals of the
3 budget of the United States Government submitted
4 by the President;

5 (2) the term “health benefits plan” means, with
6 respect to an agency, a health benefits plan, estab-
7 lished by or under Federal law, in which employees
8 or annuitants of such agency may participate;

9 (3) the term “health-benefits coverage” means
10 coverage under a health benefits plan;

11 (4) an individual shall be considered to be an
12 “annuitant of an agency” if such individual is enti-
13 tled to an annuity, under a retirement system estab-
14 lished by or under Federal law, by virtue of—

15 (A) such individual’s service with, and sep-
16 aration from, such agency; or

17 (B) being the survivor of an annuitant
18 under subparagraph (A) or of an individual who
19 died while employed by such agency; and

20 (5) the term “Office” means the Office of Per-
21 sonnel Management.

22 (b) PREFUNDING REQUIREMENT.—

23 (1) IN GENERAL.—Effective as of October 1,
24 1996, each agency shall be required to prepay the
25 Government contributions which are or will be re-

1 quired in connection with providing health-benefits
2 coverage for annuitants of such agency.

3 (2) REGULATIONS.—The Office shall prescribe
4 such regulations as may be necessary to carry out
5 this section. The regulations shall be designed to en-
6 sure at least the following:

7 (A) Amounts paid by each agency shall be
8 sufficient to cover the amounts which would
9 otherwise be payable by such agency (on a
10 “pay-as-you-go” basis), on or after the applica-
11 ble effective date under paragraph (1), on be-
12 half of—

13 (i) individuals who are annuitants of
14 the agency as of such effective date; and

15 (ii) individuals who are employed by
16 the agency as of such effective date, or
17 who become employed by the agency after
18 such effective date, after such individuals
19 have become annuitants of the agency (in-
20 cluding their survivors).

21 (B)(i) For purposes of determining any
22 amounts payable by an agency—

23 (I) this section shall be treated as if
24 it had taken effect at the beginning of the
25 20-year period which ends on the effective

1 date applicable under paragraph (1) with
2 respect to such agency; and

3 (II) in addition to any amounts pay-
4 able under subparagraph (A), each agency
5 shall also be responsible for paying any
6 amounts for which it would have been re-
7 sponsible, with respect to the 20-year pe-
8 riod described in subclause (I), in connec-
9 tion with any individuals who are annu-
10 itants or employees of the agency as of the
11 applicable effective date under paragraph
12 (1).

13 (ii) Any amounts payable under this sub-
14 paragraph for periods preceding the applicable
15 effective date under paragraph (1) shall be pay-
16 able in equal installments over the 20-year pe-
17 riod beginning on such effective date.

18 (c) FASB STANDARDS.—Regulations under sub-
19 section (b) shall be in conformance with the provisions of
20 standard 106 of the Financial Accounting Standards
21 Board, issued in December 1990.

22 (d) CLARIFICATION.—Nothing in this section shall be
23 considered to permit or require duplicative payments on
24 behalf of any individuals.

1 (e) DRAFT LEGISLATION.—The Office shall prepare
 2 and submit to Congress any draft legislation which may
 3 be necessary in order to carry out this section.

4 **TITLE VII—VETERANS AND RELATED**
 5 **PROVISIONS**

6 **SEC. 10001. SHORT TITLE; TABLE OF CONTENTS.**

7 (a) SHORT TITLE.—This title may be cited as the
 8 “Veterans Reconciliation Act of 1995”.

9 (b) TABLE OF CONTENTS.—The table of contents for
 10 this title is as follows:

Sec. 10001. Short title; table of contents.

SUBTITLE A—EXTENSION OF TEMPORARY AUTHORITIES

Sec. 10011. Authority to require that certain veterans make copayments in exchange for receiving health-care benefits.

Sec. 10012. Medical care cost recovery authority.

Sec. 10013. Income verification authority.

Sec. 10014. Limitation on pension for certain recipients of medicaid-covered nursing home care.

Sec. 10015. Home loan fees.

Sec. 10016. Procedures applicable to liquidation sales on defaulted home loans guaranteed by the Department of Veterans Affairs.

Sec. 10017. Enhanced loan asset sale authority.

SUBTITLE B—OTHER MATTERS

Sec. 10021. Revision to prescription drug copayment.

Sec. 10022. Rounding down of cost-of-living adjustments in compensation and DIC rates.

Sec. 10023. Revised standard for liability for injuries resulting from Department of Veterans Affairs treatment.

Sec. 10024. Withholding of payments and benefits.

1 **Subtitle A—Extension of Temporary Authorities**

2 **SEC. 10011. AUTHORITY TO REQUIRE THAT CERTAIN VET-**
3 **ERANS MAKE COPAYMENTS IN EXCHANGE**
4 **FOR RECEIVING HEALTH-CARE BENEFITS.**

5 (a) HOSPITAL AND MEDICAL CARE.—Section
6 8013(e) of the Omnibus Budget Reconciliation Act of
7 1990 (38 U.S.C. 1710 note) is amended by striking out
8 “September 30, 1998” and inserting in lieu thereof “Sep-
9 tember 30, 2002”.

10 (b) OUTPATIENT MEDICATIONS.—Section 1722A(c)
11 of title 38, United States Code, is amended by striking
12 out “September 30, 1998” and inserting in lieu thereof
13 “September 30, 2002”.

14 **SEC. 10012. MEDICAL CARE COST RECOVERY AUTHORITY.**

15 Section 1729(a)(2)(E) of title 38, United States
16 Code, is amended by striking out “before October 1,
17 1998,” and inserting “before October 1, 2002,”.

18 **SEC. 10013. INCOME VERIFICATION AUTHORITY.**

19 Section 5317(g) of title 38, United States Code, is
20 amended by striking out “September 30, 1998” and in-
21 serting in lieu thereof “September 30, 2002”.

1 **SEC. 10014. LIMITATION ON PENSION FOR CERTAIN RECIPI-**
2 **ENTS OF MEDICAID-COVERED NURSING**
3 **HOME CARE.**

4 Section 5503(f)(7) of title 38, United States Code,
5 is amended by striking out “September 30, 1998” and in-
6 serting in lieu thereof “September 30, 2002”.

7 **SEC. 10015. HOME LOAN FEES.**

8 Section 3729(a) of title 38, United States Code, is
9 amended—

10 (1) in paragraph (4), by striking out “October
11 1, 1998” and inserting in lieu thereof “October 1,
12 2002”; and

13 (2) in paragraph (5)(C), by striking out “Octo-
14 ber 1, 1998” and inserting in lieu thereof “October
15 1, 2002”.

16 **SEC. 10016. PROCEDURES APPLICABLE TO LIQUIDATION**
17 **SALES ON DEFAULTED HOME LOANS GUAR-**
18 **ANTEED BY THE DEPARTMENT OF VETERANS**
19 **AFFAIRS.**

20 Section 3732(c)(11) of title 38, United States Code,
21 is amended by striking out “October 1, 1998” and insert-
22 ing “October 1, 2002”.

23 **SEC. 10017. ENHANCED LOAN ASSET SALE AUTHORITY.**

24 Section 3720(h)(2) of title 38, United States Code,
25 is amended by striking out “December 31, 1995” and in-
26 serting in lieu thereof “September 30, 2002”.

1 **Subtitle B—Other Matters**

2 **SEC. 1002. ROUNDING DOWN OF COST-OF-LIVING AD-**
3 **JUSTMENTS IN COMPENSATION AND DIC**
4 **RATES.**

5 (a) FISCAL YEAR 1996 COLA.—Effective as of De-
6 cember 1, 1995, the Secretary of Veterans Affairs shall
7 recompute any increase in an adjustment that is otherwise
8 provided by law to be effective during fiscal year 1996 in
9 the rates of disability compensation and dependency and
10 indemnity compensation paid by the Secretary as such
11 rates were in effect on November 30, 1995. The recom-
12 putation shall provide for the same percentage increase
13 as provided under such law, but with amounts so recom-
14 puted (if not a whole dollar amount).

15 **“§ 1103. Cost-of-living adjustments**

16 “(a) In the computation of cost-of-living adjustments
17 for fiscal years 1997 through 2002 in the rates of, and
18 dollar limitations applicable to, compensation payable
19 under this chapter, such adjustments shall be made by a
20 uniform percentage that is no more than the percentage
21 equal to the social security increase for that fiscal year,
22 with all increased monthly rates and limitations (other
23 than increased rates or limitations equal to a whole dollar
24 amount) rounded down to the next lower whole dollar
25 amount.

1 “(b) For purposes of this section, the term ‘social se-
2 curity increase’ means the percentage by which benefit
3 amounts payable under title II of the Social Security Act
4 (42 U.S.C. 401 et seq.) are increased for any fiscal year
5 as a result of a determination under section 215(i) of such
6 Act (42 U.S.C. 415(i)).”.

7 (b) The table of sections at the beginning of such
8 chapter is amended by inserting after the item relating
9 to section 1102 the following new item:

 “1103. Cost-of-living adjustments.”.

10 (c) OUT-YEAR DIC COLAS.—(1) Chapter 13 of title
11 38, United States Code, is amended by inserting after sec-
12 tion 1302 the following new section:

13 **“§ 1303. Cost-of-living adjustments**

14 “(a) In the computation of cost-of-living adjustments
15 for fiscal years 1997 through 2002 in the rates of depend-
16 ency and indemnity compensation payable under this
17 chapter, such adjustments shall be made by a uniform per-
18 centage that is no more than the percentage equal to the
19 social security increase for that fiscal year, with all in-
20 creased monthly rates (other than increased rates equal
21 to a whole dollar amount) rounded down to the next lower
22 whole dollar amount.

23 “(b) For purposes of this section, the term ‘social se-
24 curity increase’ means the percentage by which benefit

1 amounts payable under title II of the Social Security Act
2 (42 U.S.C. 401 et seq.) are increased for any fiscal year
3 as a result of a determination under section 215(i) of such
4 Act (42 U.S.C. 415(i)).”.

5 (2) The table of sections at the beginning of such
6 chapter is amended by inserting after the item relating
7 to section 1302 the following new item:

“1303. Cost-of-living adjustments.”.

8 **SEC. 10023. REVISED STANDARD FOR LIABILITY FOR IN-**
9 **JURIES RESULTING FROM DEPARTMENT OF**
10 **VETERANS AFFAIRS TREATMENT.**

11 (a) REVISED STANDARD.—Section 1151 of title 38,
12 United States Code, is amended—

13 (1) by designating the second sentence as sub-
14 section (c);

15 (2) by striking out the first sentence and insert-
16 ing in lieu thereof the following:

17 “(a) Compensation under this chapter and depend-
18 ency and indemnity compensation under chapter 13 of this
19 title shall be awarded for a qualifying additional disability
20 of a veteran or the qualifying death of a veteran in the
21 same manner as if such disability or death were service-
22 connected.

23 “(b)(1) For purposes of this section, a disability or
24 death is a qualifying additional disability or a qualifying
25 death only if the disability or death—

1 “(A) was caused by Department health care
2 and was a proximate result of—

3 “(i) negligence on the part of the Depart-
4 ment in furnishing the Department health care;
5 or

6 “(ii) an event not reasonably foreseeable;
7 or

8 “(B) was incurred as a proximate result of the
9 provision of training and rehabilitation services by
10 the Secretary (including by a service-provider used
11 by the Secretary for such purpose under section
12 3115 of this title) as part of an approved rehabilita-
13 tion program under chapter 31 of this title.

14 “(2) For purposes of this section, the term ‘Depart-
15 ment health care’ means hospital care, medical or surgical
16 treatment, or an examination that is furnished under any
17 law administered by the Secretary to a veteran by a De-
18 partment employee or in a facility over which the Sec-
19 retary has direct jurisdiction.

20 “(3) A disability or death of a veteran which is the
21 result of the veteran’s willful misconduct is not a qualify-
22 ing disability or death for purposes of this section.”; and

23 (3) by adding at the end the following:

24 “(d) Effective with respect to injuries, aggravations
25 of injuries, and deaths occurring after September 30,

1 2002, a disability or death is a qualifying additional dis-
2 ability or a qualifying death for purposes of this section
3 (notwithstanding the provisions of subsection (b)(1)) if the
4 disability or death—

5 “(1) was the result of Department health care;

6 or

7 “(2) was the result of the pursuit of a course
8 of vocational rehabilitation under chapter 31 of this
9 title.”.

10 (b) CONFORMING AMENDMENTS.—Subsection (c) of
11 such section, as designated by subsection (a)(1), is amend-
12 ed—

13 (1) by striking out “, aggravation,” both places
14 it appears; and

15 (2) by striking out “sentence” and inserting in
16 lieu thereof “subsection”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to any administrative or judicial
19 determination of eligibility for benefits under section 1151
20 of title 38, United States Code, based on a claim that is
21 received by the Secretary on or after October 1, 1995, in-
22 cluding any such determination based on an original appli-
23 cation or an application seeking to reopen, revise, recon-
24 sider, or otherwise readjudicate any claim for benefits

1 under section 1151 of that title or any predecessor provi-
2 sion of law.

3 **SEC. 10024. WITHHOLDING OF PAYMENTS AND BENE-**
4 **FITS.**

5 (a) NOTICE REQUIRED IN LIEU OF CONSENT OR
6 COURT ORDER.—Section 3726 of title 38, United States
7 Code, is amended by striking out “unless” and all that
8 follows and inserting in lieu thereof the following: “unless
9 the Secretary provides such veteran or surviving spouse
10 with notice by certified mail with return receipt requested
11 of the authority of the Secretary to waive the payment
12 of indebtedness under section 5302(b) of this title. If the
13 Secretary does not waive the entire amount of the liability,
14 the Secretary shall then determine whether the veteran or
15 surviving spouse should be released from liability under
16 section 3713(b) of this title. If the Secretary determines
17 that the veteran or surviving spouse should not be released
18 from liability, the Secretary shall notify the veteran or sur-
19 viving spouse of that determination and provide a notice
20 of the procedure for appealing that determination, unless
21 the Secretary has previously made such determination and
22 notified the veteran or surviving spouse of the procedure
23 for appealing the determination.”.

1 (b) CONFORMING AMENDMENT.—Section 5302(b) of
 2 such title is amended by inserting “with return receipt re-
 3 quested” after “certified mail”.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply with respect to any indebtedness
 6 to the United States arising pursuant to chapter 37 of
 7 title 38, United States Code, before, on, or after the date
 8 of the enactment of this Act.

9 **Subtitle C—Educational Benefits**

10 **SEC. 11031. LIMITATION REGARDING COST-OF-LIVING AD-**
 11 **JUSTMENTS FOR MONTGOMERY GI BILL BEN-**
 12 **EFITS.**

13 With respect to each of fiscal years 1966 through
 14 2002, the cost-of-living adjustments in the rates of edu-
 15 cational assistance payable under chapter 30 of title 38,
 16 United States Code, shall be the percentage equal to 50
 17 percent of the percentage by which such assistance would
 18 be increased under section 3015(g) of such title with re-
 19 spect to such fiscal year but for this section.

20 **TITLE VIII—ASSET SALES; USER FEES AND**
 21 **OTHER MANDATORY PROGRAMS**

22 **Subtitle A—United States Enrichment Corporation**

23 **SEC. 3001. SHORT TITLE.**

24 This subtitle may be cited as the “USEC Privatiza-
 25 tion Act”.

1 **SEC. 3002. PURPOSE.**

2 The purpose of this subtitle is to transfer the interest
3 of the United States in the United States Enrichment Cor-
4 poration to the private sector in a manner that provides
5 for the long-term viability of the Corporation, provides for
6 the continuation by the Corporation of the operation of
7 the Department of Energy's gaseous diffusion plants, pro-
8 vides for the protection of the public interest in maintain-
9 ing a reliable and economical domestic source of uranium
10 mining and enrichment services, and, to the extent not in-
11 consistent with such purposes, secures the maximum pro-
12 ceeds to the United States.

13 **SEC. 3003. DEFINITIONS.**

14 For purposes of this subtitle:

15 (1) The term "AVLIS" means atomic vapor
16 laser isotope separation technology.

17 (2) The term "Corporation" means the United
18 States Enrichment Corporation and, unless the con-
19 text otherwise requires, includes the private corpora-
20 tion and any successor thereto following privatiza-
21 tion.

22 (3) The term "gaseous diffusion plants" means
23 the Paducah Gaseous Diffusion Plant at Paducah,
24 Kentucky and the Portsmouth Gaseous Diffusion
25 Plant at Piketon, Ohio.

1 (4) The term “highly enriched uranium” means
2 uranium enriched to 20 percent or more of the ura-
3 nium-235 isotope.

4 (5) The term “low-enriched uranium” means
5 uranium enriched to less than 20 percent of the ura-
6 nium-235 isotope, including that which is derived
7 from highly enriched uranium.

8 (6) The term “low-level radioactive waste” has
9 the meaning given such term in section 2(9) of the
10 Low-Level Radioactive Waste Policy Act (42 U.S.C.
11 2021b(9)).

12 (7) The term “private corporation” means the
13 corporation established under section 3005.

14 (8) The term “privatization” means the trans-
15 fer of ownership of the Corporation to private inves-
16 tors.

17 (9) The term “privatization date” means the
18 date on which 100 percent of the ownership of the
19 Corporation has been transferred to private inves-
20 tors.

21 (10) The term “public offering” means an un-
22 derwritten offering to the public of the common
23 stock of the private corporation pursuant to section
24 3004.

1 (11) The “Russian HEU Agreement” means
2 the Agreement Between the Government of the
3 United States of America and the Government of
4 the Russian Federation Concerning the Disposition
5 of Highly Enriched Uranium Extracted from Nu-
6 clear Weapons, dated February 18, 1993.

7 (12) The term “Secretary” means the Secretary
8 of Energy.

9 (13) The “Suspension Agreement” means the
10 Agreement to Suspend the Antidumping Investiga-
11 tion on Uranium from the Russian Federation, as
12 amended.

13 (14) The term “uranium enrichment” means
14 the separation of uranium of a given isotopic content
15 into 2 components, 1 having a higher percentage of
16 a fissile isotope and 1 having a lower percentage.

17 **SEC. 3004. SALE OF THE CORPORATION.**

18 (a) AUTHORIZATION.—The Board of Directors of the
19 Corporation, with the approval of the Secretary of the
20 Treasury, shall transfer ownership of the assets and obli-
21 gations of the Corporation to the private corporation es-
22 tablished under section 3005 (which may be consummated
23 through a merger or consolidation effected in accordance
24 with, and having the effects provided under, the laws of

1 the State of incorporation of the private corporation, as
2 if the Corporation were incorporated thereunder.).

3 (b) BOARD DETERMINATION.—The Board, with the
4 approval of the Secretary of the Treasury, shall select the
5 method of transfer and establish terms and conditions for
6 the transfer to provide the maximum proceeds to the
7 Treasury of the United States and to provide for the long-
8 term viability of the private corporation, the continued op-
9 eration of the gaseous diffusion plants, and the public in-
10 terest in maintaining reliable and economical domestic
11 uranium mining and enrichment industries.

12 (c) APPLICATION OF SECURITIES LAWS.—Any offer-
13 ing or sale of securities by the private corporation shall
14 be subject to the Securities Act of 1993 (15 U.S.C. 77a
15 et seq.), the Securities Exchange Act of 1934 (15 U.S.C.
16 78a et seq.), and the provisions of the Constitution and
17 laws of any State, territory, or possession of the United
18 States relating to transactions in securities.

19 (d) PROCEEDS.—Proceeds from the sale of the Unit-
20 ed States' interest in the Corporation shall be—

21 (1) deposited in the general fund of the Treas-
22 ury;

23 (2) included in the budget baseline required by
24 the Balanced Budget and Emergency Deficit Control
25 Act of 1985; and

1 (3) counted as an offset to direct spending for
2 purposes of section 252 of such Act, notwithstanding
3 section 257(e) of such Act.

4 (e) EXPENSES.—Expenses of privatization shall be
5 paid from Corporation revenue accounts in the United
6 States Treasury.

7 **SEC. 3005 ESTABLISHMENT OF PRIVATE CORPORATION.**

8 (a) INCORPORATION.—(1) The directors of the Cor-
9 poration shall establish a private for-profit corporation
10 under the laws of a State for the purpose of receiving the
11 assets and obligations of the Corporation at privatization
12 and continuing the business operations of the Corporation
13 following privatization.

14 (2) The directors of the Corporation may serve as
15 incorporators of the private corporation and shall take all
16 steps necessary to establish the private corporation, in-
17 cluding the filing of articles of incorporation consistent
18 with the provisions of this subtitle.

19 (3) Employees and officers of the Corporation (in-
20 cluding members of the Board of Directors) acting in ac-
21 cordance with this section on behalf of the private corpora-
22 tion shall be deemed to be acting in their official capacities
23 as employees or officers of the Corporation for purposes
24 of section 205 of title 18, United States Code.

1 (b) STATUS OF THE PRIVATE CORPORATION.—(1)

2 The private corporation shall not be an agency, instrumen-
3 tality, or establishment of the United States, a Govern-
4 ment corporation, or a Government-controlled corporation.

5 (2) Except as otherwise provided by this subtitle, fi-
6 nancial obligations of the private corporation shall not be
7 obligations of, or guaranteed as to principal or interest
8 by, the Corporation or the United States, and the obliga-
9 tions shall so plainly state.

10 (3) No action under section 1491 of title 28, United
11 States Code, shall be allowable against the United States
12 based on actions of the private corporation.

13 (c) APPLICATION OF POST-GOVERNMENT EMPLOY-
14 MENT RESTRICTIONS.—Beginning on the privatization
15 date, the restrictions of sections 207(a), (b), (c), and (d)
16 of title 18, United States Code, shall not apply to the acts
17 of an individual done in carrying out official duties as a
18 director, officer, or employee of the private corporation,
19 if the individual was an officer or employee of the Corpora-
20 tion (including a director) continuously during the 45 days
21 prior to the privatization date.

22 (d) DISSOLUTION.—In the event that the privatiza-
23 tion does not occur, the Corporation will provide for the
24 dissolution of the private corporation within 1 year of the
25 private corporation's incorporation unless the Secretary of

1 the Treasury or his delegate, upon the Corporation's re-
2 quest, agrees to delay any such dissolution for an addi-
3 tional year.

4 **SEC. 3006. TRANSFERS TO THE PRIVATE CORPORATION.**

5 Concurrent with privatization, the Corporation shall
6 transfer to the private corporation—

7 (1) the lease of the gaseous diffusion plants in
8 accordance with section 3007,

9 (2) all personal property and inventories of the
10 Corporation,

11 (3) all contracts, agreements, and leases under
12 section 3108(a),

13 (4) the Corporation's right to purchase power
14 from the Secretary under section 3008(b),

15 (5) such funds in accounts of the Corporation
16 held by the Treasury or on deposit with any bank
17 or other financial institution as approved by the Sec-
18 retary of the Treasury, and

19 (6) all of the Corporation's records, including
20 all of the papers and other documentary materials,
21 regardless of physical form or characteristics, made
22 or received by the Corporation.

23 **SEC. 3007. LEASING OF GASEOUS DIFFUSION FACILITIES.**

24 (a) **TRANSFER OF LEASE.**—Concurrent with privat-
25 ization, the Corporation shall transfer to the private cor-

1 poration the lease of the gaseous diffusion plants and re-
2 lated property for the remainder of the term of such lease
3 in accordance with the terms of such lease.

4 (b) RENEWAL.—The private corporation shall have
5 the exclusive option to lease the gaseous diffusion plants
6 and related property for additional periods following the
7 expiration of the initial term of the lease.

8 (c) EXCLUSION OF FACILITIES FOR PRODUCTION OF
9 HIGHLY ENRICHED URANIUM.—The Secretary shall not
10 lease to the private corporation any facilities necessary for
11 the production of highly enriched uranium but may, sub-
12 ject to the requirements of the Atomic Energy Act of 1954
13 (42 U.S.C. 2011 et seq.), grant the Corporation access
14 to such facilities for purposes other than the production
15 of highly enriched uranium.

16 (d) DOE RESPONSIBILITY FOR PREEXISTING CONDI-
17 TIONS.—The payment of any costs of decontamination
18 and decommissioning, response actions, or corrective ac-
19 tions with respect to conditions existing before July 1,
20 1993, at the gaseous diffusion plants shall remain the sole
21 responsibility of the Secretary.

22 (e) ENVIRONMENTAL AUDIT.—For purposes of sub-
23 section (d), the conditions existing before July 1, 1993,
24 at the gaseous diffusion plants shall be determined from
25 the environmental audit conducted pursuant to section

1 1403(e) of the Atomic Energy Act of 1954 (42 U.S.C.
2 2297c-2(e)).

3 (f) TREATMENT UNDER PRICE-ANDERSON PROVI-
4 SIONS.—Any lease executed between the Secretary and the
5 Corporation or the private corporation, and any extension
6 or renewal thereof, under this section shall be deemed to
7 be a contract for purposes of section 170d. of the Atomic
8 Energy Act of 1954 (42 U.S.C. 2210(d)).

9 (g) WAIVER OF EIS REQUIREMENT.—The execution
10 or transfer of the lease between the Secretary and the Cor-
11 poration or the private corporation, and any extension or
12 renewal thereof, shall not be considered a major Federal
13 action significantly affecting the quality of the human en-
14 vironment for purposes of section 102 of the National En-
15 vironmental Policy Act of 1969 (42 U.S.C. 4332).

16 **SEC. 3008. TRANSFER OF CONTRACTS.**

17 (a) TRANSFER OF CONTRACTS.—Concurrent with
18 privatization, the Corporation shall transfer to the private
19 corporation all contracts, agreements, and leases, includ-
20 ing all uranium enrichment contracts that were—

21 (1) transferred by the Secretary to the Corpora-
22 tion pursuant to section 1401(b) of the Atomic En-
23 ergy Act of 1954 (42 U.S.C. 2297c(b)), or

24 (2) entered into by the Corporation before the
25 privatization date.

1 (b) NONTRANSFERABLE POWER CONTRACTS.—The
2 Corporation shall transfer to the private corporation the
3 right to purchase power from the Secretary under the
4 power purchase contracts for the gaseous diffusion plants
5 executed by the Secretary before July 1, 1993. The Sec-
6 retary shall continue to receive power for the gaseous dif-
7 fusion plants under such contracts and shall continue to
8 resell such power to the private corporation at cost during
9 the term of such contracts.

10 (c) EFFECTS OF TRANSFER.—(1) Notwithstanding
11 subsection (a), the United States shall remain obligated
12 to the parties to the contracts, agreements, and leases
13 transferred under subsection (a) for the performance of
14 its obligations under such contracts, agreements, or leases
15 during their terms. Performance of such obligations by the
16 private corporation shall be considered performance by the
17 United States.

18 (2) If a contract, agreement, or lease transferred
19 under subsection (a) is terminated, extended, or materially
20 amended after the privatization date—

21 (A) the private corporation shall be responsible
22 for any obligation arising under such contract,
23 agreement, or lease after any extension or material
24 amendment, and

1 (B) the United States shall be responsible for
2 any obligation arising under the contract, agree-
3 ment, or lease before the termination, extension, or
4 material amendment.

5 (3) The private corporation shall reimburse the Unit-
6 ed States for any amount paid by the United States under
7 a settlement agreement entered into with the consent of
8 the private corporation or under a judgment, if the settle-
9 ment or judgment—

10 (A) arises out of an obligation under a contract,
11 agreement, or lease transferred under subsection (a),
12 and

13 (B) arises out of actions of the private corpora-
14 tion between the privatization date and the date of
15 a termination, extension, or material amendment of
16 such contract agreement, or lease.

17 (d) PRICING.—The Corporation may establish prices
18 for its products, materials, and services provided to cus-
19 tomers on a basis that will allow it to attain the normal
20 business objectives of a profitmaking corporation.

21 **SEC. 3009. LIABILITIES.**

22 (a) LIABILITY OF THE UNITED STATES.—(1) Except
23 as otherwise provided in this subtitle, all liabilities arising
24 out of the operation of the uranium enrichment enterprise

1 before July 1, 1993, shall remain the direct liabilities of
2 the Secretary.

3 (2) Except as provided in subsection (a)(3) or other-
4 wise provided in a memorandum of agreement entered into
5 by the Corporation and the Office of Management and
6 Budget prior to the privatization date, all liabilities arising
7 out of the operation of the Corporation between July 1,
8 1993, and the privatization date shall remain the direct
9 liabilities of the United States.

10 (3) All liabilities arising out of the disposal of de-
11 pleted uranium generated by the Corporation between
12 July 1, 1993 and privatization date shall become the di-
13 rect liabilities of the Secretary.

14 (4) Any stated or implied consent for the United
15 States, or any agent or officer of the United States, to
16 be sued by any person for any legal, equitable, or other
17 relief with respect to any claim arising out of, or resulting
18 from, the privatization of the Corporation is hereby with-
19 drawn.

20 (5) To the extent that any claim against the United
21 States under this section is of the type otherwise required
22 by Federal statute or regulation to be presented to a Fed-
23 eral agency or official for adjudication or review, such
24 claim shall be presented to the Department of Energy in
25 accordance with the procedures to be established by the

1 Secretary. Nothing in this paragraph shall be construed
2 to impose on the Department of Energy liability to pay
3 any claim presented pursuant to this paragraph.

4 (6) The Attorney General shall represent the United
5 States in any action seeking to impose liability under this
6 subsection.

7 (b) LIABILITY OF THE CORPORATION.—Notwith-
8 standing any provision of any agreement to which the Cor-
9 poration is a party, the Corporation shall not be consid-
10 ered in breach, default, or violation of any agreement be-
11 cause of the transfer of such agreement to the private cor-
12 poration under section 3008 or any other action the Cor-
13 poration is required to take under this subtitle.

14 (c) LIABILITY OF THE PRIVATE CORPORATION.—Ex-
15 cept as provided in this subtitle, the private corporation
16 shall be liable for any liabilities arising out of its oper-
17 ations after the privatization date.

18 (d) LIABILITY OF OFFICERS AND DIRECTORS.—(1)
19 No officer, director, employee, or agent of the Corporation
20 shall be liable in any civil proceeding to any party in con-
21 nection with any action taken in connection with the pri-
22 vatization if, with respect to the subject matter of the ac-
23 tion, suit, or proceeding, such person was acting within
24 the scope of his employment.

1 (2) This subsection shall not apply to claims arising
2 under the Securities Exchange Act of 1933 (15 U.S.C.
3 77a et seq.), the Securities Exchange Act of 1934 (15
4 U.S.C. 78a et seq.), or under the Constitution or laws of
5 any State, territory, or possession of the United States
6 relating to transactions in securities.

7 **SEC. 3010. EMPLOYEE PROTECTIONS.**

8 (a) **CONTRACTOR EMPLOYEES.**—(1) Privatization
9 shall not diminish the accrued, vested pension benefits of
10 employees of the Corporation’s operating contractor at the
11 two gaseous diffusion plants.

12 (2) In the event that the private corporation termi-
13 nates or changes the contractor at either or both of the
14 gaseous diffusion plants, the plan sponsor or other appro-
15 priate fiduciary of the pension plan covering employees of
16 the prior operating contractor shall arrange for the trans-
17 fer of all plan assets and liabilities relating to accrued pen-
18 sion benefits of such plan’s participants and beneficiaries
19 from such plant to a pension plan sponsored by the new
20 contractor or the private corporation or a joint labor-man-
21 agement plan, as the case may be.

22 (3) In addition to any obligations arising under the
23 National Labor Relations Act, any employer (including the
24 private corporation if it operates a gaseous diffusion plant

1 without a contractor or any contractor of the private cor-
2 poration) at a gaseous diffusion plant shall—

3 (A) abide by the terms of any unexpired collec-
4 tive bargaining agreement covering employees in
5 bargaining units at the plant and in effect on the
6 privatization date until the stated expiration or ter-
7 mination date of the agreement; or

8 (B) in the event a collective bargaining agree-
9 ment is not in effect upon the privatization date,
10 have the same bargaining obligations under section
11 8(d) of the National Labor Relations Act (29 U.S.C.
12 158(d)) as it had immediately before the privatiza-
13 tion date.

14 (4) If the private corporation replaces its operating
15 contractor at a gaseous diffusion plant, the new employer
16 (including the new contractor or the private corporation
17 if it operates a gaseous diffusion plant without a contrac-
18 tor) shall—

19 (A) offer employment to non-management em-
20 ployees of the predecessor contractor to the extent
21 that their jobs still exist or they are qualified for
22 new jobs, and

23 (B) abide by the terms of the predecessor con-
24 tractor's collective bargaining agreement until the
25 agreement expires or a new agreement is signed.

1 The provisions of subparagraphs (A) and (B) apply
2 only to replacements of operating contractors at the gase-
3 ous diffusion plants during the first two years following
4 the privatization date (if any) and to the first bona fide
5 replacement of an operating contractor at a gaseous diffu-
6 sion plant following the expiration of that two year period.
7 For purposes of this paragraph, a replacement of an oper-
8 ating contractor is considered to be “bona fide” unless it
9 is made solely to evade or avoid the provisions of subpara-
10 graphs (A) and (B).

11 (5) In the event of a plant closing or mass layoff (as
12 such terms are defined in section 2(a) (2) and (3) of the
13 Worker Adjustment and Retraining Notification Act (29
14 U.S.C. 2102(2)(2) and (3))) at either of the gaseous diffu-
15 sion plants, the Secretary of Energy shall treat any ad-
16 versely affected employee of an operating contractor at ei-
17 ther plant who was an employee at such plant on July
18 1, 1993, as a Department of Energy employee for pur-
19 poses of sections 3161 and 3162 of the National Defense
20 Authorization Act for Fiscal Year 1993 (42 U.S.C.
21 7274h–7274i).

22 (6)(A) The Secretary and the private corporation
23 shall cause the post-retirement health benefits plan pro-
24 vider (or its successor) to continue to provide benefits for
25 persons employed by an operating contractor at either of

1 the gaseous diffusion plants in an economically efficient
2 manner and at substantially the same level of coverage
3 as eligible retirees are entitled to receive on the privatiza-
4 tion date.

5 (B) Persons eligible for coverage under subparagraph
6 (A) shall be limited to:

7 (i) Persons who retired from active employment
8 at one of the gaseous diffusion plants on or before
9 the privatization date as vested participants in a
10 pension plan maintained either by the Corporation's
11 operating contractor or by a contractor employed
12 prior to July 1, 1993, by the Department of Energy
13 to operate a gaseous diffusion plant.

14 (ii) Persons who are employed by the Corpora-
15 tion's operating contractor on or before the privat-
16 ization date and are vested participants in a pension
17 plan maintained either by the Corporation's operat-
18 ing contractor or by a contractor employed prior to
19 July 1, 1993, by the Department of Energy to oper-
20 ate a gaseous diffusion plant.

21 (C) The Secretary shall fund the entire cost of post-
22 retirement health benefits for persons who retired from
23 employment with an operating contractor prior to July 1,
24 1993.

1 (D) The Secretary and the Corporation shall fund the
2 cost of post-retirement health benefits for persons who re-
3 tire from employment with an operating contractor after
4 July 1, 1993 in proportion to the retired person's years
5 and months of service at a gaseous diffusion plant under
6 their respective management.

7 (7)(A) Any suit under this subsection alleging a viola-
8 tion of an agreement between an employer and a labor
9 organization shall be brought in accordance with section
10 301 of the Labor Management Relations Act (29 U.S.C.
11 185).

12 (B) Any charge under this subsection al-
13 leging an unfair labor practice violation of sec-
14 tion 8 of the National Labor Relations Act (29
15 U.S.C. 158) shall be pursued in accordance
16 with section 10 of the National Labor Relations
17 Act (29 U.S.C. 160).

18 (C) Any suit alleging a violation of any
19 provision of this subsection, to the extent it
20 does not allege a violation of the National
21 Labor Relations Act, may be brought in any
22 district court of the United States having juris-
23 diction of the parties, without regard to the
24 amount in controversy or the citizenships of the
25 parties.

1 (b) FORMER FEDERAL EMPLOYEES.—(1)(A) Em-
2 ployees of the Corporation who were subject to either the
3 Civil Service Retirement System (CSRS) or the Federal
4 Employees' Retirement System (FERS) on the day imme-
5 diately preceding the privatization date shall elect—

6 (i) to retain their coverage under either CSRS
7 or FERS, as applicable, in lieu of coverage by the
8 Corporation's retirement system, or

9 (ii) to receive a deferred annuity or lump sum
10 benefit payable to a terminated employee under
11 CSRS or FERS, as applicable.

12 (B) Those employees electing subparagraph (A)(ii)
13 shall have the option to transfer the balance in their Thrift
14 Savings Plan account to a defined contribution plan under
15 the Corporation's retirement system, consistent with appli-
16 cable law and the terms of the Corporation's defined con-
17 tribution plan.

18 (2) The Corporation shall pay to the Civil Service Re-
19 tirement and Disability Fund—

20 (A) such employee deductions and agency con-
21 tributions as are required by sections 8334, 8422,
22 and 8423 of title 5, United States Code, for those
23 employees who elect to retain their coverage under
24 either CSRS or FERS pursuant to paragraph (1);

1 (B) such additional agency contributions as are
2 determined necessary by the Office of Personnel
3 Management to pay, in combination with the sums
4 under subparagraph (A), the “normal cost” (deter-
5 mined using dynamic assumptions) of retirement
6 benefits for those employees who elect to retain their
7 coverage under CSRS pursuant to paragraph (1),
8 with the concept of “normal cost” being used con-
9 sistent with generally accepted actuarial standards
10 and principles; and

11 (C) such additional amounts, not to exceed two
12 percent of the amounts under subparagraphs (A)
13 and (B), as are determined necessary by the Office
14 of Personnel Management to pay the cost of admin-
15 istering retirement benefits for employees who retire
16 from the Corporation after the privatization date
17 under either CSRS or FERS, for their survivors,
18 and for survivors of employees of the Corporation
19 who die after the privatization date (which amounts
20 shall be available to the Office of Personnel Manage-
21 ment as provided in section 8348(a)(1)(B) of title 5,
22 United States Code).

23 (3) The Corporation shall pay to the Thrift Savings
24 Fund such employee and agency contributions as are re-
25 quired by section 8432 of title 5, United States Code, for

1 those employees who elect to retain their coverage under
2 FERS pursuant to paragraph (1).

3 (4) Any employee of the Corporation who was subject
4 to the Federal Employee Health Benefits Program
5 (FEHBP) on the day immediately preceding the privatiza-
6 tion date and who elects to retain coverage under either
7 CSRS or FERS pursuant to paragraph (1) shall have the
8 option to receive health benefits from a health benefit plan
9 established by the Corporation or to continue without
10 interruption coverage under the FEHBP, in lieu of cov-
11 erage by the Corporation's health benefit system.

12 (5) The Corporation shall pay to the Employees
13 Health Benefits Fund—

14 (A) such employee deductions and agency con-
15 tributions as are required by section 8906 (a)–(f) of
16 title 5, United States Code, for those employees who
17 elect to retain their coverage under FEHBP pursu-
18 ant to paragraph (4); and

19 (B) such amounts as are determined necessary
20 by the Office of Personnel Management under para-
21 graph (6) to reimburse the Office of Personnel Man-
22 agement for contributions under section 8906(g)(1)
23 of title 5, United States Code, for those employees
24 who elect to retain their coverage under FEHBP
25 pursuant to paragraph (4).

1 (6) The amounts required under paragraph (5)(B)
2 shall pay the Government contributions for retired employ-
3 ees who retire from the Corporation after the privatization
4 date under either CSRS or FERS, for survivors of such
5 retired employees, and for survivors of employees of the
6 Corporation who die after the privatization date, with said
7 amounts prorated to reflect only that portion of the total
8 service of such employees and retired persons that was
9 performed for the Corporation after the privatization date.

10 **SEC. 3011. OWNERSHIP LIMITATIONS.**

11 No director, officer, or employee of the Corporation
12 may acquire directly or indirectly any securities, or any
13 rights to acquire any securities of the private corporation
14 on terms more favorable than those offered to the general
15 public—

16 (1) in a public offering designed to transfer
17 ownership of the Corporation to private investors,

18 (2) pursuant to any agreement, arrangement,
19 or understanding entered into before the privatiza-
20 tion date, or

21 (3) before the election of the directors of the
22 private corporation.

23 **SEC. 3012. URANIUM TRANSFERS AND SALES.**

24 (a) TRANSFERS AND SALES BY THE SECRETARY.—

25 The Secretary shall not provide enrichment services or

1 transfer or sell any uranium (including natural uranium
2 concentrates, natural uranium hexafluoride, or enriched
3 uranium in any form) to any person except as consistent
4 with this section.

5 (b) RUSSIAN HEU.—(1) On or before December 31,
6 1996, the United States Executive Agent under the Rus-
7 sian HEU Agreement shall transfer to the Secretary with-
8 out charge title to an amount of uranium hexafluoride
9 equivalent to the natural uranium component of low-en-
10 riched uranium derived from at least 18 metric tons of
11 highly enriched uranium purchased from the Russian Ex-
12 ecutive Agent under the Russian HEU Agreement. The
13 quantity of such uranium hexafluoride delivered to the
14 Secretary shall be based on a tails assay of 0.30 U²³⁵.
15 Uranium hexafluoride transferred to the Secretary pursu-
16 ant to this paragraph shall be deemed under U.S. law,
17 for all purposes to be of Russian origin.

18 (2) Within 7 years of the date of enactment of this
19 subtitle, the Secretary shall sell, and receive payment for,
20 the uranium hexafluoride transferred to the Secretary pur-
21 suant to paragraph (1). Such uranium hexafluoride shall
22 be sold—

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

1 (B) at any time for end use outside the United
2 States; or

3 (C) in calendar year 2001 for consumption by
4 end users in the United States not prior to January
5 1, 2002, in volumes not to exceed 3 million pounds
6 U_3O_8 equivalent per year.

7 (3) With respect to all enriched uranium delivered to
8 the United States Executive Agent under the Russian
9 HEU Agreement on or after January 1, 1997, the United
10 States Executive Agent shall, upon request of the Russian
11 Executive Agent, enter into an agreement to deliver con-
12 currently to the Russian Executive Agent an amount of
13 uranium hexafluoride equivalent to the natural uranium
14 component of such uranium. An agreement executed pur-
15 suant to a request of the Russian Executive Agent, as con-
16 templated in this paragraph, may pertain to any deliveries
17 due during any period remaining under the Russian HEU
18 Agreement. The quantity of such uranium hexafluoride de-
19 livered to the Russian Executive Agent shall be based on
20 a tails assay of 0.30 U^{235} . Title to uranium hexafluoride
21 delivered to the Russian Executive Agent pursuant to this
22 paragraph shall transfer to the Russian Executive Agent
23 upon delivery of such material to the Russian Executive
24 Agent, with such delivery to take place at a North Amer-
25 ican facility designated by the Russian Executive Agent.

1 Uranium hexafluoride delivered to the Russian Executive
2 Agent pursuant to this paragraph shall be deemed under
3 U.S. law for all purposes to be of Russian origin. Such
4 uranium hexafluoride may be sold to any person or entity
5 for delivery and use in the United States only as permitted
6 in subsections (b)(5), (b)(6) and (b)(7) of this section.

7 (4) In the event that the Russian Executive Agent
8 does not exercise its right to enter into an agreement to
9 take delivery of the natural uranium component of any
10 low-enriched uranium, as contemplated in paragraph (3),
11 within 90 days of the date such low-enriched uranium is
12 delivered to the United States Executive Agent, then the
13 United States Executive Agent shall engage an independ-
14 ent entity through a competitive selection process to auc-
15 tion an amount of uranium hexafluoride or U_3O_8 (in the
16 event that the conversion component of such hexafluoride
17 has previously been sold) equivalent to the natural ura-
18 nium component of such low-enriched uranium. Such inde-
19 pendent entity shall sell such uranium hexafluoride in one
20 or more lots to any person or entity to maximize the pro-
21 ceeds from such sales, for disposition consistent with the
22 limitations set forth in this subsection. The independent
23 entity shall pay to the Russian Executive Agent the pro-
24 ceeds of any such auction less all reasonable transaction
25 and other administrative costs. The quantity of such ura-

1 nium hexafluoride auctioned shall be based on a tails assay
 2 of 0.30 U²³⁵. Title to uranium hexafluoride auctioned pur-
 3 suant to this paragraph shall transfer to the buyer of such
 4 material upon delivery of such material to the buyer. Ura-
 5 nium hexafluoride auctioned pursuant to this paragraph
 6 shall be deemed under U.S. law for all purposes to be of
 7 Russian origin.

8 (5) Except as provided in paragraphs (6) and (7),
 9 uranium hexafluoride delivered to the Russian Executive
 10 Agent under paragraph (3) or auctioned pursuant to para-
 11 graph (4), may not be delivered for consumption by end
 12 users in the United States either directly or indirectly
 13 prior to January 1, 1998 and thereafter only in accord-
 14 ance with the following schedule:

Annual Maximum Deliveries to End Users

Year:	<i>(millions lbs. U₃O₈ equivalent)</i>
1998	3
1999	5
2000	7
2001	9
2002	11
2003	13
2004	15
2005	16
2006	17
2007	18
2008	19
2009 and each succeeding year	20

15 (6) Uranium hexafluoride delivered to the Rus-
 16 sian Executive Agent under paragraph (3) or auc-
 17 tioned pursuant to paragraph (4) may be sold at any
 18 time as Russian-origin natural uranium in a

1 matched sale pursuant to the Suspension Agree-
2 ment, and in such case shall not be counted against
3 the annual maximum deliveries set forth in para-
4 graph (5).

5 (7) Uranium hexafluoride delivered to the Rus-
6 sian Executive Agent under paragraph (3) or auc-
7 tioned pursuant to paragraph (4) may be sold at any
8 time for use in the United States for the purpose of
9 overfeeding in the operations of enrichment facilities.

10 (8) Nothing in this subsection (b) shall restrict
11 the sale of the conversion component of such ura-
12 nium hexafluoride.

13 (9) The Secretary of Commerce shall have re-
14 sponsibility for the administration and enforcement
15 of the limitations set forth in this subsection. The
16 Secretary of Commerce may require any person to
17 provide any certifications, information, or take any
18 action that may be necessary to enforce these limita-
19 tions. The U.S. Customs Service shall maintain and
20 provide any information required by the Secretary of
21 Commerce and shall take any action requested by
22 the Secretary of Commerce which is necessary for
23 the administration and enforcement of the uranium
24 delivery limitations set forth in this section.

1 (10) The President shall monitor the actions of
2 the United States Executive Agent under the Rus-
3 sian HEU Agreement and shall report to the Con-
4 gress not later than December 31 of each year on
5 the effect the low-enriched uranium delivered under
6 the Russian HEU Agreement is having on the do-
7 mestic uranium mining, conversion, and enrichment
8 industries, and the operation of the gaseous diffu-
9 sion plants. Such report shall include a description
10 of actions taken or proposed to be taken by the
11 President to prevent or mitigate any material ad-
12 verse impact on such industries or any loss of em-
13 ployment at the gaseous diffusion plants as a result
14 of the Russian HEU Agreement.

15 (11)(A) In the event that the President makes
16 a determination that a waiver under this subsection
17 with respect to the importation of highly enriched
18 uranium or low-enriched uranium derived from high-
19 ly enriched uranium extracted from nuclear weapons
20 dismantled in the Russian Federation and purchased
21 from the Russian Federation under a government-
22 to-government agreement is in the national security
23 interest of the United States, then such highly en-
24 riched uranium and low-enriched uranium derived
25 from highly enriched uranium, including, within the

1 limits established by this section, the natural ura-
2 nium component thereof and any uranium products
3 delivered pursuant to enrichment contracts affected
4 by such imports, shall not be subject to title VII of
5 the Tariff Act of 1930, to such extent, for such pe-
6 riod, and under such terms and conditions as may
7 be provided in the order making such determination.

8 (B) No person shall have any cause of action or
9 defense based on this section, and no court shall
10 have jurisdiction to entertain challenges based on
11 any action taken by the President or the Secretary
12 of Commerce pursuant to this section or on an al-
13 leged failure to take any such action.

14 (c) TRANSFERS TO THE CORPORATION.—

15 (1) The Secretary shall transfer to the Corpora-
16 tion without charge up to 50 metric tons of enriched
17 uranium and up to 7,000 metric tons of natural ura-
18 nium from the Department of Energy's stockpile,
19 subject to the restrictions in subsection (c)(2).

20 (2) The Corporation shall not deliver for com-
21 mercial end use in the United States—

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

24 (B) more than 10 percent of the uranium
25 (by uranium hexafluoride equivalent content)

1 transferred under this subsection or more than
2 4 million pounds, whichever is less, in any cal-
3 endar year after 1997; or

4 (C) more than 800,000 separative work
5 units contained in low-enriched uranium trans-
6 ferred under this subsection in any calendar
7 year.

8 (d) INVENTORY SALES.—(1) In addition to the trans-
9 fers authorized under subsections (c) and (e), the Sec-
10 retary may, from time to time, sell natural and low-en-
11 riched uranium (including low-enriched uranium derived
12 from highly enriched uranium) from the Department of
13 Energy's stockpile.

14 (2) Except as provided in subsections (b), (c), and
15 (e), no sale or transfer of natural or low-enriched uranium
16 shall be made unless—

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

19 (B) the Secretary determines that the sale of
20 the material will not have an adverse material im-
21 pact on the domestic uranium mining, conversion, or
22 enrichment industry, taking into account the sales of
23 uranium under the Russian HEU Agreement and
24 the Suspension Agreement, and

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

3 (e) GOVERNMENT TRANSFERS.—Notwithstanding
4 subsection (d)(2), the Secretary may transfer or sell en-
5 riched uranium—

6 (1) to a Federal agency if the material is trans-
7 ferred for the use of the receiving agency without
8 any resale or transfer to another entity and the ma-
9 terial does not meet commercial specifications;

10 (2) to any person for national security pur-
11 poses, as determined by the Secretary; or

12 (3) to any State or local agency or nonprofit,
13 charitable, or educational institution for use other
14 than the generation of electricity for commercial use.

15 (f) SAVINGS PROVISION.—Nothing in this subtitle
16 shall be read to modify the terms of the Russian HEU
17 Agreement.

18 **SEC. 3013. LOW-LEVEL WASTE.**

19 (a) RESPONSIBILITY OF DOE.—(1) The Secretary,
20 at the request of the generator, shall accept for disposal
21 low-level radioactive waste, including depleted uranium if
22 it were ultimately determined to be low-level radioactive
23 waste, generated by—

24 (A) the Corporation as a result of the oper-
25 ations of the gaseous diffusion plants or as a result

1 of the treatment of such wastes at a location other
2 than the gaseous diffusion plants, or

3 (B) any person licensed by the Nuclear Regu-
4 latory Commission to operate a uranium enrichment
5 facility under sections 53, 63, and 193 of the Atomic
6 Energy Act of 1954 (42 U.S.C. 2073, 2093, and
7 2243).

8 (2) Except as provided in paragraph (3), the genera-
9 tor shall reimburse the Secretary for the disposal of low-
10 level radioactive waste pursuant to paragraph (1) in an
11 amount equal to the Secretary's costs, including a pro rata
12 share of any capital costs, but in no event more than an
13 amount equal to that which would be charged by commer-
14 cial, State, regional, or interstate compact entities for dis-
15 posal of such waste.

16 (3) In the event depleted uranium were ultimately de-
17 termined to be low-level radioactive waste, the generator
18 shall reimburse the Secretary for the disposal of depleted
19 uranium pursuant to paragraph (1) in an amount equal
20 to the Secretary's costs, including a pro rata share of any
21 capital costs.

22 (b) AGREEMENTS WITH OTHER PERSONS.—The
23 generator may also enter into agreements for the disposal
24 of low-level radioactive waste subject to subsection (a)
25 with any person other than the Secretary that is author-

1 ized by applicable laws and regulations to dispose of such
2 wastes.

3 (c) STATE OR INTERSTATE COMPACTS.—Notwith-
4 standing any other provision of law, no State or interstate
5 compact shall be liable for the treatment, storage, or dis-
6 posal of any low-level radioactive waste (including mixed
7 waste) attributable to the operation, decontamination, and
8 decommissioning of any uranium enrichment facility.

9 **SEC. 3014. AVLIS.**

10 (a) EXCLUSIVE RIGHT TO COMMERCIALIZE.—The
11 Corporation shall have the exclusive commercial right to
12 deploy the use any AVLIS patents, processes, and tech-
13 nical information owned or controlled by the Government,
14 upon completion of a royalty agreement with the Sec-
15 retary.

16 (b) TRANSFER OF RELATED PROPERTY TO COR-
17 PORATION.—

18 (1) IN GENERAL.—To the extent requested by
19 Corporation and subject to the requirements of the
20 Atomic Energy Act of 1954, the President shall
21 transfer without charge to the Corporation all of the
22 right, title, or interest in and to property owned by
23 the United States under control or custody of the
24 Secretary that is directly related to and materially
25 useful in the performance of the Corporation's pur-

1 poses regarding AVLIS and alternative technologies
2 for uranium enrichment, including—

3 (A) facilities, equipment, and materials
4 and research, development, and demonstration
5 activities; and

6 (B) all other facilities, equipment, mate-
7 rials, processes, patents, technical information
8 of any kind, contracts, agreements, and leases.

9 (2) EXCEPTION.—Facilities, real estate, im-
10 provements, and equipment related to the gaseous
11 diffusion, and gas centrifuge, uranium enrichment
12 programs of the Secretary shall not transfer under
13 paragraph (1)(B).

14 (3) EXPIRATION OF TRANSFER AUTHORITY.—
15 The President's authority to transfer property under
16 this subsection shall expire upon the privatization
17 date.

18 (c) LIABILITY FOR PATENT AND RELATED
19 CLAIMS.—With respect to any right, title, or interest pro-
20 vided to the Corporation under subsection (a) or (b), the
21 Corporation shall have sole liability for any payments
22 made or awards under section 157b.(3) of the Atomic En-
23 ergy Act of 1954 (42 U.S.C. 2187(b)(3)), or any settle-
24 ments or judgments involving claims for alleged patent in-
25 fringement. Any royalty agreement under subsection (a)

1 of this section shall provide for a reduction of royalty pay-
2 ments to the Secretary to offset any payments, awards,
3 settlements, or judgments under this subsection.

4 **SEC. 3015. APPLICATION OF CERTAIN LAWS.**

5 (a) OSHA.—(1) As of the privatization date, the pri-
6 vate corporation shall be subject to and comply with the
7 Occupational Safety and Health Act of 1970 (29 U.S.C.
8 651 et seq.).

9 (2) The Nuclear Regulatory Commission and the Oc-
10 cupational Safety and Health Administration shall, within
11 90 days after the enactment of this subtitle, enter into
12 a memorandum of agreement to govern the exercise of
13 their authority over occupational safety and health haz-
14 ards at the gaseous diffusion plants, including inspection,
15 investigation, enforcement, and rulemaking relating to
16 such hazards.

17 (b) ANTITRUST LAWS.—For purposes of the anti-
18 trust laws, the performance by the private corporation of
19 a “matched import” contract under the Suspension Agree-
20 ment shall be considered to have occurred prior to the pri-
21 vation date, if at the time of privatization, such con-
22 tract had been agreed to by the parties in all material
23 terms and confirmed by the Secretary of Commerce under
24 the Suspension Agreement.

1 (c) ENERGY REORGANIZATION ACT REQUIRE-
2 MENTS.—(1) The private corporation and its contractors
3 shall be subject to the provisions of section 211 of the
4 Energy Reorganization Act of 1974 (42 U.S.C. 5851) to
5 the same extent as an employer subject to such section.

6 (2) With respect to the operation of the facilities
7 leased by the private corporation, section 206 of the En-
8 ergy Reorganization Act of 1974 (42 U.S.C. 5846) shall
9 apply of the directors and officers of the private corpora-
10 tion.

11 **SEC. 3016. AMENDMENTS OF THE ATOMIC ENERGY ACT.**

12 (a) REPEAL.—(1) Chapters 22 through 26 of the
13 Atomic Energy Act of 1954 (42 U.S.C. 1201–1608) are
14 repealed as of the privatization date.

15 (2) The table of contents of such Act is amended as
16 of the privatization date by striking the items referring
17 to sections repealed by paragraph (1).

18 (b) NRC LICENSING.—(1) Section 11v. of the Atomic
19 Energy Act of 1954 (42 U.S.C. 2014v.) is amended by
20 striking “or the construction and operation of a uranium
21 enrichment facility using Atomic Vapor Laser Isotope
22 Separation technology”.

23 (2) Section 193 of the Atomic Energy Act of 1954
24 (42 U.S.C. 2243) is amended by adding at the end the
25 following:

1 “(f) LIMITATION.—No license or certificate of com-
2 pliance may be issued to the United States Enrichment
3 Corporation or its successor under sections 53, 63, 193,
4 or 1701, if in the opinion of the Commission, the issuance
5 of such a license or certificate of compliance—

6 “(i) would be inimical to the common defense
7 and security of the United States; or

8 “(ii) would be inimical to the maintenance of a
9 reliable and economical domestic source of enrich-
10 ment services because of the nature and extent of
11 the ownership, control, or domination of the Cor-
12 poration by a foreign corporation or a foreign gov-
13 ernment or any other relevant factors or cir-
14 cumstances.”.

15 (3) Section 1701(c)(2) of the Atomic Energy Act of
16 1954 (42 U.S.C. 2297f(c)(2)) is amended to read as fol-
17 lows:

18 “(2) PERIODIC APPLICATION FOR CERTIFICATE
19 OF COMPLIANCE.—The Corporation shall apply to
20 the Nuclear Regulatory Commission for a certificate
21 of compliance under paragraph (1) periodically, as
22 determined by the Commission, by not less than
23 every 5 years. The Commission shall review any such
24 application and any determination made under sub-

1 section (b)(2) shall be based on the results of any
2 such review.”.

3 (4) Section 1702(a) of the Atomic Energy Act of
4 1954 (42 U.S.C. 2297f-1(a)) is amended—

5 (1) by striking “other than” and inserting “in-
6 cluding”, and

7 (2) by striking “sections 53 and 63” and insert-
8 ing “sections 53, 63, and 193”.

9 (c) JUDICIAL REVIEW OF NRC ACTIONS.—Section
10 189b. of the Atomic Energy Act of 1954 (42 U.S.C.
11 2239(b)) is amended to read as follows:

12 “b. The following Commission actions shall be subject
13 to judicial review in the manner prescribed in chapter 158
14 of title 28, United States Code and chapter 7 of title 5,
15 United States Code:

16 “(1) Any final order entered in any proceeding
17 of the kind specified in subsection (a).

18 “(2) Any final order allowing or prohibiting a
19 facility to begin operating under a combined con-
20 struction and operation license.

21 “(3) Any final order establishing by regulation
22 standards to govern the Department of Energy’s
23 gaseous diffusion uranium enrichment plants, in-
24 cluding any such facilities leased to a corporation es-
25 tablished under the USEC Privatization Act.

1 “(4) Any final determination relating to wheth-
2 er the gaseous diffusion plants, including any such
3 facilities leased to a corporation established under
4 the USEC Privatization Act, are in compliance with
5 the Commission’s standards governing the gaseous
6 diffusion plants and all applicable laws.”.

7 (d) CIVIL PENALTIES.—Section 234a. of the Atomic
8 Energy Act of 1954 (42 U.S.C. 2282(a)) is amended by—

9 (1) striking “any licensing provision of sections
10 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109”
11 and inserting: “any licensing or certification provi-
12 sion of section 53, 57, 62, 63, 81, 82, 101, 103,
13 104, 107, 109, or 1701”; and

14 (2) by striking “any license issued thereunder”
15 and inserting: “and license or certification issued
16 thereunder”.

17 (e) REFERENCES TO THE CORPORATION.—Following
18 the privatization date, all references in the Atomic Energy
19 Act of 1954 to the United States Enrichment Corporation
20 shall be deemed to be references to the private corpora-
21 tion.

22 **SEC. 3017. AMENDMENTS TO OTHER LAWS.**

23 (a) DEFINITION OF GOVERNMENT CORPORATION.—
24 As of the privatization date, section 9101(3) of title 31,

1 United States Code, is amended by striking subparagraph
2 (N).

3 (b) DEFINITION OF THE CORPORATION.—Section
4 1018(1) of the Energy Policy Act of 1992 (42 U.S.C.
5 2296b–7(1)) is amended by adding immediately before the
6 period “, or its successor”.

7 (b) REPEAL OF PRIOR CONDITIONAL ENACTMENT.—
8 Section 8114A(b) of Public Law 103–335 (108 Stat.
9 2648) is repealed.

10 **Subtitle B—Naval Petroleum Reserves Privatization**

11 **SEC. 4101. SHORT TITLE.**

12 This subtitle may be cited as the “Naval Petroleum
13 Reserves Privatization Act”.

14 **PART I—DEFINITIONS, APPLICABILITY OF**
15 **TITLES**

16 **SEC. 4111. DEFINITIONS.**

17 For the purposes of this subtitle:

18 (a) “Department” means the United States De-
19 partment of Energy.

20 (b) “Naval petroleum reserves” (referred to in
21 this subtitle as “the Reserves”) means Naval Petro-
22 leum Reserve Numbered 1 (Elk Hills), located in
23 Kern County, California, established by Executive
24 order of the President, dated September 2, 1912;
25 Naval Petroleum Reserve Numbered 2 (Buena

1 Vista), located in Kern County, California, estab-
2 lished by Executive order of the President, dated
3 December 13, 1912; Navel Petroleum Reserve Num-
4 bered 3 (Teapot Dome), located in Wyoming, estab-
5 lished by Executive order of the President, dated
6 April 30, 1915; Oil Shale Reserve Numbered 1, lo-
7 cated in Colorado, established by Executive order of
8 the President, dated December 6, 1916, as amended
9 by Executive order dated June 12, 1919; and Oil
10 Shale Reserve Numbered 3, located in Colorado, es-
11 tablished by Executive order of the President, dated
12 September 27, 1924.

13 (c) “Petroleum” includes crude oil, gases (in-
14 cluding natural gas), natural gasoline, and other re-
15 lated hydrocarbons, oil shale, and the products of
16 any of such resources.

17 (d) “Secretary” means the Secretary of Energy.

18 (e) “Unit Plan Contract” means the agreement
19 of June 19, 1944 between the Department and
20 Chevron U.S.A., Inc.

21 **SEC. 4112. APPLICABILITY OF TITLES.**

22 (a) Parts 1, 2, and 4, of this subtitle take effect upon
23 enactment of this subtitle.

1 **PART II—PRIVATIZATION**

2 **SEC. 4121. PRIVATIZATION PLAN AND IMPLEMENTATION.**

3 (a) PREPARATION OF PLAN.—

4 (1) The Secretary shall prepare not later than
5 March 31, 1997, in consultation with the Secretary
6 of the Treasury, a plan for selling Naval Petroleum
7 Reserve Numbered 1 and for selling or leasing the
8 remaining Reserves out of Federal ownership, in fis-
9 cal year 2002.

10 (2) The plan shall include consideration of al-
11 ternative means for selling Naval Petroleum Reserve
12 Numbered 1 and for selling or leasing the remaining
13 Reserves. The plan shall include the estimated re-
14 turn on the Government's investment in the Re-
15 serves achievable through each sale or lease alter-
16 native and shall include the Secretary's rec-
17 ommendation on the preferred means of selling or
18 leasing the Reserves. The plan shall specify a mini-
19 mum acceptable price for the Reserves, which is not
20 less than the net present value of the sum of the:

21 (A) anticipated revenue stream that the
22 Secretary, in consultation with the Secretary of
23 the Treasury, determines the Treasury would
24 receive from the Reserves if they were not sold
25 or leased, and

1 (B) the payments due under subsection
2 (g). The minimum acceptable price may be ad-
3 justed by the Secretary for relevant economic
4 factors after consideration of the results of the
5 studies conducted under subsection (c) of this
6 section.

7 (b) PRESIDENTIAL APPROVAL.—The Secretary shall
8 submit the plan to the President not later than March 31,
9 1997. The President may modify the minimum acceptable
10 price in the plan, or otherwise modify the plan. The Presi-
11 dent shall approve the plan with or without modifications
12 by June 30, 1997. When the plan is approved with or
13 without modification by the President, the Secretary shall
14 implement the plan. Not later than the end of fiscal year
15 2002 the Secretary of Energy shall enter into one or more
16 contracts for the sale of all rights, title, and interest of
17 the United States in and to all lands owned or controlled
18 by the United States inside Naval Petroleum Reserve
19 Numbered 1.

20 (c) ACQUISITION OF SERVICE.—The Secretary may
21 enter into contracts on a non-competitive basis for studies
22 relating to the preparation or implementation of the plan.

23 (d) EQUITY SHARES IN NAVAL PETROLEUM RE-
24 SERVE NUMBERED 1.—

1 (1) Not later than five months after the effective date, the Secretary shall finalize equity interests of the known oil and gas zones in Naval Petroleum Reserve Numbered 1 in the manner provided by this subsection.

2 (2) The Secretary shall retain the services of an independent petroleum engineer, mutually acceptable to the equity owners, who shall prepare a recommendation on final equity figures. The Secretary may accept the recommendation of the independent petroleum engineer for final equity in each known oil and gas zone and establish final equity interest in Naval Petroleum Reserve Numbered 1 in accordance with the recommendation, or the Secretary may use such other method to establish final equity interest in the reserve as the Secretary considers appropriate.

3 (3) If, on the effective date, there is an ongoing equity redetermination dispute between the equity owners under section 9(b) of the unit plan contract, the dispute shall be resolved in the manner provided in the unit plan contract within five months after the effective date. The resolution shall be considered final for all purposes under this section.

1 (e) FUTURE LIABILITIES.—To effectuate the sale of
2 the interest of the United States in Naval Petroleum Re-
3 serve Numbered 1, the Secretary may extend such indem-
4 nities and warranties as the Secretary considers reason-
5 able and necessary to protect the purchaser from claims
6 arising from the ownership in the reserve by the United
7 States.

8 (f) DEPOSIT OF PROCEEDS.—Proceeds from the sale
9 or lease of the Reserves under this subtitle shall be depos-
10 ited into miscellaneous receipts in the Treasury.

11 (g) REVENUE SHARING WITH THE STATE OF CALI-
12 FORNIA.—Notwithstanding any other law, the Secretary
13 of the Treasury shall pay to the State of California (to
14 be credited by the State to the Supplemental Benefits
15 Maintenance Account within the Teachers' Retirement
16 Fund) seven percent of proceeds from the sale of Naval
17 Petroleum Reserve Numbered 1. The State of California
18 share (seven percent of proceeds) shall be paid in annual
19 installments of 2.25 percent of the share in each fiscal
20 year from the date of sale for 9 fiscal years, and 25.75
21 of the share in the tenth fiscal year. Payments under this
22 subsection may begin upon a release of all claims against
23 the United States by the State of California and the
24 Teachers' Retirement Fund with respect to production

1 and proceeds of sale from Naval Petroleum Reserve Num-
2 bered 1.

3 (h) EXPENDITURES FOR SALE OR LEASE.—(1) Sec-
4 tion 501 of Public Law 101–45 is hereby repealed.

5 (2) Unobligated balances in the Naval Petroleum and
6 Oil Shale Reserves account shall be used for necessary ex-
7 penses related to sale of lease of the reserves.

8 (a) EFFECT ON EXISTING CONTRACTS.—(1) In the
9 case of any contract, in effect on the effective date, for
10 the purchase of production from any part of the United
11 States' share of Naval Petroleum Reserve Numbered 1,
12 the sale of the interest of the United States in the reserve
13 shall be subject to the contract for a period of three
14 months after the closing date of the sale or until termi-
15 nation of the contract, whichever occurs first. The term
16 of any contract entered into after the effective date for
17 the purchase of the production shall not exceed the antici-
18 pated closing date for the sale of the reserve.

19 (2) The Secretary shall exercise the termination pro-
20 cedures provided in the contract between the United
21 States and Bechtel Petroleum Operations, Inc., Contract
22 Number DE–ACO1–85FE60520 or in any subsequent
23 management and operating contract so that the contract
24 terminates not later than the date of closing of the sale

1 of Naval Petroleum Reserve Numbered 1 under section
2 3412.

3 (3) The Secretary shall exercise the termination pro-
4 cedures provided in the unit plan contract so that the unit
5 plan contract terminates not later than the date of closing
6 of the sale reserve.

7 (b) EFFECT ON ANTITRUST LAWS.—Nothing in this
8 subtitle shall be construed to alter the application of the
9 antitrust laws of the United States to the purchaser or
10 purchasers (as the case may be) of Naval Petroleum Re-
11 serve Numbered 1 or to the lands in the reserve subject
12 to sale or lease under Section 4121 upon the completion
13 of the sale or lease.

14 (c) PRESERVATION OF PRIVATE RIGHT, TITLE, AND
15 INTEREST.—Nothing in this subtitle shall be construed to
16 adversely affect the ownership interest of any other entity
17 having any right, title, and interest in and to lands within
18 the boundaries of Naval Petroleum Reserve Numbered 1
19 and which are subject to the unit plan contract.

20 The Secretary may transfer to the purchaser or pur-
21 chasers (as the case may be) of Naval Petroleum Reserve
22 Numbered 1 the incidental take permit regarding the re-
23 serve issued to the Secretary by the United States Fish
24 and Wildlife Service and in effect on the effective date if
25 the Secretary determines that transfer of the permit is

1 necessary to expedite the sale of the reserve in a manner
2 that maximized the value of the sale to the United States.
3 The transferred permit shall cover the identical activities,
4 and shall be subject to the same terms and conditions,
5 as apply to the permit at the time of the transfer.

6 **SEC. 4122. RELATIONSHIP TO BALANCED BUDGET AND**
7 **EMERGENCY DEFICIT CONTROL ACT OF 1985.**

8 If the President so designates, the net proceeds from
9 privatizing the Reserves under this subtitle shall be in-
10 cluded in the budget baseline required by the Balanced
11 Budget and Emergency Deficit Control Act of 1985 and
12 shall be counted for the purposes of section 252 of that
13 Act as an offset to direct spending notwithstanding section
14 257(a) of the Act.

15 **SEC. 4123. DISCRETIONARY SPENDING LIMITS.**

16 (a) Upon sale of the NPR Numbered 1 the discre-
17 tionary spending limits set forth in section 601(a)(2) of
18 the Congressional Budget Act of 1974 (2 U.S.C.
19 665(a)(2)) (as adjusted in conformance with section 251
20 of the Balanced Budget and Emergency Deficit Control
21 Act of 1985) for fiscal year 2003 are reduced as follows:
22 for fiscal year 2002 for the discretionary category:
23 \$158 million in new budget authority and \$166 mil-
24 lion in outlays.

1 (b) For fiscal year 2004, the comparable amount for
2 budgetary purposes is considered to be \$158 million in
3 new budget authority and \$166 million in outlays. For fis-
4 cal year 2005 the comparable amount for budgetary pur-
5 poses is considered to be \$158 million in new budget au-
6 thority and \$166 million in outlays.

7 **PART III—OIL SHALE RESERVE**
8 **NUMBERED 2**

9 **SEC. 4131. TRANSFER.**

10 Subject to sections 4132 and 4133 of this subtitle,
11 the functions vested in the Secretary with regard to Oil
12 Shale Reserve Numbered 2 (located in Utah, established
13 by Executive order of the President dated December 6,
14 1916) by chapter 641 of title 10, United States Code, as
15 amended by section 501 of this Act, are transferred to
16 and vested in the Secretary of the Interior.

17 **SEC. 4132. GREEN RIVER AREA.**

18 (a) REPORT AND MANAGEMENT OF AREA.—The Sec-
19 retary of the Interior shall study and submit to the Presi-
20 dent a report on the appropriateness of including the
21 Green River area within the national wild and scenic rivers
22 system. During the study period, the Secretary of the Inte-
23 rior shall manage the Green River area in a manner con-
24 sistent with the memorandum of understanding between

1 the Department of Energy and the Department of the In-
2 terior under which the reserve is being currently managed.

3 (b) For purposes of this section, “Green River area”
4 means the following area within Oil Shale Reserve Num-
5 bered 2: The segments of the Green River that are within
6 the boundaries of Oil Shale Reserve Numbered 2, which
7 include the approximately 11.6 mile segment of the Green
8 River extending from the northern boundary of Oil Shale
9 Reserve Numbered 2 near Duchess Hole to the western
10 boundary of Oil Shale Reserve Numbered 2 near Rock
11 House Bottom and the approximately .6 mile segment of
12 the Green River in Oil Shale Reserve Numbered 2 near
13 the base of Peters Point, and the area extending one-half
14 mile from the river on each side of these segments.

15 **SEC. 4133. UINTAH AND OURAY INDIAN RESERVATION.**

16 Nothing in this subtitle affects any interest in, or
17 right or obligation respecting, the Uintah and Ouray In-
18 dian Reservation.

19 **PART IV—MISCELLANEOUS**

20 **SEC. 4151. AMENDMENTS TO CHAPTER 641 OF TITLE 10,**
21 **UNITED STATES CODE.**

22 Chapter 641 of title 10, United States Code, is
23 amended:

24 (a) in the table of contents, by renaming section
25 7438 “Mining and removal of oil shale.”;

1 (b) in section 7420, by striking paragraph (6);

2 (c) in section 7421(a), by striking “for national
3 defense purposes, except as otherwise provided in
4 this chapter”;

5 (d) by amending section 7422 to read as fol-
6 lows:

7 “(a) Prior to privatization, the Secretary,
8 directly or by contract, lease, or otherwise, shall
9 explore, prospect, conserve, develop, use,
10 produce, and operate the naval petroleum re-
11 serves to maximize the economic value of these
12 properties to the Nation, except that no petro-
13 leum leases shall be granted at Naval Petro-
14 leum Reserves Numbered 1 and 3.

15 “(b) The Secretary shall dispose of the
16 United States’ share of petroleum produced
17 from the naval petroleum reserves in accord-
18 ance with section 7430 of this chapter.

19 “(c) The Secretary may construct, acquire,
20 or contract for the use of storage and shipping
21 facilities, and pipelines and associated facilities,
22 on and off the naval petroleum reserves, for
23 transporting petroleum to locations where it will
24 be refined or shipped.

1 “(d) The Secretary may store petroleum
2 owned or managed by other Federal agencies
3 and instrumentalities, for appropriate reim-
4 bursement reasonably reflecting fair market
5 value.

6 “(e) The Secretary may acquire a pipeline
7 in the vicinity of a naval petroleum reserve not
8 otherwise operated as a common carrier, by
9 condemnation, if necessary, if the pipeline
10 owner refuses to accept, convey, and transport
11 petroleum produced at that reserve without dis-
12 crimination and at reasonable rates. The Sec-
13 retary may acquire rights-of-way for new pipe-
14 lines and associated facilities by eminent do-
15 main under the Act of February 26, 1931 (40
16 U.S.C. 258a–258e), and the prospective holder
17 of the right-of-way is “the authority empowered
18 by law to acquire the lands” within the meaning
19 of that Act. New pipelines shall accept, convey,
20 and transport any petroleum produced at the
21 naval petroleum reserves at reasonable rates as
22 a common carrier,”;

23 (e) in section 7423, by striking “when that pro-
24 duction is authorized under section 7422 of this
25 title”;

1 (f) in section 7425(a), by striking “, with the
2 approval of the President,”;

3 (g) in section 7426, as follows:

4 (1) by striking “Subject to the provisions
5 of section 7422(c) of this title, the” and insert-
6 ing “The” in subsection (a),

7 (2) by inserting “as is fixed, or” after
8 “contract,” in subsection (b), and

9 (3) by striking “than having petroleum
10 produced for national defense” and inserting
11 “producing petroleum” in subsection (c);

12 (h) in section 7427, by striking “, with the con-
13 sent of the President,”;

14 (i) in section 7428, by striking “approval by the
15 President and to”;

16 (j) in section 7429, by striking “If any such
17 land is to be re-leased, the” and inserting “The”;

18 (k) in section 7430, as follows:

19 (l) by amending subsection (b)(2) to read as follows:

20 “(2) The Secretary may not sell any part of the
21 United States share of petroleum produced from
22 Naval Petroleum Reserves Numbered 1, 2, and 3 for
23 less than the Secretary’s estimate of the current
24 sales price of comparable petroleum in the same
25 area.”,

1 (2) by striking “Naval Petroleum Reserves
2 Numbered 1 or Numbered 3” and inserting
3 “the naval petroleum reserves” in subsection
4 (j),

5 (3)(A) by amending subsection (l)(1) to
6 read as follows: “Notwithstanding any other
7 provision of this chapter (but subject to para-
8 graph (2)), the Secretary may provide any por-
9 tion of the United States share of petroleum to
10 any other Federal agency or instrumentality for
11 its use in order to meet petroleum product re-
12 quirements of the Federal Government.”;

13 (B) by striking “the Department of De-
14 fense” and inserting “any other Federal agency
15 or instrumentality” and striking “Secretary of
16 Defense” and inserting “other Federal agencies
17 and instrumentalities” in subsection (l)(2); and

18 (C) by striking “exchange” and inserting
19 “transaction” in subsection (l)(3), and

20 (4) by striking subsections (e), (d), (e), (f),
21 (g), (h), and (i);

22 (l) in section 7431, as follows:

23 (1) by striking “and approval” in the catch
24 line,

1 (2) by striking “and the President’s ap-
2 proval must be obtained” in subsection (a),

3 (3) by striking 11 and Presidential ap-
4 proval are” and inserting “is” in subsection
5 (a)(2), and

6 (4) by striking subsections (a)(3), and (c);
7 (m) by amending section 7432 to read as follows:

8 **“§ 7432. Production Enhancement**

9 “Not more than \$60 million of the United States
10 share of amounts collected in fiscal year 1996 under the
11 Emergency Petroleum Allocation Act of 1973 (15 U.S.C.
12 § 751 et seq.) may be used to enhance production from
13 the Reserves in that fiscal year, to the extent provided in
14 an appropriations Act.”;

15 (n) by amending section 7434 to read as follows:

16 “Prior to privatization, the Secretary shall submit a report
17 to the Committee on Armed Services of the Senate and
18 the Committee on National Security of the House of Rep-
19 resentatives, within 270 days of the end of each fiscal
20 year, on production from the naval petroleum reserves for
21 the preceding fiscal year and on other naval petroleum re-
22 serves matters the Secretary considers appropriate.”; and

23 (o) by amending section 7438 to read as follows:

1 **“§ 7438. Mining and removal of oil shale**

2 “(a) Except as provided in title III of the Naval Pe-
3 troleum Reserves Privatization Act, prior to privatization
4 the Secretary may mine and remove, or authorize the min-
5 ing and removal of, oil shale or oil shale products from
6 Oil Shale Reserves Numbered 1, 2, and 3 needed for the
7 national defense or for research, development, test, evalua-
8 tion, and demonstration work, at prices and under other
9 terms that the Secretary directs.

10 “(b) This section is not intended to authorize the
11 commercial development and operation of the naval oil
12 shale reserves by the Government in competition with pri-
13 vate industry.”.

14 **SEC. 4132. CONFORMING AMENDMENTS AND REPEALERS.**

15 (a) Section 2 of Pub. L. No. 96–137, 93 Stat. 1061
16 (1979) (42 U.S.C. 7156a) is repealed.

17 (b) Section 501 of the Dire Emergency Supplemental
18 Appropriations and Transfers, Urgent Supplementals, and
19 correcting Enrollment Errors Act of 1989 (10 U.S.C.
20 7431 note) is repealed.

21 (c) Chapter 641 of title 10 United States Code ceases
22 to apply to any Reserve that is privatized.

23 **CHAPTER 2—DEPARTMENT OF ENERGY**

24 **SEC. 5221. SALE OF DOE ASSETS.**

25 (a) ASSET MANAGEMENT AND DISPOSITION PRO-
26 GRAM.—

1 (1) IN GENERAL.—In order to maximize the use
2 of Department of Energy assets and to reduce over-
3 head and other costs related to asset management at
4 the Department’s facilities and laboratories, the Sec-
5 retary of Energy shall conduct an asset management
6 and disposition program that will result in not less
7 than \$225,000,000 in receipts and savings by Octo-
8 ber 1, 2000.

9 (2) ITEMS TO BE INCLUDED.—The program
10 shall include an inventory of assets in the care of the
11 Department and its contractors; the recovery, reuse,
12 and stewardship of assets; and disposition of a mini-
13 mum of 1,139,000,000 pounds of fuel, 136,000 tons
14 of chemicals and industrial gases, 557,000 tons of
15 scrap metal, 14,000 radiation sources, 17,000 pieces
16 of major equipment, 11,000 pounds of precious met-
17 als, and 91,000,000 pounds of base metals.

18 (b) FEDERAL PROPERTY AND ADMINSTRATIVE
19 SERVICES ACT.—The disposition of assets under this sec-
20 tion is not subject to section 202 or 203 of the Federal
21 Property and Administrative Services Act of 1949 (40
22 U.S.C. 483, 484) or section 13 of the Surplus Property
23 Act of 1944 (50 U.S.C. App. 1622). In order to avoid mar-
24 ket disruptions, the Secretary shall consult with appro-

1 priate executive agencies with respect to dispositions
2 under this section.

3 (c) DISPOSITION OF PROCEEDS.—After deduction of
4 administrative costs of disposition under this section not
5 to exceed \$7,000,000 per year, the remainder of the pro-
6 ceeds from dispositions under this subpart shall be re-
7 turned to the Treasury as miscellaneous receipts. There
8 shall be established a new receipt account in the Treasury
9 for proceeds of asset sales under this section.

10 **SEC. 5222. SALE OF WEEKS ISLAND OIL.**

11 Notwithstanding section 161 of the Energy Policy
12 and Conservation Act (42 U.S.C. 6241), the Secretary of
13 Energy shall draw down and sell 32,000,000 barrels of
14 oil contained in the Weeks Island Strategic Petroleum Re-
15 serve Facility. The Secretary shall, to the greatest extent
16 practicable, sell oil from the reserve in a manner that
17 minimizes the impact of such sale upon supply levels and
18 market forces.

19 **SEC. 5223. LEASE OF EXCESS STRATEGIC PETROLEUM RE-**
20 **SERVE CAPACITY.**

21 (a) AMENDMENT.—Part B of title I of the Energy
22 Policy and Conservation Act (42 U.S.C. 6231 et seq.) is
23 amended by adding at the end the following:

24 “USE OF UNDERUTILIZED FACILITIES

25 “SEC. 168. (a) AUTHORITY.—Notwithstanding any
26 other provision of this title, the Secretary, by lease or oth-

1 erwise, for any term and under such other conditions as
2 the Secretary considers necessary or appropriate, may
3 store in underutilized Strategic Petroleum Reserve facili-
4 ties petroleum product owned by a foreign government or
5 its representative. Petroleum products stored under this
6 section are not part of the Strategic Petroleum Reserve
7 and may be exported without license from the United
8 States.

9 “(b) PROTECTION OF FACILITIES.—All agreements
10 entered into pursuant to subsection (a) shall contain provi-
11 sions providing for fees to fully compensate the United
12 States for all costs of storage and removals of petroleum
13 products, including the cost of replacement facilities neces-
14 sitated as a result of any withdrawals.

15 “(c) ACCESS TO STORED OIL.—The Secretary shall
16 ensure that agreements to store petroleum products for
17 foreign governments or their representatives do not affect
18 the ability of the United States to withdraw, distribute,
19 or sell petroleum from the Strategic Petroleum reserve in
20 response to an energy emergency or to the obligations of
21 the United States under the Agreement on an Inter-
22 national Energy Program”.

23 (b) TABLE OF CONTENTS AMENDMENT.—The table
24 of contents of part B of title I of the Energy Policy and

1 Conservation Act is amended by adding at the end the
2 following:

“Sec. 168. Use of underutilized facilities.”.

3 **Subtitle C—Natural Resources**

4 **Subchapter B—Helium Reserves**

5 **SEC. 5311. SHORT TITLE.**

6 This subchapter may be cited as the “Helium Act of
7 1995”.

8 **SEC. 5312. AMENDMENT OF HELIUM ACT.**

9 Except as otherwise expressly provided, whenever in
10 this chapter an amendment or repeal is expressed in terms
11 of an amendment to, or repeal of, a section or other provi-
12 sion, the reference shall be considered to be made to a
13 section or other provision of the Helium Act (50 U.S.C.
14 167 to 167n).

15 **SEC. 5313. AUTHORITY OF SECRETARY.**

16 Sections 3, 4, and 5 are amended to read as follows:

17 **“SEC. 3. AUTHORITY OF SECRETARY.**

18 “(a) **EXTRACTION AND DISPOSAL OF HELIUM ON**
19 **FEDERAL LANDS.—**

20 “(1) **IN GENERAL.—**The Secretary may enter
21 into agreements with private parties for the recovery
22 and disposal of helium on Federal lands upon such
23 terms and conditions as the Secretary deems fair,
24 reasonable, and necessary.

1 “(2) LEASEHOLD RIGHTS.—The Secretary may
2 grant leasehold rights to any such helium.

3 “(3) LIMITATION.—The Secretary may not
4 enter into any agreement by which the Secretary
5 sells such helium other than to a private party with
6 whom the Secretary has an agreement for recovery
7 and disposal of helium.

8 “(4) REGULATIONS.—Agreements under para-
9 graph (1) may be subject to such regulations as may
10 be prescribed by the Secretary.

11 “(5) EXISTING RIGHTS.—An agreement under
12 paragraph (1) shall be subject to any rights of any
13 affected Federal oil and gas lessee that may be in
14 existence prior to the date of the agreement.

15 “(6) TERMS AND CONDITIONS.—An agreement
16 under paragraph (1) (and any extension or renewal
17 of an agreement) shall contain such terms and con-
18 ditions as the Secretary may consider appropriate.

19 “(7) PRIOR AGREEMENTS.—This subsection
20 shall not in any manner affect or diminish the rights
21 and obligations of the Secretary and private parties
22 under agreements to dispose of helium produced
23 from Federal lands in existence on the date of enact-
24 ment of the Helium Act of 1995 except to the extent

1 “(1) IN GENERAL.—Subject to paragraph (5),
2 not later than 24 months after the cessation of ac-
3 tivities referred to in section (b) of this section, the
4 Secretary shall designate as excess property and dis-
5 pose of all facilities, equipment, and other real and
6 personal property, and all interests therein, held by
7 the United States for the purpose of producing, re-
8 fining and marketing refined helium.

9 “(2) APPLICABLE LAW.—The disposal of such
10 property shall be in accordance with the Federal
11 Property and Administrative Services Act of 1949.

12 “(3) PROCEEDS.—All proceeds accruing to the
13 United States by reason of the sale or other disposal
14 of such property shall be treated as moneys received
15 under this chapter for purposes of section 6(f).

16 “(4) COSTS.—All costs associated with such
17 sale and disposal (including costs associated with
18 termination of personnel) and with the cessation of
19 activities under subsection (b) shall be paid from
20 amounts available in the helium production fund es-
21 tablished under section 6(f).

22 “(5) EXCEPTION.—Paragraph (1) shall not
23 apply to any facilities, equipment, or other real or
24 personal property, or any interest therein, necessary
25 for the storage, transportation and withdrawal of

1 crude helium or any equipment, facilities, or other
2 real or personal property, required to maintain the
3 purity, quality control, and quality assurance of
4 crude helium in the Bureau of Mines Cliffside Field.

5 “(d) EXISTING CONTRACTS.—

6 “(1) IN GENERAL.—All contracts that were en-
7 tered into by any person with the Secretary for the
8 purchase by the person from the Secretary of refined
9 helium and that are in effect on the date of the en-
10 actment of the Helium Act of 1995 shall remain in
11 force and effect until the date on which the refining
12 operations cease, as described in subsection (b).

13 “(2) COSTS.—Any costs associated with the ter-
14 mination of contracts described in paragraph (1)
15 shall be paid from the helium production fund estab-
16 lished under section 6(f).

17 **“SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITH-**
18 **DRAWAL.**

19 “(a) IN GENERAL.—Whenever the Secretary provides
20 helium storage withdrawal or transportation services to
21 any person, the Secretary shall impose a fee on the person
22 to reimburse the Secretary for the full costs of providing
23 such storage, transportation, and withdrawal.

1 “(b) TREATMENT.—All fees received by the Secretary
2 under subsection (a) shall be treated as moneys received
3 under this Act for purposes of section 6(f).”.

4 **SEC. 5314. SALE OF CRUDE HELIUM.**

5 (a) Subsection 6(a) is amended by striking “from the
6 Secretary” and inserting “from persons who have entered
7 into enforceable contracts to purchase an equivalent
8 amount of crude helium from the Secretary”.

9 (b) Subsection 6(b) is amended—

10 (1) by inserting “crude” before “helium”; and

11 (2) by adding the following at the end: “Except
12 as may be required by reason of subsection (a), sales
13 of crude helium under this section shall be in
14 amounts as the Secretary determines, in consulta-
15 tion with the helium industry, necessary to carry out
16 this subsection with minimum market disruption.”.

17 (c) Subsection 6(c) is amended—

18 (1) by inserting “crude” after “Sales of”; and

19 (2) by striking “together with interest as pro-
20 vided in this subsection” and all that follows
21 through the end of the subsection and inserting “all
22 funds required to be repaid to the United States as
23 of October 1, 1995 under this section (referred to in
24 this subsection as ‘repayable amounts’). The price at
25 which crude helium is sold by the Secretary shall not

1 be less than the amount determined by the Secretary
2 by—

3 “(1) dividing the outstanding amount of such
4 repayable amounts by the volume (in million cubic
5 feet) of crude helium owned by the United States
6 and stored in the Bureau of Mines Cliffside Field at
7 the time of the sale concerned, and

8 “(2) adjusting the amount determined under
9 paragraph (1) by the Consumer Price Index for
10 years beginning after December 31, 1995.”.

11 (d) Subsection 6(d) is amended to read as follows:

12 “(d) EXTRACTION OF HELIUM FROM DEPOSITS ON
13 FEDERAL LANDS.—All moneys received by the Secretary
14 from the sale or disposition of helium on Federal lands
15 shall be paid to the Treasury and credited against the
16 amounts required to be repaid to the Treasury under sub-
17 section (c).”.

18 (e) Subsection 6(e) is repealed.

19 (f) Subsection 6(f) is amended—

20 (1) by striking “(f)” and inserting “(e)(1)”;
21 and

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

23 “(2)(A) Within 7 days after the commencement of
24 each fiscal year after the disposal of the facilities referred
25 to in section 4(c), all amounts in such fund in excess of

1 \$2,000,000 (or such lesser sum as the Secretary deems
2 necessary to carry out this Act during such fiscal year)
3 shall be paid to the Treasury and credited as provided in
4 paragraph (1).

5 “(B) On repayment of all amounts referred to in sub-
6 section (c), the fund established under this section shall
7 be terminated and all moneys received under this Act shall
8 be deposited in the general fund of the Treasury.”.

9 **SEC. 5315. ELIMINATION OF STOCKPILE.**

10 Section 8 is amended to read as follows:

11 **“SEC. 8. ELIMINATION OF STOCKPILE.**

12 “(a) STOCKPILE SALES.—

13 “(1) COMMENCEMENT.—Not later than Janu-
14 ary 1, 2005, the Secretary shall commence offering
15 for sale crude helium from helium reserves owned by
16 the United States in such amounts as would be nec-
17 essary to dispose of all such helium reserves in ex-
18 cess of 600,000,000 cubic feet on a straight-line
19 basis between such date and January 1, 2015.

20 “(2) TIMES OF SALE.—The sales shall be at
21 such times during each year and in such lots as the
22 Secretary determines, in consultation with the he-
23 lium industry, to be necessary to carry out this sub-
24 section with minimum market disruption.

1 “(3) PRICE.—The price for all sales under
2 paragraph (1), as determined by the Secretary in
3 consultation with the helium industry, shall be such
4 price as will ensure repayment of the amounts re-
5 quired to be repaid to the Treasury under section
6 6(c).

7 “(b) DISCOVERY OF ADDITIONAL RESERVES.—The
8 discovery of additional helium reserves shall not affect the
9 duty of the Secretary to make sales of helium under sub-
10 section (a).”.

11 **SEC. 5316. REPEAL OF AUTHORITY TO BORROW.**

12 Sections 12 and 15 are repealed.

13 **SEC. 5317. LAND CONVEYANCE IN POTTER COUNTY, TEXAS.**

14 (a) IN GENERAL.—The Secretary of the Interior shall
15 transfer all right, title, and interest of the United States
16 in and to the parcel of land described in subsection (b)
17 to the Texas Plains Girl Scout Council for consideration
18 of \$1, reserving to the United States such easements as
19 may be necessary for pipeline rights-of-way.

20 (b) LAND DESCRIPTION.—The parcel of land re-
21 ferred to in subsection (a) is all those certain lots, tracts
22 or parcels of land lying and being situated in the County
23 of Potter and State of Texas, and being the East Three
24 Hundred Thirty-One (E331) acres out of Section Seventy-
25 eight (78) in Block Nine (9), B.S. & F. Survey, (some

1 times known as the G.D. Landis pasture) Potter County,
2 Texas, located by certificate No. 1/39 and evidenced by
3 letters patents Nos. 411 and 412 issued by the State of
4 Texas under date of November 23, 1937, and of record
5 in Vol. 66A of the Patent Records of the State of Texas.
6 The metes and bounds description of such lands is as fol-
7 lows:

8 (1) FIRST TRACT.—One Hundred Seventy-one
9 (171) acres of land known as the North part of the
10 East part of said survey Seventy-eight (78) afore-
11 said, described by metes and bounds as follows:

12 Beginning at a stone 20 x 12 x 3 inches
13 marked X, set by W.D. Twichell in 1905, for the
14 Northeast corner of this survey and the Northwest
15 corner of Section 59;

16 Thence, South 0 degrees 12 minutes East with
17 the West line of said Section 59, 999.4 varas to the
18 Northeast corner of the South 160 acres of East
19 half of Section 78;

20 Thence, North 89 degrees 47 minutes West
21 with the North line of the South 150 acres of the
22 East half, 956.8 varas to a point in the East line
23 of the West half Section 78;

24 Thence, North 0 degrees 10 minutes West with
25 the East line of the West half 999.4 varas to a stone

1 18 x 14 x 3 inches in the middle of the South line
2 of Section 79;

3 Thence, South 89 degrees 47 minutes East 965
4 varas to the place of beginning.

5 (2) SECOND TRACT.—One Hundred Sixty (160)
6 acres of land known as the South part of the East
7 part of said survey No. Seventy-eight (78) described
8 by metes and bounds as follows:

9 Beginning at the Southwest corner of Section
10 59, a stone marked X and a pile of stones; Thence,
11 North 89 degrees 47 minutes West with the North
12 line of Section 77, 966.5 varas to the Southeast cor-
13 ner of the West half of Section 78; Thence, North
14 0 degrees 10 minutes West with the East line of the
15 West half of Section 78;

16 Thence, South 89 degrees 47 minutes East
17 965.8 varas to a point in the East line of Section
18 78;

19 Thence, South 0 degrees 12 minutes East
20 934.6 varas to the place of beginning.

21 Containing an area of 331 acres, more or less.

1 **CHAPTER 8—OUTER CONTINENTAL SHELF**
2 **DEEP WATER ROYALTY RELIEF**

3 **SEC. 5421. SHORT TITLE.**

4 This chapter may be referred to as the “Outer Con-
5 tinental Shelf Deep Water Royalty Relief Act”.

6 **SEC. 5422. AMENDMENTS TO THE OUTER CONTINENTAL**
7 **SHELF LANDS ACT.**

8 Section 8(a)(3) of the Outer Continental Shelf Lands
9 Act (43 U.S.C. 1337(a)(3)), is amended—

10 (1) by designating the provisions of paragraph

11 (3) as subparagraph (A) of such paragraph (3); and

12 (2) by inserting after subparagraph (A), as so
13 designated, the following:

14 “(B) In the Western and Central Planning
15 Areas of the Gulf of Mexico and the portion of
16 the Eastern Planning Area of the Gulf of Mex-
17 ico encompassing whole lease blocks lying west
18 of 87 degrees, 30 minutes West longitude, the
19 Secretary may, in order to—

20 “(i) promote development or increased
21 production on producing or non-producing
22 leases; or

23 “(ii) encourage production of mar-
24 ginal resources on producing or non-pro-
25 ducing leases;

1 through primary, secondary, or tertiary recov-
2 ery means, reduce or eliminate any royalty or
3 net profit share set forth in the lease(s). With
4 the lessee's consent, the Secretary may make
5 other modifications to the royalty or net profit
6 share terms of the lease in order to achieve
7 these purposes.

8 “(C)(i) Notwithstanding the provisions of
9 this Act other than this subparagraph, with re-
10 spect to any lease or unit in existence on the
11 date of enactment of the Outer Continental
12 Shelf Deep Water Royalty Relief Act meeting
13 the requirements of this subparagraph, no roy-
14 alty payments shall be due on new production,
15 as defined in clause (iv) of this subparagraph,
16 from any lease or unit located in water depths
17 of 200 meters or greater in the Western and
18 Central Planning Areas of the Gulf of Mexico,
19 including that portion of the Eastern Planning
20 Area of the Gulf of Mexico encompassing whole
21 lease blocks lying west of 87 degrees, 30 min-
22 utes West longitude, until such volume of pro-
23 duction as determined pursuant to clause (ii)
24 has been produced by the lessee.

1 “(ii) Upon submission of a complete appli-
2 cation by the lessee, the Secretary shall deter-
3 mine within 180 days of such application
4 whether new production from such lease or unit
5 would be economic in the absence of the relief
6 from the requirement to pay royalties provided
7 for by clause (i) of this subparagraph. In mak-
8 ing such determination, the Secretary shall con-
9 sider the increased technological and financial
10 risk of deep water development and all costs as-
11 sociated with exploring, developing, and produc-
12 ing from the lease. The lessee shall provide in-
13 formation required for a complete application to
14 the Secretary prior to such determination. The
15 Secretary shall clearly define the information
16 required for a complete application under this
17 section. Such application may be made on the
18 basis of an individual lease or unit. If the Sec-
19 retary determines that such new production
20 would be economic in the absence of the relief
21 from the requirement to pay royalties provided
22 for by clause (i) of this subparagraph, the pro-
23 visions of clause (i) shall not apply to such pro-
24 duction. If the Secretary determines that such
25 new production would not be economic in the

1 absence of the relief from the requirement to
2 pay royalties provided for by clause (i), the Sec-
3 retary must determine the volume of production
4 from the lease or unit on which no royalties
5 would be due in order to make such new pro-
6 duction economically viable; except that for new
7 production as defined in clause (iv)(I), in no
8 case will that volume be less than 17.5 million
9 barrels of oil equivalent in water depths of 200
10 to 400 meters, 52.5 million barrels of oil equiv-
11 alent in 400 to 800 meters of water, and 87.5
12 million barrels of oil equivalent in water depths
13 greater than 800 meters. Redetermination of
14 the applicability of clause (i) shall be under-
15 taken by the Secretary when requested by the
16 lessee prior to the commencement of the new
17 production and upon significant change in the
18 factors upon which the original determination
19 was made. The Secretary shall make such rede-
20 termination within 120 days of submission of a
21 complete application. The Secretary may extend
22 the time period for making any determination
23 or redetermination under this clause for 30
24 days, or longer if agreed to by the applicant, if
25 circumstances so warrant. The lessee shall be

1 notified in writing of any determination or rede-
2 termination and the reasons for and assump-
3 tions used for such determination. Any deter-
4 mination or redetermination under this clause
5 shall be a final agency action. The Secretary's
6 determination or redetermination shall be judi-
7 cially reviewable under section 10(a) of the Ad-
8 ministrative Procedure Act (5 U.S.C. 702), only
9 for actions filed within 30 days of the Sec-
10 retary's determination or redetermination.

11 “(iii) In the event that the Secretary fails
12 to make the determination or redetermination
13 called for in clause (ii) upon application by the
14 lessee within the time period, together with any
15 extension thereof, provided for by clause (ii), no
16 royalty payments shall be due on new produc-
17 tion as follows:

18 “(I) For new production, as defined in
19 clause (iv)(I) of this subparagraph, no roy-
20 alty shall be due on such production ac-
21 cording to the schedule of minimum vol-
22 umes specified in clause (ii) of this sub-
23 paragraph.

24 “(II) For new production, as defined
25 in clause (iv)(II) of this subparagraph, no

1 royalty shall be due on such production for
2 one year following the start of such pro-
3 duction.

4 “(iv) For purposes of this subparagraph,
5 the term ‘new production’ is—

6 “(I) any production from a lease from
7 which no royalties are due on production,
8 other than test production, prior to the
9 date of enactment of the Outer Continental
10 Shelf Deep Water Royalty Relief Act; or

11 “(II) any production resulting from
12 lease development activities pursuant to a
13 Development Operations Coordination Doc-
14 ument, or supplement thereto that would
15 expand production significantly beyond the
16 level anticipated in the Development Oper-
17 ations Coordination Document, approved
18 by the Secretary after the date of enact-
19 ment of the Outer Continental Shelf Deep
20 Water Royalty Relief Act.

21 “(v) During the production of volumes de-
22 termined pursuant to clauses (ii) or (iii) of this
23 subparagraph, in any year during which the
24 arithmetic average of the closing prices on the
25 New York Mercantile Exchange for light sweet

1 crude oil exceeds \$28.00 per barrel, any produc-
2 tion of oil will be subject to royalties at the
3 lease stipulated royalty rate. Any production
4 subject to this clause shall be counted toward
5 the production volume determined pursuant to
6 clauses (ii) or (iii). Estimated royalty payments
7 will be made if such average of the closing
8 prices for the previous year exceeds \$28.00.
9 After the end of the calendar year, when the
10 new average price can be calculated, lessees will
11 pay any royalties due, with interest but without
12 penalty, or can apply for a refund, with inter-
13 est, of any overpayment.

14 “(vi) During the production of volumes de-
15 termined pursuant to clause (ii) or (iii) of this
16 subparagraph, in any year during which the
17 arithmetic average of the closing prices on the
18 New York Mercantile Exchange for natural gas
19 exceeds \$3.50 per million British thermal units,
20 any production of natural gas will be subject to
21 royalties at the lease stipulated royalty rate.
22 Any production subject to this clause shall be
23 counted toward the production volume deter-
24 mined pursuant to clauses (ii) or (iii). Esti-
25 mated royalty payments will be made if such

1 average of the closing prices for the previous
2 year exceeds \$3.50. After the end of the cal-
3 endar year, when the new average price can be
4 calculated, lessees will pay any royalties due,
5 with interest but without penalty, or can apply
6 for a refund, with interest, of any overpayment.

7 “(vii) The prices referred to in clauses (v)
8 and (vi) of this subparagraph shall be changed
9 during any calendar year after 1994 by the per-
10 centage, if any, by which the implicit price
11 deflator for the gross domestic product changed
12 during the preceding calendar year.”.

13 **SEC. 5423. NEW LEASES.**

14 Section 8(a)(1) of the Outer Continental Shelf Lands
15 Act, as amended (43 U.S.C. 1337(a)(1)), is amended—

16 (1) by redesignating subparagraph (H) as sub-
17 paragraph (I);

18 (2) by striking “or” at the end of subparagraph
19 (G); and

20 (3) by inserting after subparagraph (G) the fol-
21 lowing new subparagraph:

22 “(H) cash bonus bid with royalty at no less
23 than 12 and 1/2 per centum fixed by the Sec-
24 retary in amount or value of production saved,
25 removed, or sold, and with suspension of royal-

1 ties for a period, volume, or value of production
2 determined by the Secretary, which suspensions
3 may vary based on the price of production from
4 the lease; or”.

5 **SEC. 5424. LEASE SALES.**

6 For all tracts located in water depths of 200 meters
7 or greater in the Western and Central Planning Area of
8 the Gulf of Mexico, including that portion of the Eastern
9 Planning Area of the Gulf of Mexico encompassing whole
10 lease blocks lying west of 87 degrees, 30 minutes West
11 longitude, any lease sale within seven years of the date
12 of enactment of this chapter, shall use the bidding system
13 authorized in section 8(a)(1)(H) of the Outer Continental
14 Shelf Lands Act, as amended by this chapter, except that
15 the suspension of royalties shall be set at a volume of not
16 less than the following:

17 (1) 17.5 million barrels of oil equivalent for
18 leases in water depths of 200 to 400 meters;

19 (2) 52.5 million barrels of oil equivalent for
20 leases in 400 to 800 meters of water; and

21 (3) 87.5 million barrels of oil equivalent for
22 leases in water depths greater than 800 meters.

1 **SEC. 5425. REGULATIONS.**

2 The Secretary shall promulgate such rules and regu-
3 lations as are necessary to implement the provisions of this
4 chapter within 180 days after the enactment of this Act.

5 **SEC. 5426. SAVINGS CLAUSE.**

6 Nothing in this chapter shall be construed to affect
7 any offshore pre-leasing, leasing, or development morato-
8 rium, including any moratorium applicable to the Eastern
9 Planning Area of the Gulf of Mexico located off the Gulf
10 Coast of Florida.

11 **Subtitle C—GSA Property Sales**

12 **SEC. 6021. SALE OF GOVERNORS ISLAND, NEW YORK.**

13 (a) IN GENERAL.—Notwithstanding any other provi-
14 sion of law, the Administrator of General Services shall
15 dispose of by sale at fair market value all rights, title, and
16 interests of the United States in and to the land of, and
17 improvements to, Governors Island, New York.

18 (b) RIGHT OF FIRST REFUSAL.—Before a sale is
19 made under subsection (a) to any other parties, the State
20 of New York and the city of New York shall be given the
21 right of first refusal to purchase all or part of Governors
22 Island. Such right may be exercised by either the State
23 of New York or the city of New York or by both parties
24 acting jointly.

25 (c) PROCEEDS.—Proceeds from the disposal of Gov-
26 ernors Island under subsection (a) shall be deposited in

1 the general fund of the Treasury and credited as mis-
2 cellaneous receipts.

3 **SEC. 6022. SALE OF AIR RIGHTS.**

4 (a) IN GENERAL.—Notwithstanding any other provi-
5 sion of law, the Administrator of General Services shall
6 sell, at fair market value and in a manner to be deter-
7 mined by the Administrator, the air rights adjacent to
8 Washington Union Station described in subsection (b), in-
9 cluding air rights conveyed to the Administrator under
10 subsection (d). The Administrator shall complete the sale
11 by such date as is necessary to ensure that the proceeds
12 from the sale will be deposited in accordance with sub-
13 section (c).

14 (b) DESCRIPTION.—The air rights referred to in sub-
15 section (a) total approximately 16.5 acres and are depicted
16 on the plat map of the District of Columbia as follows:

17 (1) Part of lot 172, square 720.

18 (2) Part of lots 172 and 823, square 720.

19 (3) Part of lot 811, square 717.

20 (c) PROCEEDS.—Before September 30, 1996, pro-
21 ceeds from the sale of air rights under subsection (a) shall
22 be deposited in the general fund of the Treasury and cred-
23 ited as miscellaneous receipts.

24 (d) CONVEYANCE OF AMTRAK AIR RIGHTS.—

1 (1) GENERAL RULE.—As a condition of future
 2 Federal financial assistance, Amtrak shall convey to
 3 the Administrator of General Services on or before
 4 December 31, 1995, at no charge, all of the air
 5 rights of Amtrak described in subsection (b).

6 (2) FAILURE TO COMPLY.—If Amtrak does not
 7 meet the condition established by paragraph (1),
 8 Amtrak shall be prohibited from obligating Federal
 9 funds after March 1, 1996.

10 **TITLE V—ENERGY AND NATURAL RESOURCES**

11 **PROVISIONS**

12 **Subtitle A—Nuclear Regulatory Commission Annual**

13 **Charges**

14 **SEC. 5001. NUCLEAR REGULATORY COMMISSION ANNUAL**

15 **CHARGES.**

16 Section 6101(a)(3) of the Omnibus Budget Reconcili-
 17 ation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by
 18 striking “September 30, 1998” and inserting “September
 19 30, 2002”.

20 **Subtitle B—Department of Energy Assets**

21 **CHAPTER 1—UNITED STATES**

22 **ENRICHMENT CORPORATION**

23 **SEC. 5410. HETCH HETCHY DAM.**

24 Section 7 of the Act of December 13, 1913 (38 Stat.
 25 242), is amended—

1 (1) By striking “pay the sum of \$30,000” and
2 all that follows in the first sentence and inserting
3 “pay an amount determined annually by the Sec-
4 retary in accordance with the formula used by the
5 Federal Energy Regulatory Commission for applica-
6 tion to licenses of hydroelectric projects under the
7 Federal Power Act (16 U.S.C. 791 et seq.), provided
8 that, in no event shall such amount be less than
9 \$597,000.00. Said amount to be paid on the first
10 day of July of each year.”.

11 (2) By amending the second and third sen-
12 tences to read as follows: “These funds shall be
13 placed in a separate fund by the United States and,
14 notwithstanding any other provision of law, shall not
15 be available for obligation or expenditure until ap-
16 propriated by Congress. The highest priority use of
17 the funds shall be for annual operation of Yosemite
18 National Park, with the remainder of any funds to
19 be used to fund operations of other national parks
20 in the State of California.”.

1 **CHAPTER 7—POWER MARKETING**
2 **ADMINISTRATIONS**

3 **Subchapter A—Bonneville Power**
4 **Administration Refinancing**

5 **SEC. 5401. DEFINITIONS.**

6 For the purposes of this subchapter—

7 (1) “Administrator” means the Administrator
8 of the Bonneville Power Administration;

9 (2) “capital investment” means a capitalized
10 cost funded by Federal appropriations that—

11 (A) is for a project, facility, or separable
12 unit or feature of a project or facility;

13 (B) is a cost for which the Administrator
14 is required by law to establish rates to repay to
15 the United States Treasury through the sale of
16 electric power, transmission, or other services;

17 (C) excludes a Federal irrigation invest-
18 ment; and

19 (D) excludes an investment financed by the
20 current revenues of the Administrator or by
21 bonds issued and sold, or authorized to be is-
22 sued and sold, by the Administrator under sec-
23 tion 13 of the Federal Columbia River Trans-
24 mission System Act (16 U.S.C. 838k);

1 (3) “new capital investment” means a capital
2 investment for a project, facility, or separable unit
3 or feature of a project, facility, or separable unit or
4 feature of a project or facility, placed in service after
5 September 30, 1995;

6 (4) “old capital investment” means a capital in-
7 vestment the capitalized cost of which—

8 (A) was incurred, but not repaid, before
9 October 1, 1995, and

10 (B) was for a project, facility, or separable
11 unit or feature of a project or facility, placed in
12 service before October 1, 1995;

13 (5) “repayment date” means the end of the pe-
14 riod within which the Administrator’s rates are to
15 assure the repayment of the principal amount of a
16 capital investment; and

17 (6) “Treasury rate” means—

18 (A) for an old capital investment, a rate
19 determined by the Secretary of the Treasury,
20 taking into consideration prevailing market
21 yields, during the month preceding October 1,
22 1995, on outstanding interest-bearing obliga-
23 tions of the United States with periods to matu-
24 rity comparable to the period between October

1 1, 1995, and the repayment date for the old
2 capital investment; and

3 (B) for a new capital investment, a rate
4 determined by the Secretary of the Treasury,
5 taking into consideration prevailing market
6 yields, during the month preceding the begin-
7 ning of the fiscal year in which the related
8 project, facility, or separable unit or feature is
9 placed in service, on outstanding interest-bear-
10 ing obligations of the United States with peri-
11 ods to maturity comparable to the period be-
12 tween the beginning of the fiscal year and the
13 repayment date for the new capital investment.

14 **SEC. 5402. NEW PRINCIPAL AMOUNTS.**

15 (a) PRINCIPAL AMOUNT.—Effective October 1, 1995,
16 an old capital investment has a new principal amount that
17 is the sum of—

18 (1) the present value of the old payment
19 amounts for the old capital investment, calculated
20 using a discount rate equal to the Treasury rate for
21 the old capital investment; and

22 (2) an amount equal to \$100,000,000 multi-
23 plied by a fraction the numerator of which is the
24 principal amount of the old payment amounts for
25 the old capital investment and the denominator of

1 which is the sum of the principal amounts of the old
2 payment amounts for all old capital investments.

3 (b) DETERMINATION.—With the approval of the Sec-
4 retary of the Treasury, based solely on consistency with
5 this subchapter, the Administrator shall determine the
6 new principal amounts under this section and the assign-
7 ment of interest rates to the new principal amounts under
8 section 5403.

9 (c) OLD PAYMENT AMOUNT.—For the purposes of
10 this section, “old payment amounts” means, for an old
11 capital investment, the annual interest and principal that
12 the Administrator would have paid to the United States
13 Treasury from October 1, 1995, if this subchapter had
14 not been enacted, assuming that—

15 (1) the principal were repaid—

16 (A) on the repayment date the Adminis-
17 trator assigned before October 1, 1993, to the
18 old capital investment, or

19 (B) with respect to an old capital invest-
20 ment for which the Administrator has not as-
21 signed a repayment date before October 1,
22 1993, on a repayment date the Administrator
23 shall assign to the old capital investment in ac-
24 cordance with paragraph 10(d)(1) of the ver-

1 sion of Department of Energy Order RA
2 6120.2 in effect on October 1, 1993; and

3 (2) interest were paid—

4 (A) at the interest rate the Administrator
5 assigned before October 1, 1993, to the old cap-
6 ital investment, or

7 (B) with respect to an old capital invest-
8 ment for which the Administrator has not as-
9 signed an interest rate before October 1, 1993,
10 at a rate determined by the Secretary of the
11 Treasury, taking into consideration prevailing
12 market yields, during the month preceding the
13 beginning of the fiscal year in which the related
14 project, facility, or separable unit or feature is
15 placed in service, on outstanding interest-bear-
16 ing obligations of the United States with peri-
17 ods to maturity comparable to the period be-
18 tween the beginning of the fiscal year and the
19 repayment date for the old capital investment.

20 **SEC. 5403. INTEREST RATE FOR NEW PRINCIPAL AMOUNTS.**

21 As of October 1, 1995, the unpaid balance on the
22 new principal amount established for an old capital invest-
23 ment under section 5402 bears interest annually at the
24 Treasury rate for the old capital investment until the ear-

1 lier of the date that the new principal amount is repaid
2 or the repayment date for the new principal amount.

3 **SEC. 5404. REPAYMENT DATES.**

4 As of October 1, 1995, the repayment date for the
5 new principal amount established for an old capital invest-
6 ment under section 5402 is no earlier than the repayment
7 date for the old capital investment assumed in section
8 5402(c)(1).

9 **SEC. 5405. PREPAYMENT LIMITATIONS.**

10 During the period October 1, 1995, through Septem-
11 ber 30, 2000, the total new principal amounts of old cap-
12 ital investments, as established under section 5402, that
13 the Administrator may pay before their respective repay-
14 ment dates shall not exceed \$100,000,000.

15 **SEC. 5406. INTEREST RATES FOR NEW CAPITAL INVEST-**
16 **MENTS DURING CONSTRUCTION.**

17 (a) NEW CAPITAL INVESTMENT.—The principal
18 amount of a new capital investment includes interest in
19 each fiscal year of construction of the related project, facil-
20 ity, or separable unit or feature at a rate equal to the
21 one-year rate for the fiscal year on the sum of—

22 (1) construction expenditures that were made
23 from the date construction commenced through the
24 end of the fiscal year, and

25 (2) accrued interest during construction.

1 (b) PAYMENT.—The Administrator is not required to
2 pay, during construction of the project, facility, or sepa-
3 rable unit or feature, the interest calculated, accrued, and
4 capitalized under subsection (a).

5 (c) ONE-YEAR RATE.—For the purposes of this sec-
6 tion, “one-year rate” for a fiscal year means a rate deter-
7 mined by the Secretary of the Treasury, taking into con-
8 sideration prevailing market yields, during the month pre-
9 ceding the beginning of the fiscal year, on outstanding in-
10 terest-bearing obligations of the United States with peri-
11 ods to maturity of approximately one year.

12 **SEC. 5407. INTEREST RATES FOR NEW CAPITAL INVEST-**
13 **MENTS.**

14 The unpaid balance on the principal amount of a new
15 capital investment bears interest at the Treasury rate for
16 the new capital investment from the date the related
17 project, facility, or separable unit or feature is placed in
18 service until the earlier of the date the new capital invest-
19 ment is repaid or the repayment date for the new capital
20 investment.

21 **SEC. 5408. CREDITS TO ADMINISTRATOR’S PAYMENTS TO**
22 **THE UNITED STATES TREASURY.**

23 The Confederated Tribe of the Colville Reservation
24 Grand Coulee Dam Settlement Act (Public Law 103–436;

1 108 Stat. 4577) is amended by striking section 6 and in-
2 serting the following:

3 **“SEC. 6. CREDITS TO ADMINISTRATOR’S PAYMENTS TO THE**
4 **UNITED STATES TREASURY.**

5 “So long as the Administrator makes annual pay-
6 ments to the tribes under the settlement agreement, the
7 Administrator shall apply against amounts otherwise pay-
8 able by the Administrator to the United States Treasury
9 a credit that reduces the Administrator’s payment in the
10 amount and for each fiscal year as follows: \$15,250,000
11 in fiscal year 1996; \$15,860,000 in fiscal year 1997;
12 \$16,490,000 in fiscal year 1998; \$17,150,000 in fiscal
13 year 1999; \$17,840,000 in fiscal year 2000; and
14 \$4,100,000 in each succeeding fiscal year.”.

15 **SEC. 5409. CONTRACT PROVISIONS.**

16 In each contract of the Administrator that provides
17 for the Administrator to sell electric power, transmission,
18 or related services, and that is in effect after September
19 30, 1995, the Administrator shall offer to include, or as
20 the case may be, shall offer to amend to include, provisions
21 specifying that after September 30, 1995—

22 (1) the Administrator shall establish rates and
23 charges on the basis that—

24 (A) the principal amount of an old capital
25 investment shall be no greater than the new

1 principal amount established under section
2 5402;

3 (B) the interest rate applicable to the un-
4 paid balance of the new principal amount of an
5 old capital investment shall be no greater than
6 the interest rate established under section
7 5403;

8 (C) any payment of principal of an old
9 capital investment shall reduce the outstanding
10 principal balance of the old capital investment
11 in the amount of the payment at the time the
12 payment is tendered; and

13 (D) any payment of interest on the unpaid
14 balance of the new principal amount of an old
15 capital investment shall be a credit against the
16 appropriate interest account in the amount of
17 the payment at the time the payment is ten-
18 dered;

19 (2) apart from charges necessary to repay the
20 new principal amount of an old capital investment as
21 established under section 5402 and to pay the inter-
22 est on the principal amount under section 5403, no
23 amount may be charged for return to the United
24 States Treasury as repayment for or return on an
25 old capital investment, whether by way of rate, rent,

1 lease payment, assessment, user charge, or any other
2 fee;

3 (3) amounts provided under section 1304 of
4 title 31, United States Code, shall be available to
5 pay, and shall be the sole source for payment of, a
6 judgment against or settlement by the Administrator
7 or the United States on a claim for a breach of the
8 contract provisions required by this subchapter; and

9 (4) the contract provisions specified in this sub-
10 chapter do not—

11 (A) preclude the Administrator from recov-
12 ering, through rates or other means, any tax
13 that is generally imposed on electric utilities in
14 the United States, or

15 (B) affect the Administrator's authority
16 under applicable law, including section 7(g) of
17 the Pacific Northwest Electric Power Planning
18 and Conservation Act (16 U.S.C. 839e(g)), to—

19 (i) allocate costs and benefits, includ-
20 ing but not limited to fish and wildlife
21 costs, to rates or resources, or

22 (ii) design rates.

23 **SEC. 5410. SAVINGS PROVISIONS.**

24 (a) REPAYMENT.—This subchapter does not affect
25 the obligation of the Administrator to repay the principal

1 associated with each capital investment, and to pay inter-
2 est on the principal, only from the “Administrator’s net
3 proceeds,” as defined in section 13(b) of the Federal Co-
4 lumbia River Transmission System Act (16 U.S.C.
5 838k(b)).

6 (b) PAYMENT OF CAPITAL INVESTMENT.—Except as
7 provided in section 5405, this subchapter does not affect
8 the authority of the Administrator to pay all or a portion
9 of the principal amount associated with a capital invest-
10 ment before the repayment date for the principal amount.

11 **Subchapter B—Alaska Power Marketing**
12 **Administration Sale**

13 **SEC. 5411. SHORT TITLE.**

14 This subchapter may be cited as the “Alaska Power
15 Administration Asset Sale and Termination Act”.

16 **SEC. 5412. DEFINITIONS.**

17 For purposes of this subchapter:

18 (1) The term “Eklutna” means Eklutna Hydro-
19 electric Project and related assets as described in
20 section 4 and Exhibit A of the Eklutna Purchase
21 Agreement.

22 (2) The term “Eklutna Purchase Agreement”
23 means the August 2, 1989, Eklutna Purchase
24 Agreement between the Alaska Power Administra-
25 tion of the Department of Energy and the Eklutna

1 Purchasers, together with any amendments thereto
2 adopted before the date of enactment of this Act.

3 (3) The term “Eklutna Purchasers” means the
4 Municipality of Anchorage doing business as Muni-
5 cipal Light and Power, the Chugach Electric Associa-
6 tion, Inc. and the Matanuska Electric Association,
7 Inc.

8 (4) The term “Snettisham” means the
9 Snettisham Hydroelectric Project and related assets
10 as described in section 4 and Exhibit A of the
11 Snettisham Purchase Agreement.

12 (5) The term “Snettisham Purchase Agree-
13 ment” means the February 10, 1989, Snettisham
14 Purchase Agreement between the Alaska Power Ad-
15 ministration of the Department of Energy and the
16 Alaska Power Authority and its successors in inter-
17 est, together with any amendments thereto adopted
18 before the date of enactment of this Act.

19 (6) The term “Snettisham Purchaser” means
20 the Alaska Industrial Development and Export Au-
21 thority or a successor State agency or authority.

1 **SEC. 5413. SALE OF EKLUTNA AND SNETTISHAM HYDRO-**
2 **ELECTRIC PROJECTS.**

3 **CHAPTER 11—PARK ENTRANCE FEES**

4 **SEC. 5451. FEES.**

5 (a) **ADMISSION FEES.**—Section 4(a) of the Land and
6 Water Conservation Fund Act of 1965 (16 U.S.C. 460l–
7 6a(a)) is amended—

8 (1) in the first sentence of the subsection by
9 striking “no more than 21”;

10 (2) in the first sentence of paragraph (1)(A)(i)
11 by striking “\$25” and inserting “\$50”;

12 (3) in the second sentence of paragraph (1)(B)
13 by striking “\$15” and inserting “\$25”;

14 (4) in paragraph (2) by striking the fourth,
15 fifth, and sixth sentences and inserting “The fee for
16 a single-visit permit at any designated area shall be
17 collected on a per person basis, not to exceed \$6 per
18 person, including for persons entering by private,
19 noncommercial vehicle.”;

20 (5) in paragraph (3)—

21 (A) in the third sentence by inserting
22 “Great” before “Smoky”; and

23 (B) by striking the last sentence;

24 (6) in paragraph (4)—

25 (A) by striking the second sentence and in-
26 serting “Such permit shall be nontransferable,

1 shall be issued for a one-time charge, which
2 shall be set at the same rate as the fee for a
3 Golden Eagle Passport, and shall entitle the
4 permittee to free admission into any area des-
5 ignated pursuant to this subsection.”; and

6 (B) by striking the third sentence and in-
7 serting “No fees of any kind shall be collected
8 from any persons who have a right of access for
9 hunting or fishing privileges under a specific
10 provision of law or treaty or who are engaged
11 in the conduct of official Federal, State, or local
12 government business.”;

13 (7) by striking paragraph (5) and inserting the
14 following:

15 “(5) The Secretary of the Interior and the Sec-
16 retary of Agriculture shall establish procedures pro-
17 viding for the issuance of a lifetime admission per-
18 mit to any citizen of, or person legally domiciled in,
19 the United States, if such citizen or person applies
20 for such permit and is permanently disabled. Such
21 procedures shall ensure that a lifetime admission
22 permit shall be issued only to persons who have been
23 medically determined to be permanently disabled. A
24 lifetime admission permit shall be nontransferable,
25 shall be issued without charge, and shall entitle the

1 permittee and one accompanying individual to gen-
2 eral admission into any area designated pursuant to
3 this subsection, notwithstanding the method of trav-
4 el.”;

5 (8) by striking paragraph (9) and by redesignig-
6 nating paragraph (10) as paragraph (9)”;

7 (9) by striking all but the last sentence of para-
8 graph (11) and redesignating paragraph (11) as
9 paragraph (10); and

10 (10) by redesignating paragraph (12) as para-
11 graph (11).

12 (b) RECREATION FEES.—Section 4 of the Land and
13 Water Conservation Fund Act of 1965 (16 U.S.C. 460l-
14 6a) is amended by striking subsection (b) and inserting
15 the following:

16 “(b) RECREATION USE FEES.—Each agency develop-
17 ing, administering, providing, or furnishing at Federal ex-
18 pense services for such activities as camping, including,
19 but not limited to, back country camping under permit,
20 guarded swimming sites, boat launch facilities, managed
21 parking lots, motorized recreation use and other recreation
22 uses, is authorized, in accordance with this section to pro-
23 vide for the collection of recreation use fees at the place
24 of use or any reasonably convenient location. The admin-

1 istering Secretary may establish both daily and annual
2 recreation use fees.”.

3 (c) CRITERIA, POSTING AND UNIFORMITY OF
4 FEES.—Section 4(d) of the Land and Water Conservation
5 Fund Act of 1965 (16 U.S.C. 460l–6a(d)) is amended in
6 the first sentence by striking “recreation fees charged by
7 non-Federal public agencies,” and inserting “fees charged
8 by other public and private entities,”.

9 (d) PENALTY.—Section 4(e) of the Land and Water
10 Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(e))
11 is amended by striking “of not more than \$100.” and in-
12 serting “as provided by law.”.

13 (e) TECHNICAL AMENDMENTS.—Section 4(h) of the
14 Land and Water Conservation Fund Act of 1965 (16
15 U.S.C. 460l–6a(h)) is amended—

16 (1) by striking “Bureau of Outdoor Recreation”
17 and inserting “National Park Service”;

18 (2) by striking “Natural Resources” and insert-
19 ing “Resources”; and

20 (3) by striking “Bureau” and inserting “Na-
21 tional Park Service”.

22 (f) USE OF FEES.—Section 4(i) of the Land and
23 Water Conservation Fund Act of 1965 (16 U.S.C. 460l–
24 6a(i)) is amended—

1 (1) in the first sentence of paragraph (1)(B) by
2 striking “fee collection costs for that fiscal year”
3 and inserting “fee collection costs for the imme-
4 diately preceding fiscal year” and by striking “sec-
5 tion in that fiscal year” and inserting “section in
6 such immediately preceding fiscal year”;

7 (2) in the second sentence of subparagraph (B)
8 by striking “in that fiscal year”; and

9 (3) by striking paragraph (4) and inserting the
10 following:

11 “(4) Amounts covered into the special account
12 for the National Park Service shall be allocated
13 among park system units in accordance with sub-
14 section (j) for obligation or expenditure by the Di-
15 rector of the National Park Service for park oper-
16 ations.”.

17 (g) TIME OF REIMBURSEMENT.—Section 4(k) of the
18 Land and Water Conservation Fund Act of 1965 (16
19 U.S.C. 460l–6a(k)) is amended by striking the last sen-
20 tence.

21 (h) COMMERCIAL TOUR USE FEES.—Section 4(n) of
22 the Land and Water Conservation Fund Act of 1965 (16
23 U.S.C. 460l–6a(n)) is amended—

24 (1) by striking the first sentence of paragraph
25 (1) and inserting “In the case of each unit of the

1 National Park System for which an admission fee is
2 charged under this section, the Secretary of the In-
3 terior shall establish, by October 1, 1996, a commer-
4 cial tour use fee in lieu of a per person admission
5 fee to be imposed on each vehicle entering the unit
6 for the purpose of providing commercial tour serv-
7 ices within the unit.”; and

8 (2) by striking the period at the end of para-
9 graph (3) and inserting “, with written notification
10 of such adjustments provided to commercial tour op-
11 erators 12 months in advance of implementation.”.

12 (i) CONFORMING AMENDMENTS.—

13 (1) Title I of the Department of the Interior
14 and Related Agencies Appropriations Act, 1994, is
15 amended by striking the second proviso under the
16 heading “ADMINISTRATIVE PROVISIONS” under the
17 heading “NATIONAL PARK SERVICE” (related to re-
18 covery of costs associated with special use permits).

19 (2) Section 3 of the Act entitled “An Act creat-
20 ing the Mount Rushmore National Memorial Com-
21 mission and defining its purposes and powers”, ap-
22 proved February 25, 1929 (45 Stat. 1300, chapter
23 315), is amended by striking the last sentence.

24 (3) Section 5 of Public Law 87-657 (16 U.S.C.
25 459c-5), is amended by striking subsection (e).

1 (4) Section 3 of Public Law 87–750 (16 U.S.C.
2 398e) is amended by striking subsection (b).

3 (5) Section 4(e) of Public Law 92–589 (16
4 U.S.C. 460bb–3) is amended by striking the first
5 sentence.

6 (6) Section 6 of Public Law 95–348 (16 U.S.C.
7 410dd) is amended by striking subsection (j).

8 (7) Section 207 of Public Law 96–199 (16
9 U.S.C. 410ff–6) is repealed.

10 (8) Section 106 of Public Law 96–287 (16
11 U.S.C. 410gg–5) is amended by striking the last
12 sentence.

13 (9) Section 204 of Public Law 96–287 (94
14 Stat. 601) is amended by striking the last sentence.

15 (10) Section 5 of Public Law 96–428 (94 Stat.
16 1842; 16 U.S.C. 461 note) is repealed.

17 (11) Public Law 100–55 (101 Stat. 371; U.S.C.
18 460l–6a note) is repealed.

19 **SEC. 5452. COVERING OF INCREASED FEE REVENUES INTO**
20 **SPECIAL ACCOUNTS.**

21 Of the funds deposited in special accounts in the
22 Treasury for the National Park Service, Bureau of Land
23 Management, and Forest Service as set forth in section
24 4(i) of the Land and Water Conservation Fund Act of
25 1965 (16 U.S.C. 460l–6a(i)), beginning in fiscal year

1 1997, 80 percent of all receipts earned in the previous year
2 in excess of the following amounts for each covered agency
3 shall be made available to that agency without further ap-
4 propriation:

5 (1) National Park System:

- 6 (A) \$82,000,000 for fiscal year 1997.
7 (B) \$85,000,000 for fiscal year 1998.
8 (C) \$88,000,000 for fiscal year 1999.
9 (D) \$91,000,000 for fiscal year 2000.
10 (E) \$94,000,000 for fiscal year 2001.
11 (F) \$97,000,000 for fiscal year 2002.
12 (G) \$100,000,000 for fiscal year 2003.

13 (2) Bureau of Land Management:

- 14 (A) \$4,500,000 for fiscal year 1997.
15 (B) \$5,000,000 for fiscal year 1998.
16 (C) \$5,000,000 for fiscal year 1999.
17 (D) \$5,000,000 for fiscal year 2000.
18 (E) \$5,000,000 for fiscal year 2001.
19 (F) \$5,000,000 for fiscal year 2002.
20 (G) \$5,000,000 for fiscal year 2003.

21 (3) Forest Service:

- 22 (A) \$20,000,000 for fiscal year 1997.
23 (B) \$20,600,000 for fiscal year 1998.
24 (C) \$21,200,000 for fiscal year 1999.
25 (D) \$21,900,000 for fiscal year 2000.

1 (E) \$22,500,000 for fiscal year 2001.

2 (F) \$23,600,000 for fiscal year 2002.

3 (G) \$24,300,000 for fiscal year 2003.

4 **SEC. 5453. ALLOCATION AND USE OF FEES.**

5 (a) ALLOCATION.—Beginning in fiscal year 1997, re-
6 ceipts above the amounts stated in section 5454 in each
7 covered agency's special account from the previous fiscal
8 year shall be allocated as follows:

9 (1) Seventy-five percent shall be allocated
10 among the units or areas of each affected agency in
11 the same proportion as fees collected pursuant to
12 section 4 of the Land and Water Conservation Fund
13 Act of 1965 (16 U.S.C. 4601–6a) from a specific
14 unit or area bear to the total amount of such fees
15 collected from all units or areas of the same covered
16 agency for each fiscal year.

17 (2) Twenty-five percent shall be allocated
18 among each covered agency's units or areas on the
19 basis of need, as determined by the Secretary.

20 (b) USE.—Expenditures from the special accounts
21 shall be used solely for infrastructure related to visitor use
22 and annual operating expenses related to visitor services
23 at units or areas of the covered agencies.

1 **Subtitle F—National Defense Stockpile**

2 **SEC. 12601. DISPOSAL OF CERTAIN MATERIALS IN NA-**
3 **TIONAL DE- FENSE STOCKPILE FOR DEFICI-**
4 **CIT REDUCTION.**

5 (a) DISPOSALS REQUIRED.—(1) During fiscal year
6 1996, the President shall dispose of all cobalt contained
7 in the National Defense Stockpile that, as of the date of
8 the enactment of this Act, is authorized for disposal under
9 any law (other than this Act).

10 (2) In addition to the disposal of cobalt under para-
11 graph (1), the President shall dispose of additional quan-
12 tities of cobalt and quantities of other materials contained
13 in the National Defense Stockpile and specified in the
14 table in subsection (b) so as to result in receipts to the
15 United States in amounts equal to—

16 (A) \$21,000,000 during the fiscal year ending
17 September 30, 1996;

18 (B) \$338,000,000 during the five-fiscal year pe-
19 riod ending on September 30, 2000; and

20 (C) \$649,000,000 during the seven-fiscal year
21 period ending on September 30, 2002.

22 (b) LIMITATION ON DISPOSAL QUANTITY.—The total
23 quantities of materials authorized for disposal by the
24 President under subsection (a)(2) may not exceed the
25 amounts set forth in the following table:

AUTHORIZED STOCKPILE DISPOSALS

Material for disposal	Quantity
Aluminum	62,881 short tons.
Cobalt	30,000,000 pounds contained.
Columbium Ferro	930,911 pounds contained.
Germanium Metal	40,000 kilograms.
Indium	35,000 troy ounces.
Palladium	15,000 troy ounces.
Platinum	10,000 troy ounces.
Rubber, Natural	125,138 long tons.
Tantalum, Carbide Powder	6,000 pounds contained.
Tantalum, Minerals	750,000 pounds contained.
Tantalum, Oxide	40,000 pounds contained.

1 (c) DEPOSIT OF RECEIPTS.—Notwithstanding sec-
 2 tion 9 of the Strategic and Critical Materials Stock Piling
 3 Act (50 U.S.C. 98h), funds received as a result of the dis-
 4 posal of materials under subsection (a)(2) shall be depos-
 5 ited into the general fund of the Treasury for the purpose
 6 of deficit reduction.

7 (d) RELATIONSHIP TO OTHER DISPOSAL AUTHOR-
 8 ITY.—The disposal authority provided in subsection (a)(2)
 9 is new disposal authority and is in addition to, and shall
 10 not affect, any other disposal authority provided by law
 11 regarding the materials specified in such subsection.

12 (e) TERMINATION OF DISPOSAL AUTHORITY.—The
 13 President may not use the disposal authority provided in
 14 subsection (a)(2) after the date on which the total amount
 15 of receipts specified in subparagraph (C) of such sub-
 16 section is achieved.

17 (f) DEFINITION.—The term “National Defense
 18 Stockpile” means the National Defense Stockpile provided

1 for in section 4 of the Strategic and Critical Materials
2 Stock Piling Act (50 U.S.C. 98c).

3 **SEC. 9002. EXTENSION OF HIGHER VESSEL TONNAGE DU-**
4 **TIES.**

5 (a) EXTENSION OF DUTIES.—Section 36 of the Act
6 of August 5, 1909 (36 Stat. 111; 46 U.S.C. App. 121),
7 is amended by striking “for fiscal years 1991, 1992, 1993,
8 1994, 1995, 1996, 1997, 1998,” each place it appears and
9 inserting “for fiscal years through fiscal year 2002,”.

10 (b) CONFORMING AMENDMENT.—The Act entitled
11 “An Act concerning tonnage duties on vessels entering
12 otherwise than the sea”, approved March 8, 1910 (36
13 Stat. 234; 46 U.S.C. App. 132), is amended by striking
14 “for fiscal years 1991, 1992, 1993, 1994, 1995, 1996,
15 1997, and 1998,” and inserting “fiscal years through fis-
16 cal year 2002,”.

17 **SEC. 9003. FEMA RADIOLOGICAL EMERGENCY PREPARED-**
18 **NESS FEES.**

19 (a) IN GENERAL.—The Director of the Federal
20 Emergency Management Agency may assess and collect
21 fees applicable to persons subject to radiological emer-
22 gency preparedness regulations issued by the Director.

23 (b) REQUIREMENTS.—The assessment and collection
24 of fees by the Director under subsection (a) shall be fair
25 and equitable and shall reflect the full amount of costs

1 to the Agency of providing radiological emergency plan-
2 ning, preparedness, response, and associated services.
3 Such fees shall be assessed by the Director in a manner
4 that reflects the use of resources of the Agency for classes
5 of regulated persons and the and the administrative costs
6 of collecting such fees.

7 (c) AMOUNT OF FEES.—The aggregate amount of
8 fees assessed under subsection (a) in a fiscal year shall
9 approximate but not be less than, 100 percent of the
10 amounts anticipated by the Director to be obligated for
11 the radiological emergency preparedness program of the
12 Agency for such fiscal year.

13 (d) DEPOSIT OF FEES IN TREASURY.—Fees received
14 pursuant to subsection (a) shall be deposited in the gen-
15 eral fund of the Treasury as offsetting receipts.

16 (e) EXPIRATION OF AUTHORITY.—The authority of
17 the Director to assess and collect fees under subsection
18 (a) shall expire on September 30, 2002.

19 **SEC. 6011. PATENT AND TRADEMARK FEES.**

20 Section 10101 of the Omnibus Budget Reconciliation
21 Act of 1990 (35 U.S.C. 41 note) is amended—

22 (1) in subsection (a) by striking “1998” and in-
23 serting “2002”;

24 (2) in subsection (b)(2) by striking “1998” and
25 inserting “2002”; and

1 (3) in subsection (c)—

2 (A) by striking “through 1998” and insert-
3 ing “through 2002”; and

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

5 “(9) \$119,000,000 in fiscal year 1999.

6 “(10) \$119,000,000 in fiscal year 2000.

7 “(11) \$119,000,000 in fiscal year 2001.

8 “(12) \$119,000,000 in fiscal year 2002.”.

9 **CHAPTER 6—DISCLOSURE OF RETURN IN-**
10 **FORMATION FOR ADMINISTRATION OF**
11 **CERTAIN VETERANS PROGRAMS**

12 **SEC. 11161. DISCLOSURE OF RETURN INFORMATION FOR**
13 **ADMINISTRATION OF CERTAIN VETERANS**
14 **PROGRAMS.**

15 (a) **GENERAL RULE.**—Subparagraph (D) of section
16 6103(l)(7) (relating to disclosure of return information to
17 Federal, State, and local agencies administering certain
18 programs) is amended by striking “Clause (viii) shall not
19 apply after September 30, 1998.” and inserting “Clause
20 (viii) shall not apply after September 30, 2002.”

21 (b) **EFFECTIVE DATE.**—The amendment made by
22 section (a) shall take effect on the date of the enactment
23 of this Act.

1 **Subtitle F—Taxpayer Bill of Rights 2 Provisions**

2 **SEC. 11201. EXPANSION OF AUTHORITY TO ABATE INTER-**
3 **EST.**

4 (a) **GENERAL RULE.**—Paragraph (1) of section
5 6404(e) (relating to abatement of interest in certain cases)
6 is amended—

7 (1) by inserting “unreasonable” before “error”
8 each place it appears in subparagraphs (A) and (B),
9 and

10 (2) by striking “in performing a ministerial
11 act” each place it appears and inserting “in per-
12 forming a ministerial or managerial act”.

13 (b) **CLERICAL AMENDMENT.**—The subsection head-
14 ing for subsection (e) of section 6404 is amended—

15 (1) by striking “ASSESSMENT” and inserting
16 “ABATEMENT”, and

17 (2) by inserting “UNREASONABLE” before “ER-
18 RORS”.

19 (c) **EFFECTIVE DATE.**—The amendments made by
20 this section shall apply to interest accruing with respect
21 to deficiencies or payments for taxable years beginning
22 after the date of the enactment of this Act.

1 **SEC. 11202. EXTENSION OF INTEREST-FREE PERIOD FOR**
2 **PAYMENT OF TAX AFTER NOTICE AND DE-**
3 **MAND.**

4 (a) GENERAL RULE.—Paragraph (3) of section
5 6601(e) (relating to payments made within 10 days after
6 notice and demand) is amended to read as follows:

7 **SEC 6105. DENIAL OF UNEMPLOYMENT INSURANCE TO IN-**
8 **DIVIDUALS WHO VOLUNTARILY LEAVE MILI-**
9 **TARY SERVICE.**

10 (a) GENERAL RULE.—Paragraph (1) of section
11 8521(a) of title 5, United State Code, is amended to read
12 as follows:

13 “(1) ‘Federal service’ means active service (not
14 including active duty in a reserve status unless for
15 a continuous period of 45 days or more) in the
16 armed forces or the commissioned corps of the Na-
17 tional Oceanic and Atmospheric Administration if
18 with respect to that service the individual—

19 “(A) was discharged or released under
20 honorable conditions,

21 “(B) did not resign or voluntarily leave the
22 service, and

23 “(C) was not discharged or released for
24 cause as defined by the Secretary of Defense;”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 subsection (a) shall apply in the case of a discharge or
 3 release after the date of the enactment of this Act.

4 **TITLE IX—LIMITATIONS ON COR-**
 5 **PORATE WELFARE AND**
 6 **OTHER REVENUE PROVI-**
 7 **SIONS**

8 **SEC. ___001. AMENDMENT OF 1986 CODE.**

9 Except as otherwise expressly provided, whenever in
 10 this title an amendment or repeal is expressed in terms
 11 of an amendment to, or repeal of, a section or other provi-
 12 sion, the reference shall be considered to be made to such
 13 section or other provision of the Internal Revenue Code
 14 of 1986.

15 **SEC. ___002. TABLE OF CONTENTS.**

16 The table of contents for this title is as follows:

TITLE ___—LIMITATIONS ON CORPORATE WELFARE AND OTHER
 REVENUE PROVISIONS

Sec. ___001. Amendment of 1986 Code.

Sec. ___002. Table of contents.

Subtitle A—Expatriation

Sec. ___101. Revision of tax rules on expatriation.

Sec. ___102. Information on individuals expatriating.

Subtitle B—Corporate Reforms

Sec. ___201. Tax treatment of certain extraordinary dividends.

Sec. ___202. Registration of confidential corporate tax shelters.

Sec. ___203. Denial of deduction for interest on loans with respect to com-
 pany-owned insurance.

Sec. ___204. Termination of suspense accounts for family corporations re-
 quired to use accrual method of accounting.

Sec. ___205. Modifications of Puerto Rico and possessions tax credit.

- Sec. ____206. Personal property used predominantly in the United States treated as not property of a like kind with respect to property used predominantly outside the United States.
- Sec. ____207. Repeal of financial institution transition rule to interest allocation rules.
- Sec. ____208. Conversion of large corporations into S corporations treated as complete liquidation.
- Sec. ____209. Modification of taxable years to which net operating losses may be carried.
- Sec. ____210. Constructive sales treatment for appreciated financial positions.
- Sec. ____211. Modification of rules for allocating interest expense to tax-exempt interest.
- Sec. ____212. Reduction of 70 percent dividends received deduction to 50 percent.
- Sec. ____213. Modification of holding period applicable to dividends received deduction.
- Sec. ____214. Certain preferred stock treated as boot.
- Sec. ____215. Denial of interest deductions on certain debt instruments.
- Sec. ____216. Deferral of deduction for interest on convertible debt until payment.

Subtitle C—Foreign Provisions

PART I—FOREIGN TRUSTS

- Sec. ____301. Improved information reporting on foreign trusts.
- Sec. ____302. Modifications of rules relating to foreign trusts having one or more United States beneficiaries.
- Sec. ____303. Foreign persons not to be treated as owners under grantor trust rules.
- Sec. ____304. Information reporting regarding foreign gifts.
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- Sec. ____311. Definition of foreign personal holding company income.
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- Sec. ____401. Repeal of bad debt reserve method for thrift savings associations.
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Subtitle E—Administrative Provisions

- Sec. ____501. Repeal of diesel fuel tax rebate to purchasers of diesel-powered automobiles and light trucks.
- Sec. ____502. Increased information reporting penalties.

Subtitle F—Casualty and Involuntary Conversion Provisions

Sec. ____601. Basis adjustment to property held by corporation where stock in corporation is replacement property under involuntary conversion rules.

Subtitle G—Excise Tax on Amounts of Private Excess Benefits

Sec. ____701. Excise taxes for failure by certain charitable organizations to meet certain qualification requirements.

Sec. ____702. Reporting of certain excise taxes and other information.

Sec. ____703. Increase in penalties on exempt organizations for failure to file complete and timely annual returns.

Subtitle H—Extension of Certain Taxes

Sec. ____801. Extension of hazardous substance Superfund taxes.

Sec. ____802. Extension of oil spill liability tax.

Sec. ____803. Extension of Federal unemployment tax.

Subtitle I—Provisions Relating To Individuals

Sec. ____851. No rollover or exclusion of gain on sale of principal residence which is attributable to depreciation deductions.

Sec. ____852. Extension of withholding to certain gambling winnings.

Sec. ____853. Repeal of special rule for rental use of vacation homes, etc., for less than 15 days.

Subtitle J—Reform of Earned Income Credit

Sec. ____901. Earned income credit denied to individuals not authorized to be employed in the United States.

Sec. ____902. Rules relating to denial of earned income credit on basis of disqualified income.

1 **Subtitle A—Expatriation**

2 **SEC. ____101. REVISION OF TAX RULES ON EXPATRIATION.**

3 (a) IN GENERAL.—Subpart A of part II of sub-
4 chapter N of chapter 1 is amended by inserting after sec-
5 tion 877 the following new section:

6 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

7 “(a) GENERAL RULES.—For purposes of this sub-
8 title—

9 “(1) MARK TO MARKET.—Except as provided in
10 subsection (f), all property of a covered expatriate to

1 which this section applies shall be treated as sold on
2 the expatriation date for its fair market value.

3 “(2) RECOGNITION OF GAIN OR LOSS.—In the
4 case of any sale under paragraph (1)—

5 “(A) notwithstanding any other provision
6 of this title, any gain arising from such sale
7 shall be taken into account for the taxable year
8 of the sale unless such gain is excluded from
9 gross income under part III of subchapter B,
10 and

11 “(B) any loss arising from such sale shall
12 be taken into account for the taxable year of
13 the sale to the extent otherwise provided by this
14 title, except that section 1091 shall not apply
15 (and section 1092 shall apply) to any such loss.

16 “(3) EXCLUSION FOR CERTAIN GAIN.—The
17 amount which would (but for this paragraph) be in-
18 cludible in the gross income of any individual by rea-
19 son of this section shall be reduced (but not below
20 zero) by \$600,000. For purposes of this paragraph,
21 allocable expatriation gain taken into account under
22 subsection (f)(2) shall be treated in the same man-
23 ner as an amount required to be includible in gross
24 income.

1 “(4) ELECTION TO CONTINUE TO BE TAXED AS
2 UNITED STATES CITIZEN.—

3 “(A) IN GENERAL.—If an expatriate elects
4 the application of this paragraph—

5 “(i) this section (other than this para-
6 graph) shall not apply to the expatriate,
7 but

8 “(ii) the expatriate shall be subject to
9 tax under this title, with respect to prop-
10 erty to which this section would apply but
11 for such election, in the same manner as if
12 the individual were a United States citizen.

13 “(B) LIMITATION ON AMOUNT OF ESTATE,
14 GIFT, AND GENERATION-SKIPPING TRANSFER
15 TAXES.—The aggregate amount of taxes im-
16 posed under subtitle B with respect to any
17 transfer of property by reason of an election
18 under subparagraph (A) shall not exceed the
19 amount of income tax which would be due if the
20 property were sold for its fair market value im-
21 mediately before the time of the transfer or
22 death (taking into account the rules of para-
23 graph (2)).

1 “(C) REQUIREMENTS.—Subparagraph (A)
2 shall not apply to an individual unless the indi-
3 vidual—

4 “(i) provides security for payment of
5 tax in such form and manner, and in such
6 amount, as the Secretary may require,

7 “(ii) consents to the waiver of any
8 right of the individual under any treaty of
9 the United States which would preclude as-
10 sessment or collection of any tax which
11 may be imposed by reason of this para-
12 graph, and

13 “(iii) complies with such other re-
14 quirements as the Secretary may prescribe.

15 “(D) ELECTION.—An election under sub-
16 paragraph (A) shall apply to all property to
17 which this section would apply but for the elec-
18 tion and, once made, shall be irrevocable. Such
19 election shall also apply to property the basis of
20 which is determined in whole or in part by ref-
21 erence to the property with respect to which the
22 election was made.

23 “(b) ELECTION TO DEFER TAX.—

1 “(1) IN GENERAL.—If the taxpayer elects the
2 application of this subsection with respect to any
3 property—

4 “(A) no amount shall be required to be in-
5 cluded in gross income under subsection (a)(1)
6 with respect to the gain from such property for
7 the taxable year of the sale, but

8 “(B) the taxpayer’s tax for the taxable
9 year in which such property is disposed of shall
10 be increased by the deferred tax amount with
11 respect to the property.

12 Except to the extent provided in regulations, sub-
13 paragraph (B) shall apply to a disposition whether
14 or not gain or loss is recognized in whole or in part
15 on the disposition.

16 “(2) DEFERRED TAX AMOUNT.—

17 “(A) IN GENERAL.—For purposes of para-
18 graph (1), the term ‘deferred tax amount’
19 means, with respect to any property, an amount
20 equal to the sum of—

21 “(i) the difference between the
22 amount of tax paid for the taxable year de-
23 scribed in paragraph (1)(A) and the
24 amount which would have been paid for
25 such taxable year if the election under

1 paragraph (1) had not applied to such
2 property, plus

3 “(ii) an amount of interest on the
4 amount described in clause (i) determined
5 for the period—

6 “(I) beginning on the 91st day
7 after the expatriation date, and

8 “(II) ending on the due date for
9 the taxable year described in para-
10 graph (1)(B),

11 by using the rates and method applicable
12 under section 6621 for underpayments of
13 tax for such period.

14 For purposes of clause (ii), the due date is the
15 date prescribed by law (determined without re-
16 gard to extension) for filing the return of the
17 tax imposed by this chapter for the taxable
18 year.

19 “(B) ALLOCATION OF LOSSES.—For pur-
20 poses of subparagraph (A), any losses described
21 in subsection (a)(2)(B) shall be allocated rat-
22 ably among the gains described in subsection
23 (a)(2)(A).

24 “(3) SECURITY.—

1 “(A) IN GENERAL.—No election may be
2 made under paragraph (1) with respect to any
3 property unless adequate security is provided
4 with respect to such property.

5 “(B) ADEQUATE SECURITY.—For purposes
6 of subparagraph (A), security with respect to
7 any property shall be treated as adequate secu-
8 rity if—

9 “(i) it is a bond in an amount equal
10 to the deferred tax amount under para-
11 graph (2)(A) for the property, or

12 “(ii) the taxpayer otherwise estab-
13 lishes to the satisfaction of the Secretary
14 that the security is adequate.

15 “(4) WAIVER OF CERTAIN RIGHTS.—No elec-
16 tion may be made under paragraph (1) unless the
17 taxpayer consents to the waiver of any right under
18 any treaty of the United States which would pre-
19 clude assessment or collection of any tax imposed by
20 reason of this section.

21 “(5) DISPOSITIONS.—For purposes of this sub-
22 section, a taxpayer making an election under this
23 subsection with respect to any property shall be
24 treated as having disposed of such property—

1 “(A) immediately before death if such
2 property is held at such time, and

3 “(B) at any time the security provided
4 with respect to the property fails to meet the
5 requirements of paragraph (3) and the taxpayer
6 does not correct such failure within the time
7 specified by the Secretary.

8 “(6) ELECTIONS.—An election under paragraph
9 (1) shall only apply to property described in the elec-
10 tion and, once made, is irrevocable. An election may
11 be under paragraph (1) with respect to an interest
12 in a trust with respect to which gain is required to
13 be recognized under subsection (f)(1).

14 “(c) COVERED EXPATRIATE.—For purposes of this
15 section—

16 “(1) IN GENERAL.—The term ‘covered expatri-
17 ate’ means an expatriate—

18 “(A) whose average annual net income tax
19 (as defined in section 38(c)(1)) for the period
20 of 5 taxable years ending before the expatria-
21 tion date is greater than \$100,000, or

22 “(B) whose net worth as of such date is
23 \$500,000 or more.

24 If the expatriation date is after 1996, such
25 \$100,000 and \$500,000 amounts shall be increased

1 by an amount equal to such dollar amount multi-
2 plied by the cost-of-living adjustment determined
3 under section 1(f)(3) for such calendar year by sub-
4 stituting ‘1995’ for ‘1992’ in subparagraph (B)
5 thereof. Any increase under the preceding sentence
6 shall be rounded to the nearest multiple of \$1,000.

7 “(2) EXCEPTIONS.—An individual shall not be
8 treated as a covered expatriate if—

9 “(A) the individual—

10 “(i) became at birth a citizen of the
11 United States and a citizen of another
12 country and, as of the expatriation date,
13 continues to be a citizen of, and is taxed
14 as a resident of, such other country, and

15 “(ii) has been a resident of the United
16 States (as defined in section
17 7701(b)(1)(A)(ii)) for not more than 8 tax-
18 able years during the 15-taxable year pe-
19 riod ending with the taxable year during
20 which the expatriation date occurs, or

21 “(B)(i) the individual’s relinquishment of
22 United States citizenship occurs before such in-
23 dividual attains age 18½, and

24 “(ii) the individual has been a resident of
25 the United States (as so defined) for not more

1 than 5 taxable years before the date of relin-
2 quishment.

3 “(d) PROPERTY TO WHICH SECTION APPLIES.—For
4 purposes of this section—

5 “(1) IN GENERAL.—Except as otherwise pro-
6 vided by the Secretary, this section shall apply to—

7 “(A) any interest in property held by a
8 covered expatriate on the expatriation date the
9 gain from which would be includible in the
10 gross income of the expatriate if such interest
11 had been sold for its fair market value on such
12 date in a transaction in which gain is recog-
13 nized in whole or in part, and

14 “(B) any other interest in a trust to which
15 subsection (f) applies.

16 “(2) EXCEPTIONS.—This section shall not
17 apply to the following property:

18 “(A) UNITED STATES REAL PROPERTY IN-
19 TERESTS.—Any United States real property in-
20 terest (as defined in section 897(c)(1)), other
21 than stock of a United States real property
22 holding corporation which does not, on the ex-
23 patriation date, meet the requirements of sec-
24 tion 897(c)(2).

1 “(B) INTEREST IN CERTAIN RETIREMENT
2 PLANS.—

3 “(i) IN GENERAL.—Any interest in a
4 qualified retirement plan (as defined in
5 section 4974(c)), other than any interest
6 attributable to contributions which are in
7 excess of any limitation or which violate
8 any condition for tax-favored treatment.

9 “(ii) FOREIGN PENSION PLANS.—

10 “(I) IN GENERAL.—Under regu-
11 lations prescribed by the Secretary,
12 interests in foreign pension plans or
13 similar retirement arrangements or
14 programs.

15 “(II) LIMITATION.—The value of
16 property which is treated as not sold
17 by reason of this subparagraph shall
18 not exceed \$500,000.

19 “(e) DEFINITIONS.—For purposes of this section—

20 “(1) EXPATRIATE.—The term ‘expatriate’
21 means—

22 “(A) any United States citizen who relin-
23 quishes his citizenship, or

24 “(B) any long-term resident of the United
25 States who—

1 “(i) ceases to be a lawful permanent
2 resident of the United States (within the
3 meaning of section 7701(b)(6)), or

4 “(ii) commences to be treated as a
5 resident of a foreign country under the
6 provisions of a tax treaty between the
7 United States and the foreign country and
8 who does not waive the benefits of such
9 treaty applicable to residents of the foreign
10 country.

11 “(2) EXPATRIATION DATE.—The term ‘expa-
12 triation date’ means—

13 “(A) the date an individual relinquishes
14 United States citizenship, or

15 “(B) in the case of a long-term resident of
16 the United States, the date of the event de-
17 scribed in clause (i) or (ii) of paragraph (1)(B).

18 “(3) RELINQUISHMENT OF CITIZENSHIP.—A
19 citizen shall be treated as relinquishing his United
20 States citizenship on the earliest of—

21 “(A) the date the individual renounces his
22 United States nationality before a diplomatic or
23 consular officer of the United States pursuant
24 to paragraph (5) of section 349(a) of the Immi-

1 gration and Nationality Act (8 U.S.C.
2 1481(a)(5)),

3 “(B) the date the individual furnishes to
4 the United States Department of State a signed
5 statement of voluntary relinquishment of Unit-
6 ed States nationality confirming the perform-
7 ance of an act of expatriation specified in para-
8 graph (1), (2), (3), or (4) of section 349(a) of
9 the Immigration and Nationality Act (8 U.S.C.
10 1481(a)(1)–(4)),

11 “(C) the date the United States Depart-
12 ment of State issues to the individual a certifi-
13 cate of loss of nationality, or

14 “(D) the date a court of the United States
15 cancels a naturalized citizen’s certificate of nat-
16 uralization.

17 Subparagraph (A) or (B) shall not apply to any indi-
18 vidual unless the renunciation or voluntary relin-
19 quishment is subsequently approved by the issuance
20 to the individual of a certificate of loss of nationality
21 by the United States Department of State.

22 “(4) LONG-TERM RESIDENT.—

23 “(A) IN GENERAL.—The term ‘long-term
24 resident’ means any individual (other than a
25 citizen of the United States) who is a lawful

1 permanent resident of the United States in at
2 least 8 taxable years during the period of 15
3 taxable years ending with the taxable year dur-
4 ing which the expatriation date occurs. For pur-
5 poses of the preceding sentence, an individual
6 shall not be treated as a lawful permanent resi-
7 dent for any taxable year if such individual is
8 treated as a resident of a foreign country for
9 the taxable year under the provisions of a tax
10 treaty between the United States and the for-
11 eign country and does not waive the benefits of
12 such treaty applicable to residents of the for-
13 eign country.

14 “(B) SPECIAL RULE.—For purposes of
15 subparagraph (A), there shall not be taken into
16 account—

17 “(i) any taxable year during which
18 any prior sale is treated under subsection
19 (a)(1) as occurring, or

20 “(ii) any taxable year prior to the tax-
21 able year referred to in clause (i).

22 “(f) SPECIAL RULES APPLICABLE TO BENE-
23 FICIARIES’ INTERESTS IN TRUST.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), if an individual is determined under para-
3 graph (3) to hold an interest in a trust—

4 “(A) the individual shall not be treated as
5 having sold such interest,

6 “(B) such interest shall be treated as a
7 separate share in the trust, and

8 “(C)(i) such separate share shall be treat-
9 ed as a separate trust consisting of the assets
10 allocable to such share,

11 “(ii) the separate trust shall be treated as
12 having sold its assets immediately before the ex-
13 patriation date for their fair market value and
14 as having distributed all of its assets to the in-
15 dividual as of such time, and

16 “(iii) the individual shall be treated as hav-
17 ing recontributed the assets to the separate
18 trust.

19 Subsection (a)(2) shall apply to any income, gain, or
20 loss of the individual arising from a distribution de-
21 scribed in subparagraph (C)(ii).

22 “(2) SPECIAL RULES FOR INTERESTS IN QUALI-
23 FIED TRUSTS.—

1 “(A) IN GENERAL.—If the trust interest
2 described in paragraph (1) is an interest in a
3 qualified trust—

4 “(i) paragraph (1) and subsection (a)
5 shall not apply, and

6 “(ii) in addition to any other tax im-
7 posed by this title, there is hereby imposed
8 on each distribution with respect to such
9 interest a tax in the amount determined
10 under subparagraph (B).

11 “(B) AMOUNT OF TAX.—The amount of
12 tax under subparagraph (A)(ii) shall be equal to
13 the lesser of—

14 “(i) the highest rate of tax imposed by
15 section 1(e) for the taxable year in which
16 the expatriation date occurs, multiplied by
17 the amount of the distribution, or

18 “(ii) the balance in the deferred tax
19 account immediately before the distribution
20 determined without regard to any increases
21 under subparagraph (C)(ii) after the 30th
22 day preceding the distribution.

23 “(C) DEFERRED TAX ACCOUNT.—For pur-
24 poses of subparagraph (B)(ii)—

1 “(i) OPENING BALANCE.—The open-
2 ing balance in a deferred tax account with
3 respect to any trust interest is an amount
4 equal to the tax which would have been im-
5 posed on the allocable expatriation gain
6 with respect to the trust interest if such
7 gain had been included in gross income
8 under subsection (a).

9 “(ii) INCREASE FOR INTEREST.—The
10 balance in the deferred tax account shall
11 be increased by the amount of interest de-
12 termined (on the balance in the account at
13 the time the interest accrues), for periods
14 after the 90th day after the expatriation
15 date, by using the rates and method appli-
16 cable under section 6621 for underpay-
17 ments of tax for such periods.

18 “(iii) DECREASE FOR TAXES PRE-
19 VIOUSLY PAID.—The balance in the tax de-
20 ferred account shall be reduced—

21 “(I) by the amount of taxes im-
22 posed by subparagraph (A) on any
23 distribution to the person holding the
24 trust interest, and

1 “(II) in the case of a person
2 holding a nonvested interest, to the
3 extent provided in regulations, by the
4 amount of taxes imposed by subpara-
5 graph (A) on distributions from the
6 trust with respect to nonvested inter-
7 ests not held by such person.

8 “(D) ALLOCABLE EXPATRIATION GAIN.—
9 For purposes of this paragraph, the allocable
10 expatriation gain with respect to any bene-
11 ficiary’s interest in a trust is the amount of
12 gain which would be allocable to such bene-
13 ficiary’s vested and nonvested interests in the
14 trust if the beneficiary held directly all assets
15 allocable to such interests.

16 “(E) TAX DEDUCTED AND WITHHELD.—
17 “(i) IN GENERAL.—The tax imposed
18 by subparagraph (A)(ii) shall be deducted
19 and withheld by the trustees from the dis-
20 tribution to which it relates.

21 “(ii) EXCEPTION WHERE FAILURE TO
22 WAIVE TREATY RIGHTS.—If an amount
23 may not be deducted and withheld under
24 clause (i) by reason of the distributee fail-

1 ing to waive any treaty right with respect
2 to such distribution—

3 “(I) the tax imposed by subpara-
4 graph (A)(ii) shall be imposed on the
5 trust and each trustee shall be person-
6 ally liable for the amount of such tax,
7 and

8 “(II) any other beneficiary of the
9 trust shall be entitled to recover from
10 the distributee the amount of such tax
11 imposed on the other beneficiary.

12 “(F) DISPOSITION.—If a trust ceases to be
13 a qualified trust at any time, a covered expatri-
14 ate disposes of an interest in a qualified trust,
15 or a covered expatriate holding an interest in a
16 qualified trust dies, then, in lieu of the tax im-
17 posed by subparagraph (A)(ii), there is hereby
18 imposed a tax equal to the lesser of—

19 “(i) the tax determined under para-
20 graph (1) as if the expatriation date were
21 the date of such cessation, disposition, or
22 death, whichever is applicable, or

23 “(ii) the balance in the tax deferred
24 account immediately before such date.

1 Such tax shall be imposed on the trust and
2 each trustee shall be personally liable for the
3 amount of such tax and any other beneficiary
4 of the trust shall be entitled to recover from the
5 covered expatriate or the estate the amount of
6 such tax imposed on the other beneficiary.

7 “(G) DEFINITIONS AND SPECIAL RULE.—

8 For purposes of this paragraph—

9 “(i) QUALIFIED TRUST.—The term
10 ‘qualified trust’ means a trust—

11 “(I) which is organized under,
12 and governed by, the laws of the Unit-
13 ed States or a State, and

14 “(II) with respect to which the
15 trust instrument requires that at least
16 1 trustee of the trust be an individual
17 citizen of the United States or a do-
18 mestic corporation.

19 “(ii) VESTED INTEREST.—The term
20 ‘vested interest’ means any interest which,
21 as of the expatriation date, is vested in the
22 beneficiary.

23 “(iii) NONVESTED INTEREST.—The
24 term ‘nonvested interest’ means, with re-
25 spect to any beneficiary, any interest in a

1 trust which is not a vested interest. Such
2 interest shall be determined by assuming
3 the maximum exercise of discretion in
4 favor of the beneficiary and the occurrence
5 of all contingencies in favor of the bene-
6 ficiary.

7 “(iv) ADJUSTMENTS.—The Secretary
8 may provide for such adjustments to the
9 bases of assets in a trust or a deferred tax
10 account, and the timing of such adjust-
11 ments, in order to ensure that gain is
12 taxed only once.

13 “(3) DETERMINATION OF BENEFICIARIES’ IN-
14 TEREST IN TRUST.—

15 “(A) DETERMINATIONS UNDER PARA-
16 GRAPH (1).—For purposes of paragraph (1), a
17 beneficiary’s interest in a trust shall be based
18 upon all relevant facts and circumstances, in-
19 cluding the terms of the trust instrument and
20 any letter of wishes or similar document, histor-
21 ical patterns of trust distributions, and the ex-
22 istence of and functions performed by a trust
23 protector or any similar advisor.

24 “(B) OTHER DETERMINATIONS.—For pur-
25 poses of this section—

1 “(i) CONSTRUCTIVE OWNERSHIP.—If
2 a beneficiary of a trust is a corporation,
3 partnership, trust, or estate, the sharehold-
4 ers, partners, or beneficiaries shall be
5 deemed to be the trust beneficiaries for
6 purposes of this section.

7 “(ii) TAXPAYER RETURN POSITION.—
8 A taxpayer shall clearly indicate on its in-
9 come tax return—

10 “(I) the methodology used to de-
11 termine that taxpayer’s trust interest
12 under this section, and

13 “(II) if the taxpayer knows (or
14 has reason to know) that any other
15 beneficiary of such trust is using a
16 different methodology to determine
17 such beneficiary’s trust interest under
18 this section.

19 “(g) TERMINATION OF DEFERRALS, ETC.—On the
20 date any property held by an individual is treated as sold
21 under subsection (a), notwithstanding any other provision
22 of this title—

23 “(1) any period during which recognition of in-
24 come or gain is deferred shall terminate, and

1 “(2) any extension of time for payment of tax
2 shall cease to apply and the unpaid portion of such
3 tax shall be due and payable at the time and in the
4 manner prescribed by the Secretary.

5 “(h) IMPOSITION OF TENTATIVE TAX.—

6 “(1) IN GENERAL.—If an individual is required
7 to include any amount in gross income under sub-
8 section (a) for any taxable year, there is hereby im-
9 posed, immediately before the expatriation date, a
10 tax in an amount equal to the amount of tax which
11 would be imposed if the taxable year were a short
12 taxable year ending on the expatriation date.

13 “(2) DUE DATE.—The due date for any tax im-
14 posed by paragraph (1) shall be the 90th day after
15 the expatriation date.

16 “(3) TREATMENT OF TAX.—Any tax paid under
17 paragraph (1) shall be treated as a payment of the
18 tax imposed by this chapter for the taxable year to
19 which subsection (a) applies.

20 “(4) DEFERRAL OF TAX.—The provisions of
21 subsection (b) shall apply to the tax imposed by this
22 subsection to the extent attributable to gain includ-
23 ible in gross income by reason of this section.

1 “(i) COORDINATION WITH ESTATE AND GIFT
2 TAXES.—If subsection (a) applies to property held by an
3 individual for any taxable year and—

4 “(1) such property is includible in the gross es-
5 tate of such individual solely by reason of section
6 2107, or

7 “(2) section 2501 applies to a transfer of such
8 property by such individual solely by reason of sec-
9 tion 2501(a)(3),

10 then there shall be allowed as a credit against the addi-
11 tional tax imposed by section 2101 or 2501, whichever is
12 applicable, solely by reason of section 2107 or 2501(a)(3)
13 an amount equal to the increase in the tax imposed by
14 this chapter for such taxable year by reason of this sec-
15 tion.

16 “(j) REGULATIONS.—The Secretary shall prescribe
17 such regulations as may be necessary or appropriate to
18 carry out the purposes of this section, including regula-
19 tions—

20 “(1) to prevent double taxation by ensuring
21 that—

22 “(A) appropriate adjustments are made to
23 basis to reflect gain recognized by reason of
24 subsection (a) and the exclusion provided by
25 subsection (a)(3), and

1 “(B) any gain by reason of a deemed sale
2 under subsection (a) of an interest in a corpora-
3 tion, partnership, trust, or estate is reduced to
4 reflect that portion of such gain which is attrib-
5 utable to an interest in a trust which a share-
6 holder, partner, or beneficiary is treated as
7 holding directly under subsection (f)(3)(B)(i),
8 and

9 “(2) which provide for the proper allocation of
10 the exclusion under subsection (a)(3) to property to
11 which this section applies.

12 “(k) CROSS REFERENCE.—

**“For income tax treatment of individuals who
terminate United States citizenship, see section
7701(a)(47).”.**

13 (b) INCLUSION IN INCOME OF GIFTS AND INHERIT-
14 ANCES FROM COVERED EXPATRIATES.—Section 102 (re-
15 lating to gifts, etc. not included in gross income) is amend-
16 ed by adding at the end the following new subsection:

17 “(d) GIFTS AND INHERITANCES FROM COVERED EX-
18 PATRIATES.—Subsection (a) shall not exclude from gross
19 income the value of any property acquired by gift, bequest,
20 devise, or inheritance from a covered expatriate after the
21 expatriation date. For purposes of this subsection, any
22 term used in this subsection which is also used in section
23 877A shall have the same meaning as when used in section
24 877A.”.

1 (c) DEFINITION OF TERMINATION OF UNITED
2 STATES CITIZENSHIP.—Section 7701(a) is amended by
3 adding at the end the following new paragraph:

4 “(47) TERMINATION OF UNITED STATES CITI-
5 ZENSHIP.—An individual shall not cease to be treat-
6 ed as a United States citizen before the date on
7 which the individual’s citizenship is treated as relin-
8 quished under section 877A(e)(3).”.

9 (d) CONFORMING AMENDMENTS.—

10 (1) Section 877 is amended by adding at the
11 end the following new subsection:

12 “(f) APPLICATION.—This section shall not apply to
13 any individual who relinquishes (within the meaning of
14 section 877A(e)(3)) United States citizenship on or after
15 February 6, 1995.”.

16 (2) Section 2107(e) is amended by adding at
17 the end the following new paragraph:

18 “(3) CROSS REFERENCE.—For credit against
19 the tax imposed by subsection (a) for expatriation
20 tax, see section 877A(i).”.

21 (3) Section 2501(a)(3) is amended by adding at
22 the end the following new flush sentence:

23 “For credit against the tax imposed under this sec-
24 tion by reason of this paragraph, see section
25 877A(i).”.

1 (4) Paragraph (10) of section 7701(b) is
2 amended by adding at the end the following new
3 sentence: “This paragraph shall not apply to any
4 long-term resident of the United States who is an
5 expatriate (as defined in section 877A(e)(1)).”.

6 (e) CLERICAL AMENDMENT.—The table of sections
7 for subpart A of part II of subchapter N of chapter 1
8 is amended by inserting after the item relating to section
9 877 the following new item:

 “Sec. 877A. Tax responsibilities of expatriation.”.

10 (f) EFFECTIVE DATE.—

11 (1) IN GENERAL.—Except as provided in this
12 subsection, the amendments made by this section
13 shall apply to expatriates (within the meaning of
14 section 877A(e) of the Internal Revenue Code of
15 1986, as added by this section) whose expatriation
16 date (as so defined) occurs on or after February 6,
17 1995.

18 (2) GIFTS AND BEQUESTS.—Section 102(d) of
19 the Internal Revenue Code of 1986 (as added by
20 subsection (b)) shall apply to amounts received from
21 expatriates (as so defined) whose expatriation date
22 (as so defined) occurs on and after February 6,
23 1995.

24 (3) SPECIAL RULES RELATING TO CERTAIN
25 ACTS OCCURRING BEFORE FEBRUARY 6, 1995.—In

1 the case of an individual who took an act of expa-
 2 triation specified in paragraph (1), (2), (3), or (4)
 3 of section 349(a) of the Immigration and Nationality
 4 Act (8 U.S.C. 1481(a) (1)–(4)) before February 6,
 5 1995, but whose expatriation date (as so defined)
 6 occurs after February 6, 1995—

7 (A) the amendment made by subsection (c)
 8 shall not apply,

9 (B) the amendment made by subsection
 10 (d)(1) shall not apply for any period prior to
 11 the expatriation date, and

12 (C) the other amendments made by this
 13 section shall apply as of the expatriation date.

14 (4) DUE DATE FOR TENTATIVE TAX.—The due
 15 date under section 877A(h)(2) of such Code shall in
 16 no event occur before the 90th day after the date of
 17 the enactment of this Act.

18 **SEC. ____ 102. INFORMATION ON INDIVIDUALS EXPATRIAT-**
 19 **ING.**

20 (a) IN GENERAL.—Subpart A of part III of sub-
 21 chapter A of chapter 61 is amended by inserting after sec-
 22 tion 6039E the following new section:

23 **“SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIAT-**
 24 **ING.**

25 **“(a) REQUIREMENT.—**

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of law, any expatriate (within the meaning
3 of section 877A(e)(1)) shall provide a statement
4 which includes the information described in sub-
5 section (b).

6 “(2) TIMING.—

7 “(A) CITIZENS.—In the case of an expatri-
8 ate described in section 877(e)(1)(A), such
9 statement shall be—

10 “(i) provided not later than the expa-
11 triation date (within the meaning of sec-
12 tion 877A(e)(2)), and

13 “(ii) provided to the person or court
14 referred to in section 877A(e)(3).

15 “(B) NONCITIZENS.—In the case of an ex-
16 patriate described in section 877A(e)(1)(B),
17 such statement shall be provided to the Sec-
18 retary with the return of tax imposed by chap-
19 ter 1 for the taxable year during which the
20 event described in such section occurs.

21 “(b) INFORMATION TO BE PROVIDED.—Information
22 required under subsection (a) shall include—

23 “(1) the taxpayer’s TIN,

24 “(2) the mailing address of such individual’s
25 principal foreign residence,

1 “(3) the foreign country in which such individ-
2 ual is residing,

3 “(4) the foreign country of which such individ-
4 ual is a citizen,

5 “(5) in the case of an individual having a net
6 worth of at least the dollar amount applicable under
7 section 877A(c)(1)(B), information detailing the as-
8 sets and liabilities of such individual, and

9 “(6) such other information as the Secretary
10 may prescribe.

11 “(c) PENALTY.—Any individual failing to provide a
12 statement required under subsection (a) shall be subject
13 to a penalty for each year during any portion of which
14 such failure continues in an amount equal to the greater
15 of—

16 “(1) 5 percent of the additional tax required to
17 be paid under section 877A for such year, or

18 “(2) \$1,000,
19 unless it is shown that such failure is due to reasonable
20 cause and not to willful neglect.

21 “(d) INFORMATION TO BE PROVIDED TO SEC-
22 RETARY.—Notwithstanding any other provision of law—

23 “(1) any Federal agency or court which collects
24 (or is required to collect) the statement under sub-
25 section (a) shall provide to the Secretary—

1 “(A) a copy of any such statement, and

2 “(B) the name (and any other identifying
3 information) of any individual refusing to com-
4 ply with the provisions of subsection (a),

5 “(2) the Secretary of State shall provide to the
6 Secretary a copy of each certificate as to the loss of
7 American nationality under section 358 of the Immi-
8 gration and Nationality Act which is approved by
9 the Secretary of State, and

10 “(3) the Federal agency primarily responsible
11 for administering the immigration laws shall provide
12 to the Secretary the name of each lawful permanent
13 resident of the United States (within the meaning of
14 section 7701(b)(6)) whose status as such has been
15 revoked or has been administratively or judicially de-
16 termined to have been abandoned.

17 Notwithstanding any other provision of law, not later than
18 30 days after the close of each calendar quarter, the Sec-
19 retary shall publish in the Federal Register the name of
20 each individual relinquishing United States citizenship
21 (within the meaning of section 877A(e)(3)) with respect
22 to whom the Secretary receives information under the pre-
23 ceding sentence during such quarter.

24 “(e) EXEMPTION.—The Secretary may by regulations
25 exempt any class of individuals from the requirements of

1 this section if the Secretary determines that applying this
2 section to such individuals is not necessary to carry out
3 the purposes of this section.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for such subpart A is amended by inserting after the item
6 relating to section 6039E the following new item:

“Sec. 6039F. Information on individuals expatriating.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to individuals to whom section
9 877A of the Internal Revenue Code of 1986 applies and
10 whose expatriation date (as defined in section 877A(e)(2))
11 occurs on or after February 6, 1995, except that no state-
12 ment shall be required by such amendments before the
13 90th day after the date of the enactment of this Act.

14 **Subtitle B—Corporate Reforms**

15 **SEC. ___201. TAX TREATMENT OF CERTAIN EXTRAOR-** 16 **DINARY DIVIDENDS.**

17 (a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN
18 EXCESS OF BASIS.—Paragraph (2) of section 1059(a) (re-
19 lating to corporate shareholder’s basis in stock reduced by
20 nontaxed portion of extraordinary dividends) is amended
21 to read as follows:

22 “(2) AMOUNTS IN EXCESS OF BASIS.—If the
23 nontaxed portion of such dividends exceeds such
24 basis, such excess shall be treated as gain from the

1 sale or exchange of such stock for the taxable year
2 in which the extraordinary dividend is received.”.

3 (b) TREATMENT OF REDEMPTIONS WHERE OPTIONS
4 INVOLVED.—Paragraph (1) of section 1059(e) (relating to
5 treatment of partial liquidations and non-pro rata redemp-
6 tions) is amended to read as follows:

7 “(1) TREATMENT OF PARTIAL LIQUIDATIONS
8 AND CERTAIN REDEMPTIONS.—Except as otherwise
9 provided in regulations—

10 “(A) REDEMPTIONS.—In the case of any
11 redemption of stock—

12 “(i) which is part of a partial liquida-
13 tion (within the meaning of section 302(e))
14 of the redeeming corporation,

15 “(ii) which is not pro rata as to all
16 shareholders, or

17 “(iii) which would not have been
18 treated (in whole or in part) as a dividend
19 if any options had not been taken into ac-
20 count under section 318(a)(4),

21 any amount treated as a dividend with respect
22 to such redemption shall be treated as an ex-
23 traordinary dividend to which paragraphs (1)
24 and (2) of subsection (a) apply without regard
25 to the period the taxpayer held such stock. In

1 the case of a redemption described in clause
2 (iii), only the basis in the stock redeemed shall
3 be taken into account under subsection (a).

4 “(B) REORGANIZATIONS, ETC.—An ex-
5 change described in section 356(a)(1) which is
6 treated as a dividend under section 356(a)(2)
7 shall be treated as a redemption of stock for
8 purposes of applying subparagraph (A).”.

9 (c) EFFECTIVE DATES.—

10 (1) IN GENERAL.—The amendments made by
11 this section shall apply to distributions after May 3,
12 1995.

13 (2) TRANSITION RULE.—The amendments
14 made by this section shall not apply to any distribu-
15 tion made pursuant to the terms of—

16 (A) a written binding contract in effect on
17 May 3, 1995, and at all times thereafter before
18 such distribution, or

19 (B) a tender offer outstanding on May 3,
20 1995.

21 (3) CERTAIN DIVIDENDS NOT PURSUANT TO
22 CERTAIN REDEMPTIONS.—In determining whether
23 the amendment made by subsection (a) applies to
24 any extraordinary dividend other than a dividend
25 treated as an extraordinary dividend under section

1 1059(e)(1) of the Internal Revenue Code of 1986
2 (as amended by this Act), paragraphs (1) and (2)
3 shall be applied by substituting “September 13,
4 1995” for “May 3, 1995”.

5 **SEC. ____202. REGISTRATION OF CONFIDENTIAL COR-**
6 **PORATE TAX SHELTERS.**

7 (a) IN GENERAL.—Section 6111 (relating to registra-
8 tion of tax shelters) is amended by redesignating sub-
9 sections (d) and (e) as subsections (e) and (f), respectively,
10 and by inserting after subsection (c) the following new
11 subsection:

12 “(d) CERTAIN CONFIDENTIAL ARRANGEMENTS
13 TREATED AS TAX SHELTERS.—

14 “(1) IN GENERAL.—For purposes of this sec-
15 tion, the term ‘tax shelter’ includes any entity, plan,
16 arrangement, or transaction—

17 “(A) a significant purpose of the structure
18 of which is the avoidance or evasion of Federal
19 income tax for a direct or indirect participant
20 which is a corporation,

21 “(B) which is offered to any potential par-
22 ticipant under conditions of confidentiality, and

23 “(C) for which the tax shelter promoters
24 may receive fees in excess of \$100,000 in the
25 aggregate.

1 “(2) CONDITIONS OF CONFIDENTIALITY.—For
2 purposes of paragraph (1)(B), an offer is under con-
3 ditions of confidentiality if—

4 “(A) the potential participant to whom the
5 offer is made (or any other person acting on be-
6 half of such participant) has an understanding
7 or agreement with or for the benefit of any pro-
8 moter of the tax shelter that such participant
9 (or such other person) will limit disclosure of
10 the tax shelter or any significant tax features of
11 the tax shelter, or

12 “(B) any promoter of the tax shelter—

13 “(i) claims, knows, or has reason to
14 know,

15 “(ii) knows or has reason to know
16 that any other person (other than the po-
17 tential participant) claims, or

18 “(iii) causes another person to claim,
19 that the tax shelter (or any aspect thereof) is
20 proprietary to any person other than the poten-
21 tial participant or is otherwise protected from
22 disclosure to or use by others.

23 For purposes of this subsection, the term ‘promoter’
24 means any person or any related person (within the
25 meaning of section 267 or 707) who participates in

1 the organization, management, or sale of the tax
2 shelter.

3 “(3) PERSONS OTHER THAN PROMOTER RE-
4 QUIRED TO REGISTER IN CERTAIN CASES.—

5 “(A) IN GENERAL.—If—

6 “(i) the requirements of subsection (a)
7 are not met with respect to any tax shelter
8 (as defined in paragraph (1)) by any tax
9 shelter promoter, and

10 “(ii) no tax shelter promoter is a
11 United States person,

12 then each United States person who discussed
13 participation in such shelter shall register such
14 shelter under subsection (a).

15 “(B) EXCEPTION.—Subparagraph (A)
16 shall not apply to a United States person who
17 discussed participation in a tax shelter if—

18 “(i) such person notified the promoter
19 in writing (not later than the close of the
20 90th day after the day on which such dis-
21 cussions began) that such person would
22 not participate in such shelter, and

23 “(ii) such person does not participate
24 in such shelter.

1 “(4) OFFER TO PARTICIPATE TREATED AS
2 OFFER FOR SALE.—For purposes of subsections (a)
3 and (b), an offer to participate in a tax shelter (as
4 defined in paragraph (1)) shall be treated as an
5 offer for sale.”.

6 (b) PENALTY.—Subsection (a) of section 6707 (relat-
7 ing to failure to furnish information regarding tax shel-
8 ters) is amended by adding at the end the following new
9 paragraph:

10 “(3) CONFIDENTIAL ARRANGEMENTS.—

11 “(A) IN GENERAL.—In the case of a tax
12 shelter (as defined in section 6111(d)), the pen-
13 alty imposed under paragraph (1) shall be an
14 amount equal to the greater of—

15 “(i) 50 percent of the fees paid to any
16 promoter of the tax shelter with respect to
17 offerings made before the date such shelter
18 is registered under section 6111, or

19 “(ii) \$10,000.

20 Clause (i) shall be applied by substituting ‘75
21 percent’ for ‘50 percent’ in the case of an inten-
22 tional failure or act described in paragraph (1).

23 “(B) SPECIAL RULE FOR PARTICIPANTS
24 REQUIRED TO REGISTER SHELTER.—In the

1 case of a person required to register such a tax
2 shelter by reason of section 6111(d)(3)—

3 “(i) such person shall be required to
4 pay the penalty under paragraph (1) only
5 if such person actually participated in such
6 shelter,

7 “(ii) the amount of such penalty shall
8 be determined by taking into account
9 under subparagraph (A)(i) only the fees
10 paid by such person, and

11 “(iii) such penalty shall be in addition
12 to the penalty imposed on any other person
13 for failing to register such shelter.”.

14 (c) CONFORMING AMENDMENTS.—

15 (1) Paragraph (2) of section 6707(a) is amend-
16 ed by striking “The penalty” and inserting “Except
17 as provided in paragraph (3), the penalty”.

18 (2) Subparagraph (A) of section 6707(a)(1) is
19 amended by striking “paragraph (2)” and inserting
20 “paragraph (2) or (3), as the case may be”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to any tax shelter (as defined in
23 section 6111(d) of the Internal Revenue Code of 1986,
24 as amended by this section) interests in which are offered
25 to potential participants after the Secretary of the Treas-

1 or contracts covering an individual who is a key per-
2 son to the extent that the aggregate amount of such
3 indebtedness with respect to policies and contracts
4 covering such individual does not exceed \$50,000.

5 “(2) INTEREST RATE CAP ON KEY PERSONS
6 AND PRE-1986 CONTRACTS.—

7 “(A) IN GENERAL.—No deduction shall be
8 allowed by reason of paragraph (1) or the last
9 sentence of subsection (a) with respect to inter-
10 est paid or accrued for any month to the extent
11 the amount of such interest exceeds the amount
12 which would have been determined if the appli-
13 cable rate of interest were used for such month.

14 “(B) APPLICABLE RATE OF INTEREST.—
15 For purposes of subparagraph (A)—

16 “(i) IN GENERAL.—The applicable
17 rate of interest for any month is the rate
18 of interest described as Moody’s Corporate
19 Bond Yield Average-Monthly Average
20 Corporates as published by Moody’s Inves-
21 tors Service, Inc., or any successor thereto,
22 for such month.

23 “(ii) PRE-1986 CONTRACT.—In the
24 case of indebtedness on a contract to which

1 the last sentence of subsection (a) ap-
2 plies—

3 “(I) which is a contract providing
4 a fixed rate of interest, the applicable
5 rate of interest for any month shall be
6 the Moody’s rate described in clause
7 (i) for the month in which the con-
8 tract was purchased, or

9 “(II) which is a contract provid-
10 ing a variable rate of interest, the ap-
11 plicable rate of interest for any month
12 in an applicable period shall be such
13 Moody’s rate for the second month
14 preceding the first month in such pe-
15 riod.

16 For purposes of subclause (II), the tax-
17 payer shall elect an applicable period for
18 such contract on its return of tax imposed
19 by this chapter for its first taxable year
20 ending on or after October 13, 1995. Such
21 applicable period shall be for any number
22 of months (not greater than 12) specified
23 in the election and may not be changed by
24 the taxpayer without the consent of the
25 Secretary.

1 “(3) KEY PERSON.—For purposes of paragraph
2 (1), the term ‘key person’ means an officer or 20-
3 percent owner, except that the number of individuals
4 who may be treated as key persons with respect to
5 any taxpayer shall not exceed the greater of—

6 “(A) 5 individuals, or

7 “(B) the lesser of 5 percent of the total of-
8 ficers and employees of the taxpayer or 10 indi-
9 viduals.

10 “(4) 20-PERCENT OWNER.—For purposes of
11 this subsection, the term ‘20-percent owner’
12 means—

13 “(A) if the taxpayer is a corporation, any
14 person who owns directly 20 percent or more of
15 the outstanding stock of the corporation or
16 stock possessing 20 percent or more of the total
17 combined voting power of all stock of the cor-
18 poration, or

19 “(B) if the taxpayer is not a corporation,
20 any person who owns 20 percent or more of the
21 capital or profits interest in the employer.

22 “(5) AGGREGATION RULES.—

23 “(A) IN GENERAL.—For purposes of para-
24 graph (4)(A) and applying the \$50,000 limita-
25 tion in paragraph (1)—

1 “(i) all members of a controlled group
2 shall be treated as 1 taxpayer, and

3 “(ii) such limitation shall be allocated
4 among the members of such group in such
5 manner as the Secretary may prescribe.

6 “(B) CONTROLLED GROUP.—For purposes
7 of this paragraph, all persons treated as a sin-
8 gle employer under subsection (a) or (b) of sec-
9 tion 52 or subsection (m) or (o) of section 414
10 shall be treated as members of a controlled
11 group.”.

12 (c) EFFECTIVE DATES.—

13 (1) IN GENERAL.—The amendments made by
14 this section shall apply to interest paid or accrued
15 after October 13, 1995.

16 (2) TRANSITION RULE FOR EXISTING INDEBT-
17 EDNESS.—

18 (A) IN GENERAL.—In the case of—

19 (i) indebtedness incurred before Janu-
20 ary 1, 1996, or

21 (ii) indebtedness incurred before Jan-
22 uary 1, 1997, with respect to any contract
23 or policy entered into in 1994 or 1995,

24 the amendments made by this section shall not
25 apply to qualified interest paid or accrued on

1 such indebtedness after October 13, 1995, and
2 before January 1, 1999.

3 (B) QUALIFIED INTEREST.—For purposes
4 of subparagraph (A), the qualified interest with
5 respect to any indebtedness for any month is
6 the applicable percentage of the amount of in-
7 terest (otherwise deductible) which would be
8 paid or accrued for such month on such indebt-
9 edness if—

10 (i) in the case of any interest paid or
11 accrued after December 31, 1995, indebt-
12 edness with respect to no more than
13 20,000 insured individuals were taken into
14 account, and

15 (ii) the lesser of the following rates of
16 interest were used for such month:

17 (I) The rate of interest specified
18 under the terms of the indebtedness
19 as in effect on October 13, 1995 (and
20 without regard to modification of such
21 terms after such date).

22 (II) The rate of interest de-
23 scribed as Moody's Corporate Bond
24 Yield Average-Monthly Average
25 Corporates as published by Moody's

1 Investors Service, Inc., or any succes-
 2 sor thereto, for such month.

3 For purposes of clause (i), all persons treated
 4 as a single employer under subsection (a) or (b)
 5 of section 52 of the Internal Revenue Code of
 6 1986 or subsection (m) or (o) of section 414 of
 7 such Code shall be treated as one person.

8 (C) APPLICABLE PERCENTAGE.—For pur-
 9 poses of subparagraph (B), the applicable per-
 10 centage is as follows:

For calendar year:	The percentage is:
1995	100 percent
1996	90 percent
1997	80 percent
1998	70 percent.

11 (3) SPECIAL RULE FOR GRANDFATHERED CON-
 12 TRACTS.—This section shall not apply to any con-
 13 tract purchased on or before June 20, 1986, except
 14 that section 264(d)(2) of the Internal Revenue Code
 15 of 1986 shall apply to interest paid or accrued after
 16 October 13, 1995.

17 (d) SPREAD OF INCOME INCLUSION ON SURRENDER,
 18 ETC. OF CONTRACTS.—

19 (1) IN GENERAL.—If any amount is received
 20 under any life insurance policy or endowment or an-
 21 nuity contract described in paragraph (4) of section
 22 264(a) of the Internal Revenue Code of 1986—

1 (A) on the complete surrender, redemption,
2 or maturity of such policy or contract during
3 calendar year 1996, 1997, or 1998, or

4 (B) in full discharge during any such cal-
5 endar year of the obligation under the policy or
6 contract which is in the nature of a refund of
7 the consideration paid for the policy or con-
8 tract,

9 then (in lieu of any other inclusion in gross income)
10 such amount shall be includible in gross income rat-
11 ably over the 4-taxable year period beginning with
12 the taxable year such amount would (but for this
13 paragraph) be includible. The preceding sentence
14 shall only apply to the extent the amount is includ-
15 ible in gross income for the taxable year in which
16 the event described in subparagraph (A) or (B) oc-
17 curs.

18 (2) SPECIAL RULES FOR APPLYING SECTION
19 264.—A contract shall not be treated as—

20 (A) failing to meet the requirement of sec-
21 tion 264(c)(1) of the Internal Revenue Code of
22 1986, or

23 (B) a single premium contract under sec-
24 tion 264(b)(1) of such Code,

1 solely by reason of an occurrence described in sub-
2 paragraph (A) or (B) of paragraph (1) of this sub-
3 section or solely by reason of no additional pre-
4 miums being received under the contract by reason
5 of a lapse occurring after October 13, 1995.

6 (3) SPECIAL RULE FOR DEFERRED ACQUISI-
7 TION COSTS.—In the case of the occurrence of any
8 event described in subparagraph (A) or (B) of para-
9 graph (1) of this subsection with respect to any pol-
10 icy or contract—

11 (A) section 848 of the Internal Revenue
12 Code of 1986 shall not apply to the
13 unamortized balance (if any) of the specified
14 policy acquisition expenses attributable to such
15 policy or contract immediately before the insur-
16 ance company's taxable year in which such
17 event occurs, and

18 (B) there shall be allowed as a deduction
19 to such company for such taxable year under
20 chapter 1 of such Code an amount equal to
21 such unamortized balance.

1 **SEC. _____ 204. TERMINATION OF SUSPENSE ACCOUNTS FOR**
2 **FAMILY CORPORATIONS REQUIRED TO USE**
3 **ACCRUAL METHOD OF ACCOUNTING.**

4 (a) IN GENERAL.—Subsection (i) of section 447 (re-
5 lating to method of accounting for corporations engaged
6 in farming) is amended by adding at the end the following
7 new paragraph:

8 “(7) TERMINATION.—

9 “(A) IN GENERAL.—No suspense account
10 may be established under this subsection by any
11 corporation required by this section to change
12 its method of accounting for any taxable year
13 ending after September 13, 1995.

14 “(B) 20-YEAR PHASEOUT OF EXISTING
15 SUSPENSE ACCOUNTS.—Each suspense account
16 under this subsection shall be reduced (but not
17 below zero) for each of the first 20 taxable
18 years beginning after September 13, 1995, by
19 an amount equal to the applicable portion of
20 such account. Any reduction in a suspense ac-
21 count under this paragraph shall be included in
22 gross income for the taxable year of the reduc-
23 tion. The amount of the reduction required
24 under this paragraph for any taxable year shall
25 be reduced (but not below zero) by the amount

1 of any reduction required for such taxable year
 2 under any other provision of this subsection.

3 “(C) APPLICABLE PORTION.—For pur-
 4 poses of subparagraph (B), the term ‘applicable
 5 portion’ means, for any taxable year, the
 6 amount which would ratably reduce the amount
 7 in the account (after taking into account prior
 8 reductions) to zero over the period consisting of
 9 such taxable year and the remaining taxable
 10 years in such first 20 taxable years.”.

11 (b) EFFECTIVE DATE.—The amendment made by
 12 this section shall apply to taxable years ending after Sep-
 13 tember 13, 1995.

14 **SEC. ____ 205. MODIFICATIONS OF PUERTO RICO AND POS-**
 15 **SESSIONS TAX CREDIT.**

16 (a) PHASEOUT OF REDUCED CREDIT.—The table
 17 contained in clause (ii) of section 936(a)(4)(B) (relating
 18 to election to take reduced credit) is amended to read as
 19 follows:

“In the case of taxable years beginning in:	The percentage is:
1996	50
1997	36
1998	24
1999	16
2000	8
2001 and thereafter	0.”

20 (b) CARRYOVER OF EXCESS ECONOMIC ACTIVITY
 21 CREDIT.—

1 (1) IN GENERAL.—Section 936(a)(4) is amend-
2 ed by redesignating subparagraph (C) as subpara-
3 graph (D) and by inserting after subparagraph (B)
4 the following new subparagraph:

5 “(C) CARRYOVER OF EXCESS ECONOMIC
6 ACTIVITY CREDIT.—

7 “(i) IN GENERAL.—If the amount de-
8 termined under subparagraph (A) for any
9 taxable year exceeds the amount of the
10 credit determined under paragraph (1) for
11 such taxable year with respect to income
12 referred to in paragraph (1)(A), the
13 amount determined under subparagraph
14 (A) for the following taxable year shall be
15 increased by the amount of such excess.

16 “(ii) LIMITATION.—Any excess de-
17 scribed in clause (i) may not be carried to
18 any taxable year after the 5th taxable year
19 following the taxable year in which it
20 arises.

21 “(iii) ORDERING RULE.—For pur-
22 poses of applying subparagraph (A), the
23 limitation under subparagraph (A) shall be
24 treated as used on a first-in, first-out
25 basis.”

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1995.

4 **SEC. ____ 206. PERSONAL PROPERTY USED PREDOMINANTLY**
5 **IN THE UNITED STATES TREATED AS NOT**
6 **PROPERTY OF A LIKE KIND WITH RESPECT**
7 **TO PROPERTY USED PREDOMINANTLY OUT-**
8 **SIDE THE UNITED STATES.**

9 (a) IN GENERAL.—Subsection (h) of section 1031
10 (relating to exchange of property held for productive use
11 or investment) is amended to read as follows:

12 “(h) SPECIAL RULES FOR FOREIGN REAL AND PER-
13 SONAL PROPERTY.—For purposes of this section—

14 “(1) REAL PROPERTY.—Real property located
15 in the United States and real property located out-
16 side the United States are not property of a like
17 kind.

18 “(2) PERSONAL PROPERTY.—

19 “(A) IN GENERAL.—Personal property
20 used predominantly within the United States
21 and personal property used predominantly out-
22 side the United States are not property of a like
23 kind.

1 “(B) PREDOMINANT USE.—Except as pro-
2 vided in subparagraph (C), the predominant use
3 of any property shall be determined based on—

4 “(i) in the case of the property relin-
5 quished in the exchange, the 2-year period
6 ending on the date of such relinquishment,
7 and

8 “(ii) in the case of the property ac-
9 quired in the exchange, the 2-year period
10 beginning on the date of such acquisition.

11 “(C) SPECIAL RULE FOR CERTAIN PROP-
12 PERTY.—Property described in any subpara-
13 graph of section 168(g)(4) shall be treated as
14 used predominantly in the United States.”

15 (b) EFFECTIVE DATE.—

16 (1) IN GENERAL.—The amendment made by
17 this section shall apply to transfers after December
18 6, 1995, in taxable years ending after such date.

19 (2) BINDING CONTRACTS.—The amendment
20 made by this section shall not apply to any transfer
21 pursuant to a written binding contract in effect on
22 December 6, 1995, and at all times thereafter before
23 the disposition or acquisition of property. A contract
24 shall not fail to meet the requirements of the preced-
25 ing sentence solely because—

1 (A) it provides for a sale in lieu of an ex-
2 change, or

3 (B) the property to be disposed of as relin-
4 quished property, or the property to be acquired
5 as replacement property, whichever is applica-
6 ble, was not identified under such contract be-
7 fore December 7, 1995.

8 **SEC. ____207. REPEAL OF FINANCIAL INSTITUTION TRANSI-**
9 **TION RULE TO INTEREST ALLOCATION**
10 **RULES.**

11 (a) **IN GENERAL.**—Paragraph (5) of section 1215(c)
12 of the Tax Reform Act of 1986 (Public Law 99–514, 100
13 Stat. 2548) is hereby repealed.

14 (b) **EFFECTIVE DATE.**—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 1995.

17 **SEC. ____208. CONVERSION OF LARGE CORPORATIONS INTO**
18 **S CORPORATIONS TREATED AS COMPLETE**
19 **LIQUIDATION.**

20 (a) **IN GENERAL.**—Section 1374 (relating to tax im-
21 posed on certain built-in gains) is amended by redesignat-
22 ing subsection (e) as subsection (f) and by inserting after
23 subsection (d) the following new subsection:

24 “(e) **SECTION NOT TO APPLY TO CONVERSIONS OF**
25 **LARGE C CORPORATIONS.**—

1 “(1) IN GENERAL.—If an S corporation was a
2 large C corporation for the last taxable year before
3 the first taxable year for which the election under
4 section 1362(a) was effective—

5 “(A) the preceding provisions of this sec-
6 tion shall not apply to the S corporation, but

7 “(B) for purposes of this title—

8 “(i) the C corporation shall be treated
9 as having distributed, as of the last day of
10 such last taxable year, all its property to
11 its shareholders in complete liquidation,
12 and

13 “(ii) the shareholders shall be treated
14 as having immediately contributed such
15 property to the S corporation in exchange
16 for its stock.

17 “(2) SPECIAL RULE FOR ASSET ACQUI-
18 TIONS.—Rules similar to the rules of paragraph (1)
19 shall apply to any transaction described in sub-
20 section (d)(8) in which an S corporation acquires as-
21 sets from a large C corporation.

22 “(3) LARGE C CORPORATION.—For purposes of
23 this subsection, the term ‘large C corporation’ means
24 a C corporation the fair market value of all of the
25 stock of which, as of the close of the last taxable

1 year described in paragraph (1), is greater than
2 \$5,000,000.

3 (b) REGULATORY AUTHORITY TO PREVENT AVOID-
4 ANCE.—Section 1374(f), as redesignated by subsection
5 (a), is amended by inserting “and regulations preventing
6 avoidance of the application of subsection (e)” before the
7 period at the end.

8 (c) EFFECTIVE DATES.—

9 (1) IN GENERAL.—The amendments made by
10 this section shall apply to elections under section
11 1361(a) of the Internal Revenue Code of 1986 which
12 are made after December 6, 1995.

13 (2) ACQUISITIONS.—The provisions of section
14 1374(e)(2) of such Code (as added by the amend-
15 ments made by this section) shall apply to acquisi-
16 tions after December 6, 1995, except that such pro-
17 visions shall not apply to any acquisition after such
18 date pursuant to a binding contract in effect on such
19 date and at all times thereafter before such acquisi-
20 tion.

21 **SEC. ___ 209. MODIFICATION OF TAXABLE YEARS TO WHICH**

22 **NET OPERATING LOSSES MAY BE CARRIED.**

23 (a) IN GENERAL.—Subparagraph (A) of section
24 172(b)(1) (relating to years to which loss may be carried)
25 is amended—

1 (1) by striking “3” in clause (i) and inserting
2 “1”, and

3 (2) by striking “15” in clause (ii) and inserting
4 “20”.

5 (b) **EFFECTIVE DATE.**—The amendments made by
6 this section shall apply to net operating losses for taxable
7 years beginning after December 31, 1995.

8 **SEC. ____210. CONSTRUCTIVE SALES TREATMENT FOR AP-**
9 **PRECIATED FINANCIAL POSITIONS.**

10 (a) **IN GENERAL.**—Part IV of subchapter P of chap-
11 ter 1 is amended by adding at the end the following new
12 section:

13 **“SEC. 1259. CONSTRUCTIVE SALES TREATMENT FOR AP-**
14 **PRECIATED FINANCIAL POSITIONS.**

15 “(a) **IN GENERAL.**—If there is a constructive sale of
16 an appreciated financial position—

17 “(1) such position shall be treated as sold for
18 its fair market value on the date of such construc-
19 tive sale (and any gain shall be taken into account
20 for the taxable year which includes such date), and

21 “(2) for purposes of applying this title for peri-
22 ods after the constructive sale—

23 “(A) proper adjustment shall be made in
24 the amount of any gain or loss subsequently re-
25 alized with respect to such position for any gain

1 taken into account by reason of paragraph (1),
2 and

3 “(B) the holding period of such position
4 shall be determined as if such position were
5 originally acquired on the date of such con-
6 structive sale.

7 “(b) APPRECIATED FINANCIAL POSITION.—For pur-
8 poses of this section—

9 “(1) IN GENERAL.—The term ‘appreciated fi-
10 nancial position’ means any position with respect to
11 any stock, debt instrument, or partnership interest
12 if there would be gain were such position sold.

13 “(2) POSITION.—The term ‘position’ means an
14 interest, including a futures or forward contract,
15 short sale, or option.

16 “(c) CONSTRUCTIVE SALE.—For purposes of this
17 section—

18 “(1) IN GENERAL.—A taxpayer shall be treated
19 as having made a constructive sale of an appreciated
20 financial position if the taxpayer or a related per-
21 son—

22 “(A) enters into 1 or more positions with
23 respect to the same or substantially identical
24 property which, for some period, substantially

1 eliminate both risk of loss and opportunity for
2 gain on the appreciated financial position, or

3 “(B) enters into any other transaction
4 which is marketed or sold as being economically
5 equivalent to any transaction described in sub-
6 paragraph (A).

7 The transactions described in subparagraph (A)
8 shall include making a short sale with respect to
9 substantially identical property, and the granting of
10 a call option, or the acquisition of a put option, with
11 respect to the same or substantially identical prop-
12 erty but only if there is a substantial certainty that
13 such call or put option will be exercised.

14 “(2) EXCEPTION FOR TRANSACTIONS MARKED
15 TO MARKET.—The term ‘constructive sale’ shall not
16 include any transaction if the appreciated financial
17 position which is part of such transaction is marked
18 to market under section 475 or 1256.

19 “(3) EXCEPTION FOR SALES OF NONPUBLICLY
20 TRADED PROPERTY.—The term ‘constructive sale’
21 shall not include any contract for sale of any stock,
22 debt instrument, or partnership interest which is not
23 a marketable security (as defined in section 453(f))
24 if the sale occurs within 1 year after the date such
25 contract is entered into.

1 “(4) RELATED PERSON.—A person is related to
2 another person with respect to a transaction if—

3 “(A) the relationship between such persons
4 would result in a disallowance of losses under
5 section 267 or 707(b), and

6 “(B) such transaction is entered into with
7 a view toward avoiding the purposes of this sec-
8 tion.

9 “(d) SPECIAL RULES.—

10 “(1) TRANSACTIONS COVERING LESS THAN ALL
11 OF APPRECIATED FINANCIAL POSITIONS.—If there is
12 a constructive sale of less than all of the appreciated
13 financial positions held by the taxpayer, subsection
14 (a) shall apply to such positions in the order in
15 which acquired or entered into.

16 “(2) TREATMENT OF SUBSEQUENT SALE OF
17 POSITION WHICH WAS DEEMED SOLD.—If—

18 “(A) there is a constructive sale of any ap-
19 preciated financial position,

20 “(B) such position is subsequently sold or
21 otherwise disposed of, and

22 “(C) at the time of such sale or disposi-
23 tion, the transaction resulting in the construc-
24 tive sale of such position is open,

1 solely for purposes of determining whether the tax-
2 payer has entered into a constructive sale of any
3 other appreciated financial position held by the tax-
4 payer, the taxpayer shall be treated as entering into
5 such transaction immediately after such sale or
6 other disposition.

7 “(3) CERTAIN TRUST INSTRUMENTS TREATED
8 AS STOCK.—For purposes of this section, an interest
9 in a trust which is actively traded (within the mean-
10 ing of section 1092(d)(1)) shall be treated as stock.

11 “(e) REGULATIONS.—The Secretary shall prescribe
12 such regulations as may be necessary or appropriate to
13 carry out the purposes of this section.”

14 (b) CLERICAL AMENDMENT.—The table of sections
15 for such part IV is amended by adding at the end the
16 following new item:

“Sec. 1259. Constructive sales treatment for appreciated financial positions.”

17 (c) EFFECTIVE DATE.—

18 (1) IN GENERAL.—The amendments made by
19 this section shall apply to—

20 (A) constructive sales after the date of the
21 enactment of this Act, and

22 (B) constructive sales after January 4,
23 1996, and before the date of the enactment of
24 this Act but only if the transaction is not closed

1 before the date which is 30 days after the date
2 of the enactment of this Act.

3 In a case to which subparagraph (B) applies, section
4 1259 of the Internal Revenue Code of 1986 (as
5 added by this section) shall be applied as if the con-
6 structive sale occurred on the date which is 30 days
7 after the date of the enactment of this Act.

8 (2) SPECIAL RULE.—In the case of a decedent
9 dying after the date of the enactment of this Act,
10 if—

11 (A) there was a constructive sale on or be-
12 fore such date of enactment of any appreciated
13 financial position, and

14 (B) on the day before the date of the dece-
15 dent's death, the transaction resulting in the
16 constructive sale of such position is open,

17 for purposes of the Internal Revenue Code of 1986,
18 such position (and any property related thereto, as
19 determined under the principles of section
20 1259(d)(1) of such Code (as so added)) shall be
21 treated as property constituting rights to receive an
22 item of income in respect of a decedent under sec-
23 tion 691 of such Code.

1 **SEC. ____211. MODIFICATION OF RULES FOR ALLOCATING**
2 **INTEREST EXPENSE TO TAX-EXEMPT INTER-**
3 **EST.**

4 (a) PRO RATA ALLOCATION RULES APPLICABLE TO
5 CORPORATIONS.—

6 (1) IN GENERAL.—Paragraph (1) of section
7 265(b) is amended by striking “In the case of a fi-
8 nancial institution” and inserting “In the case of a
9 corporation”.

10 (2) ONLY OBLIGATIONS ACQUIRED AFTER DE-
11 CEMBER 6, 1995 TAKEN INTO ACCOUNT.—Subpara-
12 graph (A) of section 265(b)(2) is amended by strik-
13 ing “August 7, 1986” and inserting “December 6,
14 1995 (August 7, 1986, in the case of a financial in-
15 stitution)”.

16 (3) SMALL ISSUER EXCEPTION NOT TO
17 APPLY.—Subparagraph (A) of section 265(b)(3) is
18 amended by striking “Any qualified” and inserting
19 “In the case of a financial institution, any quali-
20 fied”.

21 (4) EXCEPTION FOR CERTAIN BONDS ACQUIRED
22 ON SALE OF GOODS OR SERVICES.—Subparagraph
23 (B) of section 265(b)(4) is amended by adding at
24 the end the following new sentence: “In the case of
25 a taxpayer other than a financial institution, such
26 term shall not include a nonsaleable obligation ac-

1 quired by such taxpayer in the ordinary course of
2 business as payment for goods or services provided
3 by such taxpayer to any State or local government.”

4 (5) LOOK-THRU RULES FOR PARTNERSHIPS.—
5 Paragraph (6) of section 265(b) is amended by add-
6 ing at the end the following new subparagraph:

7 “(C) LOOK-THRU RULES FOR PARTNER-
8 SHIPS.—In the case of a corporation which is a
9 partner in a partnership, such corporation shall
10 be treated for purposes of this subsection as
11 holding directly its allocable share of the assets
12 of the partnership.”

13 (6) APPLICATION OF PRO RATA DISALLOWANCE
14 ON AFFILIATED GROUP BASIS.—Subsection (b) of
15 section 265 is amended by adding at the end the fol-
16 lowing new paragraph:

17 “(7) APPLICATION OF DISALLOWANCE ON AF-
18 FILIATED GROUP BASIS.—

19 “(A) IN GENERAL.—For purposes of this
20 subsection, all members of an affiliated group
21 filing a consolidated return under section 1501
22 shall be treated as 1 taxpayer.

23 “(B) TREATMENT OF INSURANCE COMPA-
24 NIES.—This subsection shall not apply to an in-
25 surance company, and subparagraph (A) shall

1 be applied without regard to any member of an
2 affiliated group which is an insurance com-
3 pany.”

4 (7) CLERICAL AMENDMENT.—The subsection
5 heading for section 265(b) is amended by striking
6 “FINANCIAL INSTITUTIONS” and inserting “COR-
7 PORATIONS”.

8 (b) APPLICATION OF SECTION 265(a)(2) WITH RE-
9 SPECT TO CONTROLLED GROUPS.—Paragraph (2) of sec-
10 tion 265(a) is amended after “obligations” by inserting
11 “held by the taxpayer (or any corporation which is a mem-
12 ber of a controlled group (as defined in section 267(f)(1))
13 which includes the taxpayer)”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 1995.

17 **SEC. ___212. REDUCTION OF 70 PERCENT DIVIDENDS RE-**
18 **CEIVED DEDUCTION TO 50 PERCENT.**

19 (a) IN GENERAL.—Paragraph (1) of section 243(a)
20 (relating to dividends received by corporations) is amended
21 by striking “70 percent” and inserting “50 percent”.

22 (b) CONFORMING CHANGES.—Each of the following
23 provisions is amended by striking “70 percent” and insert-
24 ing “50 percent”:

25 (1) Section 243(c)(1).

1 (2) Subsections (a)(3) and (b)(2) of section
2 244.

3 (3) Section 245(c)(1)(B).

4 (4) Section 246(b)(3)(B).

5 (5) Section 246A(a)(1).

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to dividends received or accrued
8 after January 31, 1996.

9 **SEC. ___ 213. MODIFICATION OF HOLDING PERIOD APPLI-**
10 **CABLE TO DIVIDENDS RECEIVED DEDUC-**
11 **TION.**

12 (a) IN GENERAL.—Subparagraph (A) of section
13 246(c)(1) is amended to read as follows:

14 “(A) which is held by the taxpayer for 45
15 days or less during the 90-day period beginning
16 on the date which is 45 days before the date on
17 which such share becomes ex-dividend with re-
18 spect to such dividend, or”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) Paragraph (2) of section 246(c) is amended
21 to read as follows:

22 “(2) 90-DAY RULE IN THE CASE OF CERTAIN
23 PREFERENCE DIVIDENDS.—In the case of stock hav-
24 ing preference in dividends, if the taxpayer receives
25 dividends with respect to such stock which are at-

1 “(2) NONQUALIFIED PREFERRED STOCK.—For
2 purposes of paragraph (1), the term ‘nonqualified
3 preferred stock’ means preferred stock if—

4 “(A) the holder of such stock has the right
5 to require the issuer or a related person to re-
6 deem or purchase the stock,

7 “(B) the issuer or a related person is re-
8 quired to redeem or purchase such stock,

9 “(C) the issuer or a related person has the
10 right to redeem or purchase the stock and, as
11 of the issue date, it is more likely than not that
12 such right will be exercised, or

13 “(D) the dividend rate on such stock varies
14 in whole or in part (directly or indirectly) with
15 reference to interest rates, commodity prices, or
16 other similar indices.

17 Subparagraphs (A), (B), and (C) shall apply only if
18 the right or obligation referred to therein may be ex-
19 ercised within the 20-year period beginning on the
20 issue date of such stock and if such right or obliga-
21 tion is not pursuant to a contingency the likelihood
22 of which is remote.

23 “(3) DEFINITIONS.—For purposes of this sub-
24 section—

1 “(A) PREFERRED STOCK.—The term ‘pre-
2 ferred stock’ means stock which is limited and
3 preferred as to dividends and does not partici-
4 pate (including through a conversion privilege)
5 in corporate growth to any significant extent.

6 “(B) RELATED PERSON.—A person shall
7 be treated as related to another person if they
8 bear a relationship to such other person de-
9 scribed in section 267(b) or 707(b).

10 “(4) REGULATIONS.—The Secretary may pre-
11 scribe such regulations as may be necessary or ap-
12 propriate to carry out the purposes of this sub-
13 section and sections 354(a)(2)(C), 355(a)(3)(D),
14 and 356(e). The Secretary may also prescribe regu-
15 lations, consistent with the treatment under this
16 subsection and such sections, for the treatment of
17 nonqualified preferred stock under other provisions
18 of this title.”

19 (b) SECTION 354.—Paragraph (2) of section 354(a)
20 (relating exchanges of stock and securities in certain reor-
21 ganizations) is amended by adding at the end the following
22 new subparagraph:

23 “(C) NONQUALIFIED PREFERRED
24 STOCK.—

1 “(i) IN GENERAL.—Nonqualified pre-
2 ferred stock (as defined in section
3 351(g)(2)) received in exchange for stock
4 other than nonqualified preferred stock (as
5 so defined) shall not be treated as stock or
6 securities.

7 “(ii) RECAPITALIZATIONS OF FAMILY-
8 OWNED CORPORATIONS.—

9 “(I) IN GENERAL.—Clause (i)
10 shall not apply in the case of a recapiti-
11 talization under section 368(a)(1)(E)
12 of a family-owned corporation.

13 “(II) FAMILY-OWNED CORPORA-
14 TION.—For purposes of this clause,
15 the term ‘family-owned corporation’
16 means any corporation which is de-
17 scribed in clause (i) of section
18 447(d)(2)(C) throughout the 8-year
19 period beginning on the date which is
20 5 years before the date of the recapiti-
21 talization. For purposes of the preced-
22 ing sentence, stock shall not be treat-
23 ed as owned by a family member dur-
24 ing any period that such family mem-

1 ber’s holding period would be reduced
2 under the rules of section 246(c)(4).

3 (c) SECTION 355.—Paragraph (3) of section 355(a)
4 is amended by adding at the end the following new sub-
5 paragraph:

6 “(D) NONQUALIFIED PREFERRED
7 STOCK.—Nonqualified preferred stock (as de-
8 fined in section 351(g)(2)) received in a dis-
9 tribution with respect to stock other than non-
10 qualified preferred stock (as so defined) shall
11 not be treated as stock or securities.”

12 (d) SECTION 356.—Section 356 is amended by redес-
13 ignating subsections (e) and (f) as subsections (f) and (g),
14 respectively, and by inserting after subsection (d) the fol-
15 lowing new subsection:

16 “(e) NONQUALIFIED PREFERRED STOCK TREATED
17 AS OTHER PROPERTY.—For purposes of this section—

18 “(1) IN GENERAL.—Except as provided in para-
19 graph (2), the term ‘other property’ includes non-
20 qualified preferred stock (as defined in section
21 351(g)(2)).

22 “(2) EXCEPTION.—The term ‘other property’
23 does not include nonqualified preferred stock (as so
24 defined) to the extent that, under section 354 or

1 355, such preferred stock would be permitted to be
2 received without the recognition of gain.”

3 (e) CONFORMING AMENDMENTS.—

4 (1) Subparagraph (B) of section 354(a)(2) is
5 amended by inserting “(including nonqualified pre-
6 ferred stock, as defined in section 351(g)(2))” after
7 “stock”.

8 (2) Subparagraph (A) of section 354(a)(3) is
9 amended by inserting “nonqualified preferred stock
10 and” after “including”.

11 (3) Section 1036 is amended by redesignating
12 subsection (b) as subsection (c) and by inserting
13 after subsection (a) the following new subsection:

14 “(b) NONQUALIFIED PREFERRED STOCK TREATED
15 AS NOT STOCK.—For purposes of this section, non-
16 qualified preferred stock (as defined in section 351(g)(2))
17 shall be treated as not stock.”

18 (f) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendments made by
20 this section shall apply to transactions after Decem-
21 ber 7, 1995.

22 (2) TRANSITIONAL RULE.—The amendments
23 made by this section shall not apply to—

24 (A) any stock issued pursuant to a written
25 agreement which was (subject to customary

1 conditions) binding on December 7, 1995, and
2 at all times thereafter before the stock was is-
3 sued,

4 (B) any stock issued pursuant to an ex-
5 change offer which was outstanding on such
6 date, and

7 (C) any stock which was priced for pur-
8 poses of issuance on or before such date.

9 **SEC. ___ 215. DENIAL OF INTEREST DEDUCTIONS ON CER-**
10 **TAIN DEBT INSTRUMENTS.**

11 (a) IN GENERAL.—Section 163 (relating to deduction
12 for interest) is amended by redesignating subsection (k)
13 as subsection (l) and by inserting after subsection (j) the
14 following new subsection:

15 “(k) DISALLOWANCE OF DEDUCTION ON CERTAIN
16 DEBT INSTRUMENTS OF CORPORATIONS.—

17 “(1) IN GENERAL.—No deduction shall be al-
18 lowed under this chapter for any interest paid or ac-
19 crued on a disqualified debt instrument.

20 “(2) DISQUALIFIED DEBT INSTRUMENT.—For
21 purposes of this subsection—

22 “(A) IN GENERAL.—The term ‘disqualified
23 debt instrument’ means any indebtedness of a
24 corporation—

1 “(i) which has a weighted average ma-
2 turity of more than 40 years, or

3 “(ii) any principal or interest on
4 which is payable in equity of the issuer or
5 a related party.

6 “(B) EXCEPTIONS.—Such term shall not
7 include—

8 “(i) a demand loan,

9 “(ii) indebtedness in connection with a
10 lease described in section 1055(c)(1) (re-
11 lating to redeemable ground rents), or

12 “(iii) any other indebtedness specified
13 by the Secretary.

14 “(3) WEIGHTED AVERAGE MATURITY.—For
15 purposes of paragraph (2)(A)(i), the weighted aver-
16 age maturity of any indebtedness shall be deter-
17 mined in the same manner as under section 1273,
18 and in making such determination—

19 “(A) any option or other right to extend,
20 renew, or relend the amount of any indebted-
21 ness shall be treated as if exercised,

22 “(B) the holding of a put, call, or other
23 right to accelerate payment shall be dis-
24 regarded, and

1 “(C) 2 or more loans which are part of the
2 same transaction or series of transactions shall
3 be treated as 1 loan.

4 “(4) SPECIAL RULES FOR AMOUNTS PAYABLE
5 IN EQUITY.—For purposes of paragraph (2)(A)(ii),
6 principal or interest on indebtedness shall be treated
7 as payable in equity of the issuer or a related party
8 only if—

9 “(A) the principal or interest is required to
10 be paid or converted, or at the option of the is-
11 suer or a related party is payable or convertible,
12 into such equity,

13 “(B) the amount of principal or interest is
14 required to be determined, or at the option of
15 the issuer or a related party is determined, by
16 reference to the value of such equity at the time
17 of payment of such principal or interest, or

18 “(C) the indebtedness is part of an ar-
19 rangement which is reasonably expected to re-
20 sult in a transaction described in subparagraph
21 (A) or (B).

22 The requirements of the preceding sentence shall be
23 treated as met with respect to any principal or inter-
24 est on indebtedness only if such requirement is met

1 with respect to a substantial amount of such prin-
2 cipal or interest.

3 “(5) RELATED PARTY.—For purposes of this
4 subsection, a person is a related party with respect
5 to another person if such person bears a relationship
6 to such other person described in section 267(b) or
7 707(b).

8 “(6) REGULATIONS.—The Secretary shall pre-
9 scribe such regulations as may be necessary or ap-
10 propriate to carry out the purposes of this sub-
11 section, including regulations preventing avoidance
12 of this subsection through the use of an issuer other
13 than a corporation.”

14 (b) CLASSIFICATION OF CERTAIN INSTRUMENTS AS
15 DEBT OR EQUITY.—Section 385(c) (relating to effect of
16 classification by issuer) is amended by redesignating para-
17 graph (3) as paragraph (4) and by inserting after para-
18 graph (2) the following new paragraph:

19 “(3) DEEMED CLASSIFICATION OF INTEREST AS
20 STOCK.—

21 “(A) IN GENERAL.—Except as otherwise
22 provided in regulations, for purposes of this
23 subsection, an applicable corporation shall be
24 treated as having characterized an interest in
25 the corporation as stock if—

1 “(i) it has a term of more than 20
2 years (determined under the principles of
3 subparagraphs (A), (B), and (C) of section
4 163(k)(3)), and

5 “(ii) it is not shown as indebtedness
6 on an applicable balance sheet of the is-
7 suer.

8 This paragraph shall not apply to an interest
9 described in section 163(k)(2)(B).

10 “(B) EFFECT OF CHARACTERIZATION.—
11 Any characterization of an interest as stock
12 under subparagraph (A)—

13 “(i) may not be changed, and

14 “(ii) except to the extent provided in
15 regulations, shall be treated as having been
16 made as of the time of issuance.

17 “(C) APPLICABLE CORPORATION, ETC.—

18 For purposes of this paragraph—

19 “(i) APPLICABLE CORPORATION.—The
20 term ‘applicable corporation’ means, with
21 respect to any interest, a corporation
22 which, at any time during the 1-year pe-
23 riod beginning on the date of issuance of
24 the interest, is—

1 “(I) required to file annual finan-
2 cial statements with the Securities
3 and Exchange Commission, or

4 “(II) required to be included in
5 such financial statements.

6 “(ii) APPLICABLE BALANCE SHEET.—
7 The term ‘applicable balance sheet’ means
8 any balance sheet which is required to be
9 filed with the Securities and Exchange
10 Commission by the issuer of an interest or
11 which is required to include data with re-
12 spect to such issuer.

13 “(D) INTERESTS ISSUED TO RELATED
14 PARTIES.—For purposes of subparagraph
15 (A)(ii), if—

16 “(i) an interest in a corporation to
17 which subparagraph (A) applies is issued
18 to a person (other than a corporation)
19 which is related to the issuer, and

20 “(ii) such interest is not shown on an
21 applicable balance sheet of the issuer solely
22 because the related person is consolidated
23 with such person on such balance sheet,
24 such interest shall be treated as having been
25 characterized as stock if such related person is-

1 sues a related instrument not shown as indebt-
2 edness on such balance sheet. For purposes of
3 the preceding sentence, a person is a related
4 person with respect to an issuer if such person
5 bears a relationship to the issuer described in
6 section 267(b) or 707(b).

7 “(E) EXCEPTION FOR CERTAIN LEASE RE-
8 CEIVABLES.—This subsection shall not apply to
9 a nonrecourse interest if the issuer’s investment
10 in a related lease receivable as shown on the ap-
11 plicable balance sheet is reduced by the amount
12 of such interest.”

13 (c) REGULATIONS.—Paragraph (4) of section 385(c),
14 as redesignated by subsection (b), is amended to read as
15 follows:

16 “(4) REGULATIONS.—The Secretary shall pre-
17 scribe such regulations as may be necessary or ap-
18 propriate to carry out the purposes of this sub-
19 section, including such requirements for the provid-
20 ing of information to the Secretary or such other
21 persons as the Secretary determines appropriate.”

22 (d) EFFECTIVE DATE.—

23 (1) IN GENERAL.—The amendments made by
24 this section shall apply to interests in a corporation
25 issued on or after December 7, 1995.

1 (2) TRANSITIONAL RULE.—The amendments
2 made by this section shall not apply to—

3 (A) any interest issued pursuant to a com-
4 mitment which was binding on December 6,
5 1995, and at all times thereafter before the in-
6 terest was issued,

7 (B) any interest issued pursuant to an ex-
8 change offer which was outstanding on such
9 date,

10 (C) any interest which was priced for pur-
11 poses of issuance on or before such date,

12 (D) interests issued pursuant to a registra-
13 tion statement filed with the Securities and Ex-
14 change Commission on or before December 7,
15 1995 (other than a registration statement
16 which, under 17 CFR 230.415, contemplated a
17 delayed or continuous offering of such inter-
18 ests), but only to the extent that such interests
19 are described in, and the amount of such inter-
20 ests does not exceed in the aggregate the
21 amount stated in, such registration statement
22 as of such date,

23 (E) interests issued pursuant to a registra-
24 tion statement which is filed with the Securities
25 and Exchange Commission on or before Decem-

1 ber 7, 1995, and which, under 17 CFR
2 230.415, contemplated a delayed or continuous
3 offering of such interests if a prospectus supple-
4 ment (including a preliminary prospectus sup-
5 plement) to such registration statement was
6 filed under 17 CFR 230.424 on or before De-
7 cember 7, 1995, but only to the extent that
8 such interests are described in, and the amount
9 of such interests does not exceed in the aggre-
10 gate the amount stated in, such prospectus sup-
11 plement as of such date (or, to the extent a pre-
12 liminary prospectus supplement as of such date
13 does not state a maximum amount to be issued,
14 the amount expected to be offered may be es-
15 tablished by other contemporaneous, written
16 evidence), and

17 (F) interests issued pursuant to a private
18 placement that contemplates resales of the in-
19 terests pursuant to 17 CFR 230.144A, but only
20 if, on or before December 7, 1995—

21 (i) the issuer had made a public an-
22 nouncement of its intention to issue the in-
23 terests, and

24 (ii) an offering circular or memoran-
25 dum (including a preliminary offering cir-

1 this chapter only in the taxable year in which paid.
2 For purposes of the preceding sentence, the prin-
3 ciples of section 163(i)(3)(B) shall apply.

4 “(2) EQUITY PAYMENTS DISREGARDED.—Ex-
5 cept to the extent provided in regulations, payments
6 (including through an arrangement described in
7 paragraph (3)(C)) shall be disregarded for purposes
8 of paragraph (1) if such payments are in the form
9 of—

10 “(A) equity of the issuer or a related
11 party, or

12 “(B) cash or other property the amount of
13 which is determined by reference to the value of
14 such equity.

15 “(3) CONVERTIBLE INDEBTEDNESS.—For pur-
16 poses of this subsection—

17 “(A) IN GENERAL.—The term ‘convertible
18 indebtedness’ means any indebtedness if—

19 “(i) the indebtedness is convertible
20 into equity of the issuer or a related party,

21 “(ii) the amount principal or interest
22 on such indebtedness is determined by ref-
23 erence to the value of such equity, or

24 “(iii) the indebtedness is issued with
25 warrants or similar instruments as part of

1 an investment unit in which the indebted-
2 ness may be used to satisfy the exercise
3 price of such warrants or similar instru-
4 ments.

5 “(B) EXCEPTIONS.—Such term shall not
6 include—

7 “(i) any indebtedness which would
8 (but for this subparagraph) be convertible
9 indebtedness solely because a fixed pay-
10 ment of principal or interest is, at the elec-
11 tion of the holder, payable in equity of the
12 issuer or a related party having a value
13 equal to the amount of such principal or
14 interest, or

15 “(ii) any other indebtedness specified
16 by the Secretary.

17 “(4) RELATED PARTY.—For purposes of this
18 subsection, persons are related if they bear a rela-
19 tionship specified in section 267(b) or section
20 707(b).

21 “(5) REGULATIONS.—The Secretary shall pre-
22 scribe such regulations as may be necessary or ap-
23 propriate to carry out the purposes of this sub-
24 section, including regulations preventing avoidance

1 of this subsection through the use of an issuer other
2 than a corporation.”

3 (b) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amendments made by this section
6 shall apply to indebtedness issued on or after De-
7 cember 7, 1995.

8 (2) TRANSITIONAL RULE.—The amendments
9 made by this section shall not apply to—

10 (A) any indebtedness issued pursuant to a
11 commitment which was binding on December 6,
12 1995, and at all times thereafter before the in-
13 debtedness was issued,

14 (B) any indebtedness issued pursuant to
15 an exchange offer which was outstanding on
16 such date,

17 (C) any indebtedness which was priced for
18 purposes of issuance on or before such date,

19 (D) indebtedness issued pursuant to a reg-
20 istration statement filed with the Securities and
21 Exchange Commission on or before December
22 7, 1995 (other than a registration statement
23 which, under 17 CFR 230.415, contemplated a
24 delayed or continuous offering of such indebted-
25 ness), but only to the extent that such indebted-

1 ness is described in, and the amount of such in-
2 debtedness does not exceed in the aggregate the
3 amount stated in, such registration statement
4 as of such date,

5 (E) indebtedness issued pursuant to a reg-
6 istration statement which is filed with the Secu-
7 rities and Exchange Commission on or before
8 December 7, 1995, and which, under 17 CFR
9 230.415, contemplated a delayed or continuous
10 offering of such indebtedness if a prospectus
11 supplement (including a preliminary prospectus
12 supplement) to such registration statement was
13 filed under 17 CFR 230.424 on or before De-
14 cember 7, 1995, but only to the extent that
15 such indebtedness is described in, and the
16 amount of such indebtedness does not exceed in
17 the aggregate the amount stated in, such pro-
18 spectus supplement as of such date (or, to the
19 extent a preliminary prospectus supplement as
20 of such date does not state a maximum amount
21 to be issued, the amount expected to be offered
22 may be established by other contemporaneous,
23 written evidence), and

24 (F) indebtedness issued pursuant to a pri-
25 vate placement that contemplates resales of the

1 instruments pursuant to 17 CFR 230.144A,
2 but only if, on or before December 7, 1995—

3 (i) the issuer had made a public an-
4 nouncement of its intention to issue the in-
5 debtedness, and

6 (ii) an offering circular or memoran-
7 dum (including a preliminary offering cir-
8 cular or memorandum) with respect to the
9 indebtedness had been distributed to pro-
10 spective investors, but only to the extent
11 that such indebtedness is described in, and
12 the amount of such indebtedness does not
13 exceed in the aggregate the amount stated
14 in, such offering circular or memorandum
15 as of such date.

16 Indebtedness shall be treated as meeting the require-
17 ments of subparagraph (A) if such indebtedness is
18 issued, before the 30th day after the date of the en-
19 actment of this Act, as part of an issue substantially
20 identical (other than yield) to an issue which was
21 publicly announced as having been sold on December
22 7, 1995, but which was terminated on such date.

1 **Subtitle C—Foreign Provisions**

2 **PART I—FOREIGN TRUSTS**

3 **SEC. ____301. IMPROVED INFORMATION REPORTING ON**
4 **FOREIGN TRUSTS.**

5 (a) IN GENERAL.—Section 6048 of the Internal Rev-
6 enue Code of 1986 (relating to returns as to certain for-
7 eign trusts) is amended to read as follows:

8 **“SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN**
9 **FOREIGN TRUSTS.**

10 “(a) NOTICE OF CERTAIN EVENTS.—

11 “(1) GENERAL RULE.—On or before the 90th
12 day (or such later day as the Secretary may pre-
13 scribe) after any reportable event, the responsible
14 party shall provide written notice of such event to
15 the Secretary in accordance with paragraph (2).

16 “(2) CONTENTS OF NOTICE.—The notice re-
17 quired by paragraph (1) shall contain such informa-
18 tion as the Secretary may prescribe, including—

19 “(A) the amount of money or other prop-
20 erty (if any) transferred to the trust in connec-
21 tion with the reportable event, and

22 “(B) the identity of the trust and of each
23 trustee and beneficiary (or class of bene-
24 ficiaries) of the trust.

1 “(3) REPORTABLE EVENT.—For purposes of
2 this subsection—

3 “(A) IN GENERAL.—The term ‘reportable
4 event’ means—

5 “(i) the creation of any foreign trust
6 by a United States person,

7 “(ii) the transfer of any money or
8 property (directly or indirectly) to a for-
9 eign trust by a United States person, in-
10 cluding a transfer by reason of death, and

11 “(iii) the death of a citizen or resident
12 of the United States if—

13 “(I) the decedent was treated as
14 the owner of any portion of a foreign
15 trust under the rules of subpart E of
16 part I of subchapter J of chapter 1,
17 or

18 “(II) any portion of a foreign
19 trust was included in the gross estate
20 of the decedent.

21 “(B) EXCEPTIONS.—

22 “(i) FAIR MARKET VALUE SALES.—
23 Subparagraph (A)(ii) shall not apply to
24 any transfer of property to a trust in ex-
25 change for consideration of at least the fair

1 market value of the transferred property.
2 For purposes of the preceding sentence,
3 consideration other than cash shall be
4 taken into account at its fair market value
5 and the rules of section 679(a)(3) shall
6 apply.

7 “(ii) PENSION AND CHARITABLE
8 TRUSTS.—Subparagraph (A) shall not
9 apply with respect to a trust which is—

10 “(I) described in section
11 404(a)(4) or 404A, or

12 “(II) determined by the Sec-
13 retary to be described in section
14 501(c)(3).

15 “(4) RESPONSIBLE PARTY.—For purposes of
16 this subsection, the term ‘responsible party’
17 means—

18 “(A) the grantor in the case of the cre-
19 ation of an inter vivos trust,

20 “(B) the transferor in the case of a report-
21 able event described in paragraph (3)(A)(ii)
22 other than a transfer by reason of death, and

23 “(C) the executor of the decedent’s estate
24 in any other case.

1 “(b) UNITED STATES GRANTOR OF FOREIGN
2 TRUST.—

3 “(1) IN GENERAL.—If, at any time during any
4 taxable year of a United States person, such person
5 is treated as the owner of any portion of a foreign
6 trust under the rules of subpart E of part I of sub-
7 chapter J of chapter 1, such person shall be respon-
8 sible to ensure that—

9 “(A) such trust makes a return for such
10 year which sets forth a full and complete ac-
11 counting of all trust activities and operations
12 for the year, the name of the United States
13 agent for such trust, and such other informa-
14 tion as the Secretary may prescribe, and

15 “(B) such trust furnishes such information
16 as the Secretary may prescribe to each United
17 States person (i) who is treated as the owner of
18 any portion of such trust or (ii) who receives
19 (directly or indirectly) any distribution from the
20 trust.

21 “(2) TRUSTS NOT HAVING UNITED STATES
22 AGENT.—

23 “(A) IN GENERAL.—If the rules of this
24 subsection apply to any foreign trust, the deter-
25 mination of amounts required to be taken into

1 account with respect to such trust by a United
2 States person under the rules of subpart E of
3 part I of subchapter J of chapter 1 shall be de-
4 termined by the Secretary in the Secretary's
5 sole discretion from the Secretary's own knowl-
6 edge or from such information as the Secretary
7 may obtain through testimony or otherwise.

8 “(B) UNITED STATES AGENT REQUIRED.—

9 The rules of this subsection shall apply to any
10 foreign trust to which paragraph (1) applies un-
11 less such trust agrees (in such manner, subject
12 to such conditions, and at such time as the Sec-
13 retary shall prescribe) to authorize a United
14 States person to act as such trust's limited
15 agent solely for purposes of applying sections
16 7602, 7603, and 7604 with respect to—

17 “(i) any request by the Secretary to
18 examine records or produce testimony re-
19 lated to the proper treatment of amounts
20 required to be taken into account under
21 the rules referred to in subparagraph (A),
22 or

23 “(ii) any summons by the Secretary
24 for such records or testimony.

1 The appearance of persons or production of
2 records by reason of a United States person
3 being such an agent shall not subject such per-
4 sons or records to legal process for any purpose
5 other than determining the correct treatment
6 under this title of the amounts required to be
7 taken into account under the rules referred to
8 in subparagraph (A). A foreign trust which ap-
9 points an agent described in this subparagraph
10 shall not be considered to have an office or a
11 permanent establishment in the United States,
12 or to be engaged in a trade or business in the
13 United States, solely because of the activities of
14 such agent pursuant to this subsection.

15 “(C) OTHER RULES TO APPLY.—Rules
16 similar to the rules of paragraphs (2) and (4)
17 of section 6038A(e) shall apply for purposes of
18 this paragraph.

19 “(c) REPORTING BY UNITED STATES BENEFICIARIES
20 OF FOREIGN TRUSTS.—

21 “(1) IN GENERAL.—If any United States per-
22 son receives (directly or indirectly) during any tax-
23 able year of such person any distribution from a for-
24 eign trust, such person shall make a return with re-
25 spect to such trust for such year which includes—

1 “(A) the name of such trust,

2 “(B) the aggregate amount of the distribu-
3 tions so received from such trust during such
4 taxable year, and

5 “(C) such other information as the Sec-
6 retary may prescribe.

7 “(2) INCLUSION IN INCOME IF RECORDS NOT
8 PROVIDED.—If adequate records are not provided to
9 the Secretary to determine the proper treatment of
10 any distribution from a foreign trust, such distribu-
11 tion shall be treated as an accumulation distribution
12 includible in the gross income of the distributee
13 under chapter 1. To the extent provided in regula-
14 tions, the preceding sentence shall not apply if the
15 foreign trust elects to be subject to rules similar to
16 the rules of subsection (b)(2)(B).

17 “(d) SPECIAL RULES.—

18 “(1) DETERMINATION OF WHETHER UNITED
19 STATES PERSON RECEIVES DISTRIBUTION.—For
20 purposes of this section, in determining whether a
21 United States person receives a distribution from a
22 foreign trust, the fact that a portion of such trust
23 is treated as owned by another person under the
24 rules of subpart E of part I of subchapter J of chap-
25 ter 1 shall be disregarded.

1 “(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVI-
2 TIES.—To the extent provided in regulations, a trust
3 which is a United States person shall be treated as
4 a foreign trust for purposes of this section and sec-
5 tion 6677 if such trust has substantial activities, or
6 holds substantial property, outside the United
7 States.

8 “(3) TIME AND MANNER OF FILING INFORMA-
9 TION.—Any notice or return required under this sec-
10 tion shall be made at such time and in such manner
11 as the Secretary shall prescribe.

12 “(4) MODIFICATION OF RETURN REQUIRE-
13 MENTS.—The Secretary is authorized to suspend or
14 modify any requirement of this section if the Sec-
15 retary determines that the United States has no sig-
16 nificant tax interest in obtaining the required infor-
17 mation.”

18 (b) INCREASED PENALTIES.—Section 6677 of such
19 Code (relating to failure to file information returns with
20 respect to certain foreign trusts) is amended to read as
21 follows:

1 **“SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT**
2 **TO CERTAIN FOREIGN TRUSTS.**

3 “(a) CIVIL PENALTY.—In addition to any criminal
4 penalty provided by law, if any notice or return required
5 to be filed by section 6048—

6 “(1) is not filed on or before the time provided
7 in such section, or

8 “(2) does not include all the information re-
9 quired pursuant to such section or includes incorrect
10 information,

11 the person required to file such notice or return shall pay
12 a penalty equal to 35 percent of the gross reportable
13 amount. If any failure described in the preceding sentence
14 continues for more than 90 days after the day on which
15 the Secretary mails notice of such failure to the person
16 required to pay such penalty, such person shall pay a pen-
17 alty (in addition to the amount determined under the pre-
18 ceding sentence) of \$10,000 for each 30-day period (or
19 fraction thereof) during which such failure continues after
20 the expiration of such 90-day period.

21 “(b) SPECIAL RULES FOR RETURNS UNDER SEC-
22 TION 6048(b).—In the case of a return required under
23 section 6048(b)—

24 “(1) the United States person referred to in
25 such section shall be liable for the penalty imposed
26 by subsection (a), and

1 “(2) subsection (a) shall be applied by sub-
2 stituting ‘5 percent’ for ‘35 percent’.

3 “(c) GROSS REPORTABLE AMOUNT.—For purposes
4 of subsection (a), the term ‘gross reportable amount’
5 means—

6 “(1) the gross value of the property involved in
7 the event (determined as of the date of the event)
8 in the case of a failure relating to section 6048(a),

9 “(2) the gross value of the portion of the trust’s
10 assets at the close of the year treated as owned by
11 the United States person in the case of a failure re-
12 lating to section 6048(b)(1), and

13 “(3) the gross amount of the distributions in
14 the case of a failure relating to section 6048(c).

15 “(d) REASONABLE CAUSE EXCEPTION.—No penalty
16 shall be imposed by this section on any failure which is
17 shown to be due to reasonable cause and not due to willful
18 neglect. The fact that a foreign jurisdiction would impose
19 a civil or criminal penalty on the taxpayer (or any other
20 person) for disclosing the required information is not rea-
21 sonable cause.

22 “(e) DEFICIENCY PROCEDURES NOT TO APPLY.—
23 Subchapter B of chapter 63 (relating to deficiency proce-
24 dures for income, estate, gift, and certain excise taxes)

1 shall not apply in respect of the assessment or collection
2 of any penalty imposed by subsection (a).”

3 (c) CONFORMING AMENDMENTS.—

4 (1) Paragraph (2) of section 6724(d) of such
5 Code is amended by striking “or” at the end of sub-
6 paragraph (S), by striking the period at the end of
7 subparagraph (T) and inserting “, or”, and by in-
8 serting after subparagraph (T) the following new
9 subparagraph:

10 “(U) section 6048(b)(1)(B) (relating to
11 foreign trust reporting requirements).”

12 (2) The table of sections for subpart B of part
13 III of subchapter A of chapter 61 is of such Code
14 amended by striking the item relating to section
15 6048 and inserting the following new item:

“Sec. 6048. Information with respect to certain foreign trusts.”

16 (3) The table of sections for part I of sub-
17 chapter B of chapter 68 of such Code is amended
18 by striking the item relating to section 6677 and in-
19 serting the following new item:

“Sec. 6677. Failure to file information with respect to certain for-
eign trusts.”

20 (d) EFFECTIVE DATES.—

21 (1) REPORTABLE EVENTS.—To the extent re-
22 lated to subsection (a) of section 6048 of the Inter-
23 nal Revenue Code of 1986, as amended by this sec-

1 tion, the amendments made by this section shall
2 apply to reportable events (as defined in such section
3 6048) occurring after the date of the enactment of
4 this Act.

5 (2) GRANTOR TRUST REPORTING.—To the ex-
6 tent related to subsection (b) of such section 6048,
7 the amendments made by this section shall apply to
8 taxable years of United States persons beginning
9 after the date of the enactment of this Act.

10 (3) REPORTING BY UNITED STATES BENE-
11 FICIARIES.—To the extent related to subsection (c)
12 of such section 6048, the amendments made by this
13 section shall apply to distributions received after the
14 date of the enactment of this Act.

15 **SEC. ___ 302. MODIFICATIONS OF RULES RELATING TO FOR-**
16 **EIGN TRUSTS HAVING ONE OR MORE UNITED**
17 **STATES BENEFICIARIES.**

18 (a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

19 (1) Paragraph (2) of section 679(a) of the In-
20 ternal Revenue Code of 1986 is amended by striking
21 subparagraph (B) and inserting the following:

22 “(B) TRANSFERS AT FAIR MARKET
23 VALUE.—To any transfer of property to a trust
24 in exchange for consideration of at least the fair
25 market value of the transferred property. For

1 purposes of the preceding sentence, consider-
2 ation other than cash shall be taken into ac-
3 count at its fair market value.”

4 (2) Subsection (a) of section 679 of such Code
5 (relating to foreign trusts having one or more Unit-
6 ed States beneficiaries) is amended by adding at the
7 end the following new paragraph:

8 “(3) CERTAIN OBLIGATIONS NOT TAKEN INTO
9 ACCOUNT UNDER FAIR MARKET VALUE EXCEP-
10 TION.—

11 “(A) IN GENERAL.—In determining wheth-
12 er paragraph (2)(B) applies to any transfer by
13 a person described in clause (ii) or (iii) of sub-
14 paragraph (C), there shall not be taken into ac-
15 count—

16 “(i) any obligation of a person de-
17 scribed in subparagraph (C), and

18 “(ii) to the extent provided in regula-
19 tions, any obligation which is guaranteed
20 by a person described in subparagraph (C).

21 “(B) TREATMENT OF PRINCIPAL PAY-
22 MENTS ON OBLIGATION.—Principal payments
23 by the trust on any obligation referred to in
24 subparagraph (A) shall be taken into account
25 on and after the date of the payment in deter-

1 mining the portion of the trust attributable to
2 the property transferred.

3 “(C) PERSONS DESCRIBED.—The persons
4 described in this subparagraph are—

5 “(i) the trust,

6 “(ii) any grantor or beneficiary of the
7 trust, and

8 “(iii) any person who is related (with-
9 in the meaning of section 643(i)(3)) to any
10 grantor or beneficiary of the trust.”

11 (b) EXEMPTION OF TRANSFERS TO CHARITABLE
12 TRUSTS.—Subsection (a) of section 679 of such Code is
13 amended by striking “section 404(a)(4) or 404A” and in-
14 serting “section 6048(a)(3)(B)(ii)”.

15 (c) OTHER MODIFICATIONS.—Subsection (a) of sec-
16 tion 679 of such Code is amended by adding at the end
17 the following new paragraphs:

18 “(4) SPECIAL RULES APPLICABLE TO FOREIGN
19 GRANTOR WHO LATER BECOMES A UNITED STATES
20 PERSON.—

21 “(A) IN GENERAL.—If a nonresident alien
22 individual has a residency starting date within
23 5 years after directly or indirectly transferring
24 property to a foreign trust, this section and sec-
25 tion 6048 shall be applied as if such individual

1 transferred to such trust on the residency start-
2 ing date an amount equal to the portion of such
3 trust attributable to the property transferred by
4 such individual to such trust in such transfer.

5 “(B) TREATMENT OF UNDISTRIBUTED IN-
6 COME.—For purposes of this section, undistrib-
7 uted net income for periods before such individ-
8 ual’s residency starting date shall be taken into
9 account in determining the portion of the trust
10 which is attributable to property transferred by
11 such individual to such trust but shall not oth-
12 erwise be taken into account.

13 “(C) RESIDENCY STARTING DATE.—For
14 purposes of this paragraph, an individual’s resi-
15 dency starting date is the residency starting
16 date determined under section 7701(b)(2)(A).

17 “(5) OUTBOUND TRUST MIGRATIONS.—If—

18 “(A) an individual who is a citizen or resi-
19 dent of the United States transferred property
20 to a trust which was not a foreign trust, and

21 “(B) such trust becomes a foreign trust
22 while such individual is alive,

23 then this section and section 6048 shall be applied
24 as if such individual transferred to such trust on the
25 date such trust becomes a foreign trust an amount

1 equal to the portion of such trust attributable to the
2 property previously transferred by such individual to
3 such trust. A rule similar to the rule of paragraph
4 (4)(B) shall apply for purposes of this paragraph.”

5 (d) MODIFICATIONS RELATING TO WHETHER TRUST
6 HAS UNITED STATES BENEFICIARIES.—Subsection (c) of
7 section 679 of such Code is amended by adding at the
8 end the following new paragraphs:

9 “(3) CERTAIN UNITED STATES BENEFICIARIES
10 DISREGARDED.—A beneficiary shall not be treated
11 as a United States person in applying this section
12 with respect to any transfer of property to foreign
13 trust if such beneficiary first became a United
14 States person more than 5 years after the date of
15 such transfer.

16 “(4) TREATMENT OF FORMER UNITED STATES
17 PERSONS.—To the extent provided by the Secretary,
18 for purposes of this subsection, the term ‘United
19 States person’ includes any person who was a Unit-
20 ed States person at any time during the existence of
21 the trust.”

22 (e) TECHNICAL AMENDMENT.—Subparagraph (A) of
23 section 679(c)(2) is amended to read as follows:

1 computing the income of a citizen or resident of the
2 United States or a domestic corporation.

3 “(2) EXCEPTIONS.—

4 “(A) CERTAIN REVOCABLE AND IR-REV-
5 OCABLE TRUSTS.—

6 “(i) IN GENERAL.—Except as pro-
7 vided in clause (ii), paragraph (1) shall not
8 apply to any trust if—

9 “(I) the power to revest abso-
10 lutely in the grantor title to the trust
11 property is exercisable solely by the
12 grantor without the approval or con-
13 sent of any other person or with the
14 consent of a related or subordinate
15 party who is subservient to the grant-
16 or, or

17 “(II) the only amounts distribut-
18 able from such trust (whether income
19 or corpus) during the lifetime of the
20 grantor are amounts distributable to
21 the grantor or the spouse of the
22 grantor.

23 “(ii) EXCEPTION.—Clause (i) shall
24 not apply to any trust which has a bene-
25 ficiary who is a United States person to

1 the extent such beneficiary has made
2 transfers of property by gift (directly or in-
3 directly) to a foreign person who is the
4 grantor of such trust. For purposes of the
5 preceding sentence, any gift shall not be
6 taken into account to the extent such gift
7 is excluded from taxable gifts under sec-
8 tion 2503(b).

9 “(B) COMPENSATORY TRUSTS.—Except as
10 provided in regulations, paragraph (1) shall not
11 apply to any portion of a trust distributions
12 from which are taxable as compensation for
13 services rendered.

14 “(3) SPECIAL RULES.—Except as otherwise
15 provided in regulations prescribed by the Sec-
16 retary—

17 “(A) a controlled foreign corporation (as
18 defined in section 957) shall be treated as a do-
19 mestic corporation for purposes of paragraph
20 (1), and

21 “(B) paragraph (1) shall not apply for
22 purposes of applying part III of subchapter G
23 (relating to foreign personal holding companies)
24 and part VI of subchapter P (relating to treat-

1 ment of certain passive foreign investment com-
2 panies).

3 “(4) RECHARACTERIZATION OF PURPORTED
4 GIFTS.—In the case of any transfer directly or indi-
5 rectly from a partnership or foreign corporation
6 which the transferee treats as a gift or bequest, the
7 Secretary may recharacterize such transfer in such
8 circumstances as the Secretary determines to be ap-
9 propriate to prevent the avoidance of the purposes of
10 this subsection.

11 “(5) REGULATIONS.—The Secretary shall pre-
12 scribe such regulations as may be necessary or ap-
13 propriate to carry out the purposes of this sub-
14 section, including regulations providing that para-
15 graph (1) shall not apply in appropriate cases.”

16 (2) The last sentence of subsection (c) of sec-
17 tion 672 of such Code is amended by inserting “sub-
18 section (f) and” before “sections 674”.

19 (b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of
20 section 665(d) of such Code is amended by adding at the
21 end the following new sentence: “Under rules or regula-
22 tions prescribed by the Secretary, in the case of any for-
23 eign trust of which the settlor or another person would
24 be treated as owner of any portion of the trust under sub-
25 part E but for section 672(f), the term ‘taxes imposed on

1 the trust' includes the allocable amount of any income,
2 war profits, and excess profits taxes imposed by any for-
3 eign country or possession of the United States on the
4 settlor or such other person in respect of trust gross in-
5 come.”

6 (c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS
7 THROUGH NOMINEES.—

8 (1) Section 643 of such Code is amended by
9 adding at the end the following new subsection:

10 “(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS
11 THROUGH NOMINEES.—For purposes of this part, any
12 amount paid to a United States person which is derived
13 directly or indirectly from a foreign trust of which the
14 payor is not the grantor shall be deemed in the year of
15 payment to have been directly paid by the foreign trust
16 to such United States person.”

17 (2) Section 665 of such Code is amended by
18 striking subsection (c).

19 (d) EFFECTIVE DATE.—

20 (1) IN GENERAL.—Except as provided by para-
21 graph (2), the amendments made by this section
22 shall take effect on the date of the enactment of this
23 Act.

1 (2) EXCEPTION FOR CERTAIN TRUSTS.—The
2 amendments made by this section shall not apply to
3 any trust—

4 (A) which is treated as owned by the
5 grantor or another person under section 676 or
6 677 (other than subsection (a)(3) thereof) of
7 the Internal Revenue Code of 1986, and

8 (B) which is in existence on September 19,
9 1995.

10 The preceding sentence shall not apply to the por-
11 tion of any such trust attributable to any transfer to
12 such trust after September 19, 1995.

13 (e) TRANSITIONAL RULE.—If—

14 (1) by reason of the amendments made by this
15 section, any person other than a United States per-
16 son ceases to be treated as the owner of a portion
17 of a domestic trust, and

18 (2) before January 1, 1997, such trust becomes
19 a foreign trust, or the assets of such trust are trans-
20 ferred to a foreign trust,

21 no tax shall be imposed by section 1491 of the Internal
22 Revenue Code of 1986 by reason of such trust becoming
23 a foreign trust or the assets of such trust being trans-
24 ferred to a foreign trust.

1 **SEC. ____ 304. INFORMATION REPORTING REGARDING FOR-**
2 **EIGN GIFTS.**

3 (a) IN GENERAL.—Subpart A of part III of sub-
4 chapter A of chapter 61 of the Internal Revenue Code of
5 1986 is amended by inserting after section 6039E the fol-
6 lowing new section:

7 **“SEC. 6039F. NOTICE OF GIFTS RECEIVED FROM FOREIGN**
8 **PERSONS.**

9 “(a) IN GENERAL.—If the value of the aggregate for-
10 eign gifts received by a United States person (other than
11 an organization described in section 501(c) and exempt
12 from tax under section 501(a)) during any taxable year
13 exceeds \$10,000, such United States person shall furnish
14 (at such time and in such manner as the Secretary shall
15 prescribe) such information as the Secretary may pre-
16 scribe regarding each foreign gift received during such
17 year.

18 “(b) FOREIGN GIFT.—For purposes of this section,
19 the term ‘foreign gift’ means any amount received from
20 a person other than a United States person which the re-
21 cipient treats as a gift or bequest. Such term shall not
22 include any qualified transfer (within the meaning of sec-
23 tion 2503(e)(2)).

24 “(c) PENALTY FOR FAILURE TO FILE INFORMA-
25 TION.—

1 “(1) IN GENERAL.—If a United States person
2 fails to furnish the information required by sub-
3 section (a) with respect to any foreign gift within
4 the time prescribed therefor (including extensions)—

5 “(A) the tax consequences of the receipt of
6 such gift shall be determined by the Secretary
7 in the Secretary’s sole discretion from the Sec-
8 retary’s own knowledge or from such informa-
9 tion as the Secretary may obtain through testi-
10 mony or otherwise, and

11 “(B) such United States person shall pay
12 (upon notice and demand by the Secretary and
13 in the same manner as tax) an amount equal to
14 5 percent of the amount of such foreign gift for
15 each month for which the failure continues (not
16 to exceed 25 percent of such amount in the ag-
17 gregate).

18 “(2) REASONABLE CAUSE EXCEPTION.— Para-
19 graph (1) shall not apply to any failure to report a
20 foreign gift if the United States person shows that
21 the failure is due to reasonable cause and not due
22 to willful neglect.

23 “(d) REGULATIONS.—The Secretary shall prescribe
24 such regulations as may be necessary or appropriate to
25 carry out the purposes of this section.”

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for such subpart is amended by inserting after the item
3 relating to section 6039E the following new item:

“Sec. 6039F. Notice of large gifts received from foreign persons.”

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to amounts received after the date
6 of the enactment of this Act in taxable years ending after
7 such date.

8 **SEC. ___ 305. MODIFICATION OF RULES RELATING TO FOR-**
9 **EIGN TRUSTS WHICH ARE NOT GRANTOR**
10 **TRUSTS.**

11 (a) MODIFICATION OF INTEREST CHARGE ON ACCU-
12 MULATION DISTRIBUTIONS.—Subsection (a) of section
13 668 of the Internal Revenue Code of 1986 (relating to
14 interest charge on accumulation distributions from foreign
15 trusts) is amended to read as follows:

16 “(a) GENERAL RULE.—For purposes of the tax de-
17 termined under section 667(a)—

18 “(1) INTEREST DETERMINED USING
19 UNDERPAYMENT RATES.—The interest charge deter-
20 mined under this section with respect to any dis-
21 tribution is the amount of interest which would be
22 determined on the partial tax computed under sec-
23 tion 667(b) for the period described in paragraph

1 (2) using the rates and the method under section
2 6621 applicable to underpayments of tax.

3 “(2) PERIOD.—For purposes of paragraph (1),
4 the period described in this paragraph is the period
5 which begins on the date which is the applicable
6 number of years before the date of the distribution
7 and which ends on the date of the distribution.

8 “(3) APPLICABLE NUMBER OF YEARS.—For
9 purposes of paragraph (2)—

10 “(A) IN GENERAL.—The applicable num-
11 ber of years with respect to a distribution is the
12 number determined by dividing—

13 “(i) the sum of the products described
14 in subparagraph (B) with respect to each
15 undistributed income year, by

16 “(ii) the aggregate undistributed net
17 income.

18 The quotient determined under the preceding
19 sentence shall be rounded under procedures
20 prescribed by the Secretary.

21 “(B) PRODUCT DESCRIBED.—For pur-
22 poses of subparagraph (A), the product de-
23 scribed in this subparagraph with respect to
24 any undistributed income year is the product
25 of—

1 “(i) the undistributed net income for
2 such year, and

3 “(ii) the sum of the number of taxable
4 years between such year and the taxable
5 year of the distribution (counting in each
6 case the undistributed income year but not
7 counting the taxable year of the distribu-
8 tion).

9 “(4) UNDISTRIBUTED INCOME YEAR.—For pur-
10 poses of this subsection, the term ‘undistributed in-
11 come year’ means any prior taxable year of the trust
12 for which there is undistributed net income, other
13 than a taxable year during all of which the bene-
14 ficiary receiving the distribution was not a citizen or
15 resident of the United States.

16 “(5) DETERMINATION OF UNDISTRIBUTED NET
17 INCOME.—Notwithstanding section 666, for pur-
18 poses of this subsection, an accumulation distribu-
19 tion from the trust shall be treated as reducing pro-
20 portionately the undistributed net income for prior
21 taxable years.

22 “(6) PERIODS BEFORE 1996.—Interest for the
23 portion of the period described in paragraph (2)
24 which occurs before January 1, 1996, shall be deter-
25 mined—

1 “(A) by using an interest rate of 6 percent,
2 and

3 “(B) without compounding until January
4 1, 1996.”

5 (b) ABUSIVE TRANSACTIONS.—Section 643(a) of
6 such Code is amended by inserting after paragraph (6)
7 the following new paragraph:

8 “(7) ABUSIVE TRANSACTIONS.—The Secretary
9 shall prescribe such regulations as may be necessary
10 or appropriate to carry out the purposes of this part,
11 including regulations to prevent avoidance of such
12 purposes.”

13 (c) TREATMENT OF USE OF TRUST PROPERTY.—

14 (1) IN GENERAL.—Section 643 of such Code
15 (relating to definitions applicable to subparts A, B,
16 C, and D) is amended by adding at the end the fol-
17 lowing new subsection:

18 “(i) USE OF FOREIGN TRUST PROPERTY.—For pur-
19 poses of subparts B, C, and D—

20 “(1) GENERAL RULE.—If a foreign trust makes
21 a loan of cash or marketable securities directly or in-
22 directly to—

23 “(A) any grantor or beneficiary of such
24 trust who is a United States person, or

1 “(B) any United States person not de-
2 scribed in subparagraph (A) who is related to
3 such grantor or beneficiary,
4 the amount of such loan shall be treated as a dis-
5 tribution by such trust to such grantor or bene-
6 ficiary (as the case may be).

7 “(2) USE OF OTHER PROPERTY.—Except as
8 provided in regulations prescribed by the Secretary,
9 any direct or indirect use of trust property (other
10 than cash or marketable securities) by a person re-
11 ferred to in subparagraph (A) or (B) of paragraph
12 (1) shall be treated as a distribution to the grantor
13 or beneficiary (as the case may be) equal to the fair
14 market value of the use of such property. The Sec-
15 retary may prescribe regulations treating a loan
16 guarantee by the trust as a use of trust property
17 equal to the value of the guarantee.

18 “(3) DEFINITIONS AND SPECIAL RULES.—For
19 purposes of this subsection—

20 “(A) CASH.—The term ‘cash’ includes for-
21 eign currencies and cash equivalents.

22 “(B) RELATED PERSON.—

23 “(i) IN GENERAL.—A person is relat-
24 ed to another person if the relationship be-
25 tween such persons would result in a dis-

1 allowance of losses under section 267 or
2 707(b). In applying section 267 for pur-
3 poses of the preceding sentence, section
4 267(c)(4) shall be applied as if the family
5 of an individual includes the spouses of the
6 members of the family.

7 “(ii) ALLOCATION OF USE.—If any
8 person described in paragraph (1)(B) is re-
9 lated to more than one person, the grantor
10 or beneficiary to whom the treatment
11 under this subsection applies shall be de-
12 termined under regulations prescribed by
13 the Secretary.

14 “(C) EXCLUSION OF TAX-EXEMPTS.—The
15 term ‘United States person’ does not include
16 any entity exempt from tax under this chapter.

17 “(D) TRUST NOT TREATED AS SIMPLE
18 TRUST.—Any trust which is treated under this
19 subsection as making a distribution shall be
20 treated as not described in section 651.

21 “(4) SUBSEQUENT TRANSACTIONS REGARDING
22 LOAN PRINCIPAL.—If any loan is taken into account
23 under paragraph (1), any subsequent transaction be-
24 tween the trust and the original borrower regarding
25 the principal of the loan (by way of complete or par-

1 tial repayment, satisfaction, cancellation, discharge,
2 or otherwise) shall be disregarded for purposes of
3 this title.”

4 (2) TECHNICAL AMENDMENT.—Paragraph (8)
5 of section 7872(f) is amended by inserting “,
6 643(i),” before “or 1274” each place it appears.

7 (d) EFFECTIVE DATES.—

8 (1) INTEREST CHARGE.—The amendment made
9 by subsection (a) shall apply to distributions after
10 the date of the enactment of this Act.

11 (2) ABUSIVE TRANSACTIONS.—The amendment
12 made by subsection (b) shall take effect on the date
13 of the enactment of this Act.

14 (3) USE OF TRUST PROPERTY.—The amend-
15 ment made by subsection (c) shall apply to—

16 (A) loans of cash or marketable securities
17 after September 19, 1995, and

18 (B) uses of other trust property after De-
19 cember 31, 1995.

20 **SEC. ____ 306. RESIDENCE OF ESTATES AND TRUSTS, ETC.**

21 (a) TREATMENT AS UNITED STATES PERSON.—

22 (1) IN GENERAL.—Paragraph (30) of section
23 7701(a) of the Internal Revenue Code of 1986 is
24 amended by striking subparagraph (D) and by in-
25 serting after subparagraph (C) the following:

1 “(D) any estate or trust if—

2 “(i) a court within the United States
3 is able to exercise primary supervision over
4 the administration of the estate or trust,
5 and

6 “(ii) in the case of a trust, one or
7 more United States fiduciaries have the
8 authority to control all substantial deci-
9 sions of the trust.”

10 (2) CONFORMING AMENDMENT.—Paragraph
11 (31) of section 7701(a) of such Code is amended to
12 read as follows:

13 “(31) FOREIGN ESTATE OR TRUST.—The term
14 ‘foreign estate’ or ‘foreign trust’ means any estate or
15 trust other than an estate or trust described in sec-
16 tion 7701(a)(30)(D).”

17 (3) EFFECTIVE DATE.—The amendments made
18 by this subsection shall apply—

19 (A) to taxable years beginning after De-
20 cember 31, 1996, or

21 (B) at the election of the trustee of a
22 trust, to taxable years ending after the date of
23 the enactment of this Act.

24 Such an election, once made, shall be irrevocable.

1 (b) DOMESTIC TRUSTS WHICH BECOME FOREIGN
2 TRUSTS.—

3 (1) IN GENERAL.—Section 1491 of such Code
4 (relating to imposition of tax on transfers to avoid
5 income tax) is amended by adding at the end the fol-
6 lowing new flush sentence:

7 “If a trust which is not a foreign trust becomes a foreign
8 trust, such trust shall be treated for purposes of this sec-
9 tion as having transferred, immediately before becoming
10 a foreign trust, all of its assets to a foreign trust.”

11 (2) PENALTY.—Section 1494 of the Internal
12 Revenue Code of 1986 is amended by adding at the
13 end the following new subsection:

14 “(c) PENALTY.—In the case of any failure to file a
15 return required by the Secretary with respect to any trans-
16 fer described in section 1491, the person required to file
17 such return shall be liable for the penalties provided in
18 section 6677 in the same manner as if such failure were
19 a failure to file a return under section 6048(a).”

20 (3) EFFECTIVE DATE.—The amendments made
21 by this subsection shall take effect on the date of the
22 enactment of this Act.

1 **PART II—OTHER FOREIGN PROVISIONS**

2 **SEC. ___ 311. DEFINITION OF FOREIGN PERSONAL HOLD-**
3 **ING COMPANY INCOME.**

4 (a) INCOME FROM NOTIONAL PRINCIPAL CON-
5 TRACTS.—

6 (1) IN GENERAL.—Paragraph (1) of section
7 954(c) (defining foreign personal holding company
8 income) is amended by adding at the end the follow-
9 ing new subparagraph:

10 “(F) INCOME FROM NOTIONAL PRINCIPAL
11 CONTRACTS.—Net income from notional prin-
12 cipal contracts. Any item of income, gain, de-
13 duction, or loss from a notional principal con-
14 tract entered into for purposes of hedging any
15 item described in subparagraph (B), (C), (D),
16 or (E) shall not be taken into account for pur-
17 poses of this subparagraph but shall be taken
18 into account under such other subparagraph.”

19 (2) EXCEPTION FOR DEALERS.—Paragraph (2)
20 of section 954(c) is amended by adding at the end
21 the following new subparagraph:

22 “(C) EXCEPTION FOR DEALERS.—Except
23 as provided by regulations, in the case of a reg-
24 ular dealer in property, forward contracts, op-
25 tion contracts, or similar financial instruments
26 (including notional principal contracts), there

1 shall not be taken into account in computing
2 foreign personal holding income any item of in-
3 come, gain, deduction, or loss from any trans-
4 action (including hedging transactions) entered
5 into in the ordinary course of such dealer's
6 trade or business as such a dealer."

7 (3) CONFORMING AMENDMENT.—Subparagraph
8 (B) of section 954(c)(1) is amended—

9 (A) by striking the second sentence, and

10 (B) by striking "also" in the last sentence.

11 (b) PAYMENTS IN LIEU OF DIVIDENDS.—Paragraph
12 (1) of section 954(c), as amended by subsection (a), is
13 amended by adding at the end the following new subpara-
14 graph:

15 "(G) PAYMENTS IN LIEU OF DIVIDENDS.—

16 Payments in lieu of dividends which are made
17 pursuant to an agreement to which section
18 1058 applies."

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 1995.

22 **SEC. ___ 312. TREATMENT OF FOREIGN OIL AND GAS EX-**
23 **TRACTION INCOME.**

24 (a) DISALLOWANCE OF FOREIGN TAX CREDIT.—Sec-
25 tion 907(a) is amended to read as follows:

1 “(a) DENIAL OF FOREIGN TAX CREDIT FOR EX-
2 TRACTION INCOME.—

3 “(1) IN GENERAL.—Notwithstanding any other
4 provision of this part—

5 “(A) no credit shall be allowed under sec-
6 tion 901(a) for any income, war profits, or ex-
7 cess profits taxes paid or accrued (or deemed
8 paid under section 902 or 960) to any country
9 which are attributable to foreign oil and gas ex-
10 traction income, and

11 “(B) subsections (a), (b), and (c) of sec-
12 tion 904 and sections 902 and 960 shall be ap-
13 plied separately with respect to foreign oil and
14 gas extraction income.

15 “(2) TAXES ALLOWED AS DEDUCTION, ETC.—
16 Sections 78 and 275 shall not apply to any tax
17 which is not allowable as a credit under section
18 901(a) by reason of this subsection.”

19 (b) ELIMINATION OF DEFERRAL.—Section 954(g) is
20 amended by adding at the end the following new para-
21 graph:

22 “(3) NO EXCEPTIONS FOR EXTRACTION IN-
23 COME.—Notwithstanding paragraphs (1) and (2),
24 foreign base company oil related income shall include

1 all foreign oil and gas extraction income (as defined
2 in section 907(c)(1)) for the taxable year.”

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 1995. The amendments made by this sec-
6 tion shall apply notwithstanding any treaty obligation of
7 the United States.

8 **SEC. ____ 313. LIMITATION ON EXCLUSION OF EARNED IN-**
9 **COME OF CITIZENS OR RESIDENTS OF THE**
10 **UNITED STATES LIVING ABROAD.**

11 (a) IN GENERAL.—Section 911 (relating to exclusion
12 of earned income of citizens or residents of the United
13 States living abroad) is amended by redesignating sub-
14 section (f) as subsection (g) and by inserting after sub-
15 section (e) the following new subsection:

16 “(f) EXCLUSION TO BE APPLIED AT LOWEST RATES
17 OF TAX.—If this section applies to a taxpayer for any tax-
18 able year, the tax imposed this chapter for such taxable
19 year shall be equal to the greater of—

20 “(1) such tax determined without regard to this
21 subsection, or

22 “(2) the excess of—

23 “(A) such tax determined without regard
24 to this section, over

1 “(B) a tax determined under section 1 on
2 an amount of taxable income equal to the
3 amount of the exclusion under subsection (a).”

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 1995.

7 **Subtitle D—Accounting Provisions**

8 **SEC. ___401. REPEAL OF BAD DEBT RESERVE METHOD FOR** 9 **THRIFT SAVINGS ASSOCIATIONS.**

10 (a) IN GENERAL.—Section 593 (relating to reserves
11 for losses on loans) is hereby repealed.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Subsection (d) of section 50 is amended by
14 adding at the end the following new sentence:

15 “Paragraphs (1)(A), (2)(A), and (4) of section 46(e) re-
16 ferred to in paragraph (1) of this subsection shall not
17 apply to any taxable year beginning after December 31,
18 1995.”

19 (2) Subsection (e) of section 52 is amended by
20 striking paragraph (1) and by redesignating para-
21 graphs (2) and (3) as paragraphs (1) and (2), re-
22 spectively.

23 (3) Subsection (a) of section 57 is amended by
24 striking paragraph (4).

1 (4) Section 246 is amended by striking sub-
2 section (f).

3 (5) Clause (i) of section 291(e)(1)(B) is amend-
4 ed by striking “or to which section 593 applies”.

5 (6) Subparagraph (A) of section 585(a)(2) is
6 amended by striking “other than an organization to
7 which section 593 applies”.

8 (7) Sections 595 and 596 are hereby repealed.

9 (8) Subsection (a) of section 860E is amend-
10 ed—

11 (A) by striking “Except as provided in
12 paragraph (2), the” in paragraph (1) and in-
13 serting “The”,

14 (B) by striking paragraphs (2) and (4) and
15 redesignating paragraphs (3) and (5) as para-
16 graphs (2) and (3), respectively, and

17 (C) by striking in paragraph (2) (as so re-
18 designated) all that follows “subsection” and
19 inserting a period.

20 (9) Paragraph (3) of section 992(d) is amended
21 by striking “or 593”.

22 (10) Section 1038 is amended by striking sub-
23 section (f).

24 (11) Clause (ii) of section 1042(c)(4)(B) is
25 amended by striking “or 593”.

1 (12) Subsection (c) of section 1277 is amended
2 by striking “or to which section 593 applies”.

3 (13) Subparagraph (B) of section 1361(b)(2) is
4 amended by striking “or to which section 593 ap-
5 plies”.

6 (14) The table of sections for part II of sub-
7 chapter H of chapter 1 is amended by striking the
8 items relating to sections 593, 595, and 596.

9 (c) EFFECTIVE DATE.—

10 (1) IN GENERAL.—Except as provided in para-
11 graph (2), the amendments made by this section
12 shall apply to taxable years beginning after Decem-
13 ber 31, 1995.

14 (2) REPEAL OF SECTION 595.—The repeal of
15 section 595 under subsection (b)(7) shall apply to
16 property acquired in taxable years beginning after
17 December 31, 1995.

18 (d) 6-YEAR SPREAD OF ADJUSTMENTS.—

19 (1) IN GENERAL.—In the case of any taxpayer
20 who is required by reason of the amendments made
21 by this section to change its method of computing
22 reserves for bad debts—

23 (A) such change shall be treated as a
24 change in a method of accounting,

1 (B) such change shall be treated as initi-
2 ated by the taxpayer and as having been made
3 with the consent of the Secretary, and

4 (C) the net amount of the adjustments re-
5 quired to be taken into account by the taxpayer
6 under section 481(a)—

7 (i) shall be determined by taking into
8 account only applicable excess reserves,
9 and

10 (ii) as so determined, shall be taken
11 into account ratably over the 6-taxable
12 year period beginning with the first taxable
13 year beginning after December 31, 1995.

14 (2) APPLICABLE EXCESS RESERVES.—

15 (A) IN GENERAL.—For purposes of para-
16 graph (1), the term ‘applicable excess reserves’
17 means the excess (if any) of—

18 (i) the balance of the reserves de-
19 scribed in section 593(c)(1) of such Code
20 (as in effect on the day before the date of
21 the enactment of this Act) as of the close
22 of the taxpayer’s last taxable year begin-
23 ning before January 1, 1996, over

24 (ii) the lesser of—

1 (I) the balance of such reserves
2 as of the close of the taxpayer's last
3 taxable year beginning before January
4 1, 1988, or

5 (II) the balance of the reserves
6 described in subclause (I), reduce by
7 an amount determined in the same
8 manner as under section
9 585(b)(2)(B)(ii) on the basis of the
10 taxable years described in clause (i)
11 and this clause.

12 (B) SPECIAL RULE FOR THRIFTS WHICH
13 BECOME SMALL BANKS.—In the case of a bank
14 (as defined in section 581 of such Code) which
15 is not a large bank (as defined in section
16 585(c)(2) of such Code) for its first taxable
17 year beginning after December 31, 1995—

18 (i) the balance taken into account
19 under subparagraph (A)(ii) shall not be
20 less than the amount which would be the
21 balance of such reserve as of the close of
22 its last taxable year beginning before Jan-
23 uary 1, 1996, if the additions to such re-
24 serve for all taxable years had been deter-
25 mined under section 585(b)(2)(A), and

1 (ii) the opening balance of the reserve
2 for bad debts as of the beginning of such
3 first taxable year shall be the balance
4 taken into account under subparagraph
5 (A)(ii) (determined after the application of
6 clause (i) of this subparagraph).

7 The preceding sentence shall not apply for pur-
8 poses of paragraphs (5), (6), and (7).

9 (3) RECAPTURE OF PRE-1988 RESERVES WHERE
10 TAXPAYER CEASES TO BE BANK.—If during any tax-
11 able year beginning after December 31, 1995, a tax-
12 payer to which paragraph (1) applied is not a bank
13 (as defined in section 581), paragraph (1) shall
14 apply to the reserves described in subparagraph
15 (A)(ii) except that such reserves shall be taken into
16 account ratably over the 6-taxable year period begin-
17 ning with such taxable year.

18 (4) SUSPENSION OF RECAPTURE IF RESIDEN-
19 TIAL LOAN REQUIREMENT MET.—

20 (A) IN GENERAL.—In the case of a bank
21 which meets the residential loan requirement of
22 subparagraph (B) for a taxable year beginning
23 after December 31, 1995, and before January
24 1, 1998—

1 (i) no adjustment shall be taken into
2 account under paragraph (1) for such tax-
3 able year, and

4 (ii) such taxable year shall be dis-
5 regarded in determining—

6 (I) whether any other taxable
7 year is a taxable year for which an
8 adjustment is required to be taken
9 into account under paragraph (1), and

10 (II) the amount of such adjust-
11 ment.

12 (B) RESIDENTIAL LOAN REQUIREMENT.—

13 A taxpayer meets the residential loan require-
14 ment of this subparagraph for any taxable year
15 if the principal amount of the residential loans
16 made by the taxpayer during such year is not
17 less than the base amount for such year.

18 (C) RESIDENTIAL LOAN.—For purposes of
19 this paragraph, the term “residential loan”
20 means any loan described in clause (v) of sec-
21 tion 7701(a)(19)(C) of such Code but only if
22 such loan is incurred in acquiring, constructing,
23 or improving the property described in such
24 clause.

1 (D) BASE AMOUNT.—For purposes of sub-
2 paragraph (B), the base amount is the average
3 of the principal amounts of the residential loans
4 made by the taxpayer during the 6 most recent
5 taxable years beginning before January 1,
6 1996. At the election of the taxpayer who made
7 such loans during each of such 6 taxable years,
8 the preceding sentence shall be applied without
9 regard to the taxable year in which such prin-
10 cipal amount was the highest and the taxable
11 year in such principal amount was the lowest.
12 Such an election may be made only for the first
13 taxable year beginning after December 31,
14 1995, and, if made for such taxable year, shall
15 apply to the succeeding taxable year unless re-
16 voked with the consent of the Secretary of the
17 Treasury or his delegate.

18 (E) CONTROLLED GROUPS.—In the case of
19 a taxpayer which is a member of any controlled
20 group of corporations described in section
21 1563(a)(1) of such Code, subparagraph (B)
22 shall be applied with respect to such group.

23 (5) CONTINUED APPLICATION OF FRESH START
24 UNDER SECTION 585 TRANSITIONAL RULES.—In the
25 case of a taxpayer to which paragraph (1) applied

1 and which was not a large bank (as defined in sec-
2 tion 585(c)(2) of such Code) for its first taxable
3 year beginning after December 31, 1995:

4 (A) IN GENERAL.—For purposes of deter-
5 mining the net amount of adjustments referred
6 to in section 585(c)(3)(A)(iii) of such Code,
7 there shall be taken into account only the ex-
8 cess of the reserve for bad debts as of the close
9 of the last taxable year before the disqualifica-
10 tion year over the balance taken into account by
11 such taxpayer under paragraph (2)(A)(ii) of
12 this subsection.

13 (B) TREATMENT UNDER ELECTIVE CUT-
14 OFF METHOD.—For purposes of applying sec-
15 tion 585(c)(4) of such Code—

16 (i) the balance of the reserve taken
17 into account under subparagraph (B)
18 thereof shall be reduced by the balance
19 taken into account by such taxpayer under
20 paragraph (2)(A)(ii) of this subsection,
21 and

22 (ii) no amount shall be includible in
23 gross income by reason of such reduction.

24 (6) CONTINUED APPLICATION OF SECTION
25 593(e).—Notwithstanding the amendments made by

1 this section, in the case of a taxpayer to which para-
2 graph (1) of this subsection applies, section 593(e)
3 of such Code (as in effect on the day before the date
4 of the enactment of this Act) shall continue to apply
5 to such taxpayer as if such taxpayer were a domestic
6 building and loan association but the amount of the
7 reserves taken into account under subparagraphs
8 (B) and (C) of section 593(e)(1) (as so in effect)
9 shall be the balance taken into account by such tax-
10 payer under paragraph (2)(A)(ii) of this subsection.

11 (7) CERTAIN ITEMS INCLUDED AS SECTION
12 381(c) ITEMS.—The balance of the applicable excess
13 reserves, and the balance taken into account by a
14 taxpayer under paragraph (2)(A)(ii) of this sub-
15 section, shall be treated as items described in section
16 381(c) of such Code.

17 (8) CONVERSIONS TO CREDIT UNIONS.—In the
18 case of a taxpayer to which paragraph (1) applied
19 which becomes a credit union described in section
20 501(c)(14)(A)—

21 (A) any amount required to be included in
22 the gross income of the credit union by reason
23 of this subsection shall be treated as derived
24 from an unrelated trade or business (as defined
25 in section 513), and

1 (B) for purposes of paragraph (3), the
2 credit union shall not be treated as if it were
3 a bank.

4 (9) REGULATIONS.—The Secretary of the
5 Treasury or his delegate shall prescribe such regula-
6 tions as may be necessary to carry out this sub-
7 section, including regulations providing for the appli-
8 cation of paragraphs (4) and (6) in the case of ac-
9 quisitions, mergers, spin-offs, and other reorganiza-
10 tions.

11 **SEC. ____402. DEPRECIATION UNDER INCOME FORECAST**
12 **METHOD.**

13 (a) GENERAL RULE.—Section 167 (relating to depre-
14 ciation) is amended by redesignating subsection (g) as
15 subsection (h) and by inserting after subsection (f) the
16 following new subsection:

17 “(g) DEPRECIATION UNDER INCOME FORECAST
18 METHOD.—

19 “(1) IN GENERAL.—If the depreciation deduc-
20 tion allowable under this section to any taxpayer
21 with respect to any property is determined under the
22 income forecast method or any similar method—

23 “(A) in applying such method, the income
24 from the property shall include all income
25 earned in connection with the property before

1 the close of the 10th taxable year following the
2 taxable year in which the property was placed
3 in service,

4 “(B) the adjusted basis of the property
5 shall only include amounts with respect to
6 which the requirements of section 461(h) are
7 satisfied,

8 “(C) the depreciation deduction under such
9 method for the 10th taxable year beginning
10 after the taxable year in which the property was
11 placed in service shall be equal to the adjusted
12 basis of such property as of the beginning of
13 such 10th taxable year, and

14 “(D) such taxpayer shall pay (or be enti-
15 tled to receive) interest computed under the
16 look-back method of paragraph (2) for any re-
17 computation year.

18 “(2) LOOK-BACK METHOD.—The interest com-
19 puted under the look-back method of this paragraph
20 for any recomputation year shall be determined by—

21 “(A) first determining the depreciation de-
22 ductions under this section with respect to such
23 property which would have been allowable for
24 prior taxable years if the determination of the
25 amounts so allowable had been made on the

1 basis of the sum of the following (instead of the
2 estimated income with respect to such prop-
3 erty)—

4 “(i) the actual income earned in con-
5 nection with such property for periods be-
6 fore the close of the recomputation year,
7 and

8 “(ii) an estimate of the future income
9 to be earned in connection with such prop-
10 erty for periods after the recomputation
11 year,

12 “(B) second, determining (solely for pur-
13 poses of computing such interest) the overpay-
14 ment or underpayment of tax for each such
15 prior taxable year which would result solely
16 from the application of subparagraph (A), and

17 “(C) then using the adjusted overpayment
18 rate (as defined in section 460(b)(7)),
19 compounded daily, on the overpayment or
20 underpayment determined under subparagraph
21 (B).

22 For purposes of the preceding sentence, any cost in-
23 curred after the property is placed in service (which
24 is not treated as a separate property under para-
25 graph (5)) shall be taken into account by discount-

1 ing (using the Federal mid-term rate determined
2 under section 1274(d) as of the time such cost is in-
3 curred) such cost to its value as of the date the
4 property is placed in service. The taxpayer may elect
5 with respect to any property to have the preceding
6 sentence not apply to such property.

7 “(3) EXCEPTION FROM LOOK-BACK METHOD.—
8 Paragraph (1)(D) shall not apply with respect to
9 any property which, when placed in service by the
10 taxpayer, had a basis of \$100,000 or less.

11 “(4) RECOMPUTATION YEAR.—For purposes of
12 this subsection, except as provided in regulations,
13 the term ‘recomputation year’ means, with respect to
14 any property, the 3d and the 10th taxable years be-
15 ginning after the taxable year in which the property
16 was placed in service, unless the actual income
17 earned in connection with the property for the pe-
18 riod before the close of such 3d or 10th taxable year
19 is within 10 percent of the income earned in connec-
20 tion with the property for such period which was
21 taken into account under paragraph (1)(A).

22 “(5) SPECIAL RULES.—

23 “(A) CERTAIN COSTS TREATED AS SEPA-
24 RATE PROPERTY.—For purposes of this sub-

1 section, the following costs shall be treated as
2 separate properties:

3 “(i) Any costs incurred with respect
4 to any property after the 10th taxable year
5 beginning after the taxable year in which
6 the property was placed in service.

7 “(ii) Any costs incurred after the
8 property is placed in service and before the
9 close of such 10th taxable year if such
10 costs are significant and give rise to a sig-
11 nificant increase in the income from the
12 property which was not included in the es-
13 timated income from the property.

14 “(B) SYNDICATION INCOME FROM TELE-
15 VISION SERIES.—In the case of property which
16 is an episode in a television series, income from
17 syndicating such series shall not be required to
18 be taken into account under this subsection be-
19 fore the earlier of—

20 “(i) the 4th taxable year beginning
21 after the date the first episode in such se-
22 ries is placed in service, or

23 “(ii) the earliest taxable year in which
24 the taxpayer has an arrangement relating
25 to the future syndication of such series.

1 “(C) SPECIAL RULES FOR FINANCIAL EX-
2 PLOITATION OF CHARACTERS, ETC.—For pur-
3 poses of this subsection, in the case of television
4 and motion picture films, the income from the
5 property shall include income from the exploi-
6 tation of characters, designs, scripts, scores,
7 and other incidental income associated with
8 such films, but only to the extent that such in-
9 come is earned in connection with the ultimate
10 use of such items by, or the ultimate sale of
11 merchandise to, persons who are not related
12 persons (within the meaning of section 267(b))
13 to the taxpayer.

14 “(D) COLLECTION OF INTEREST.—For
15 purposes of subtitle F (other than sections
16 6654 and 6655), any interest required to be
17 paid by the taxpayer under paragraph (1) for
18 any recomputation year shall be treated as an
19 increase in the tax imposed by this chapter for
20 such year.

21 “(E) DETERMINATIONS.—For purposes of
22 paragraph (2), determinations of the amount of
23 income earned in connection with any property
24 shall be determined in the same manner as for
25 purposes of applying the income forecast meth-

1 od; except that any income from the disposition
2 of such property shall be taken into account.

3 “(F) TREATMENT OF PASS-THRU ENTI-
4 TIES.—Rules similar to the rules of section
5 460(b)(4) shall apply for purposes of this sub-
6 section.”

7 (b) EFFECTIVE DATE.—

8 (1) IN GENERAL.—The amendment made by
9 subsection (a) shall apply to property placed in serv-
10 ice after September 13, 1995.

11 (2) BINDING CONTRACTS.—The amendment
12 made by subsection (a) shall not apply to any prop-
13 erty produced or acquired by the taxpayer pursuant
14 to a written contract which was binding on Septem-
15 ber 13, 1995, and at all times thereafter before such
16 production or acquisition.

17 **SEC. ___403. REPEAL OF LOWER-OF-COST-OR-MARKET**
18 **METHOD OF ACCOUNTING FOR INVEN-**
19 **TORIES.**

20 (a) IN GENERAL.—Section 471 (relating to general
21 rule for inventories) is amended by redesignating sub-
22 section (b) as subsection (c) and by inserting after sub-
23 section (a) the following new subsection:

24 “(b) CERTAIN WRITE-DOWNS NOT PERMITTED; USE
25 OF MARK-DOWNS REQUIRED UNDER RETAIL METHOD.—

1 “(1) IN GENERAL.—A taxpayer—

2 “(A) may not use the lower-of-cost-or-mar-
3 ket method of accounting for inventories, and

4 “(B) may not write-down items by reason
5 of being unsalable at normal prices or unusable
6 in the normal way because of damage, imperfec-
7 tions, shop wear, changes of style, odd or bro-
8 ken lots, or other similar causes.

9 Subparagraph (B) shall not apply to a taxpayer
10 using a mark-to-market method of accounting for
11 both gains and losses in inventory values.

12 “(2) MARK-DOWNS REQUIRED TO BE TAKEN
13 INTO ACCOUNT UNDER RETAIL METHOD.—The retail
14 method of accounting for inventories shall be applied
15 by taking into account mark-downs in determining
16 the approximate cost of the inventories.

17 “(3) EXCEPTION FOR CERTAIN SMALL BUSI-
18 NESSES.—Paragraph (1) shall not apply to any tax-
19 payer for the taxable year if the average annual
20 gross receipts of the taxpayer for the 3 preceding
21 taxable years do not exceed \$5,000,000. For pur-
22 poses of the preceding sentence, rules similar to the
23 rules of paragraph (2) and (3) of section 448(c)
24 shall apply.

1 “(4) REGULATIONS.—The Secretary shall pre-
2 scribe such regulations as may be appropriate to
3 carry out the purposes of this subsection, including
4 regulations relating to wash-sale-type transactions.”

5 (b) CONFORMING AMENDMENTS.—

6 (1) Clause (iii) of section 312(n)(4)(C) is
7 amended to read as follows:

8 “(iii) INVENTORY AMOUNT.—The in-
9 ventory amount of assets under the first-
10 in, first-out method authorized by section
11 471 shall be determined using the method
12 authorized to be used by the taxpayer
13 under such section.”

14 (2) Subparagraph (C) of section 1363(d)(4) is
15 amended to read as follows:

16 “(iii) INVENTORY AMOUNT.—The in-
17 ventory amount of assets under a method
18 authorized by section 471 shall be deter-
19 mined using the method authorized to be
20 used by the corporation under such sec-
21 tion.”

22 (c) EFFECTIVE DATE.—

23 (1) IN GENERAL.—The amendments made by
24 this section shall apply to taxable years beginning
25 after December 31, 1995.

1 (2) CHANGE IN METHOD OF ACCOUNTING.—In
2 the case of any taxpayer required by this section to
3 change its method accounting for its first taxable
4 year beginning after December 31, 1995—

5 (A) such change shall be treated as initi-
6 ated by the taxpayer,

7 (B) such change shall be treated as made
8 with the consent of the Secretary of the Treas-
9 ury, and

10 (C) the net amount of the adjustments re-
11 quired to be taken into account by the taxpayer
12 under section 481 of the Internal Revenue Code
13 of 1986 shall be taken into account ratably over
14 the 4-taxable year period beginning with the
15 first taxable year beginning after December 31,
16 1995.

17 **Subtitle E—Administrative** 18 **Provisions**

19 **SEC. ___ 501. REPEAL OF DIESEL FUEL TAX REBATE TO** 20 **PURCHASERS OF DIESEL-POWERED AUTO-** 21 **MOBILES AND LIGHT TRUCKS.**

22 (a) IN GENERAL.—Section 6427 (relating to fuels
23 not used for taxable purposes) is amended by striking sub-
24 section (g).

25 (b) CONFORMING AMENDMENTS.—

1 (1) Paragraph (3) of section 34(a) is amended
2 to read as follows:

3 “(3) under section 6427 with respect to fuels
4 used for nontaxable purposes or resold during the
5 taxable year (determined without regard to section
6 6427(k)).”.

7 (2) Paragraphs (1) and (2)(A) of section
8 6427(i) are each amended—

9 (A) by striking “(g),” and

10 (B) by striking “(or a qualified diesel pow-
11 ered highway vehicle purchased)” each place it
12 appears.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to vehicles purchased after Decem-
15 ber 31, 1995.

16 **SEC. ___502. INCREASED INFORMATION REPORTING PEN-**
17 **ALTIES.**

18 (a) IN GENERAL.—Section 6721(a) (relating to impo-
19 sition of penalty) is amended by adding at the end the
20 following new paragraph:

21 “(3) INCREASED PENALTY IF LESS THAN 97
22 PERCENT OF AGGREGATE AMOUNT OF ITEMS RE-
23 PORTED CORRECTLY.—

24 “(A) IN GENERAL.—Subject to the overall
25 limitation of paragraph (1), the amount of the

1 penalty under paragraph (1) for any failure
2 with respect to any information return shall be
3 equal to the greater of \$50 or 5 percent of the
4 amount required to be reported correctly but
5 not so reported.

6 “(B) EXCEPTION WHERE SUBSTANTIAL
7 COMPLIANCE.—Subparagraph (A) shall not
8 apply to failures with respect to information re-
9 turns required to be filed by a person during
10 any calendar year if the aggregate amount
11 which is timely and correctly reported on such
12 returns filed by the person for the calendar year
13 is at least 97 percent of the aggregate amount
14 which is required to be reported on such re-
15 turns by the person for the calendar year.”

16 (b) CONFORMING AMENDMENT.—Paragraph (1) of
17 section 6721(a) is amended by striking “In” and inserting
18 “Except as provided in paragraph (3), in”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to returns the due date for which
21 (without regard to extensions) is more than 90 days after
22 the date of the enactment of this Act.

1 **Subtitle F—Casualty and**
2 **Involuntary Conversion Provisions**

3 **SEC. ____601. BASIS ADJUSTMENT TO PROPERTY HELD BY**
4 **CORPORATION WHERE STOCK IN CORPORA-**
5 **TION IS REPLACEMENT PROPERTY UNDER**
6 **INVOLUNTARY CONVERSION RULES.**

7 (a) IN GENERAL.—Subsection (b) of section 1033 is
8 amended to read as follows:

9 “(b) BASIS OF PROPERTY ACQUIRED THROUGH IN-
10 VOLUNTARY CONVERSION.—

11 “(1) CONVERSIONS DESCRIBED IN SUBSECTION
12 (a)(1).—If the property was acquired as the result
13 of a compulsory or involuntary conversion described
14 in subsection (a)(1), the basis shall be the same as
15 in the case of the property so converted—

16 “(A) decreased in the amount of any
17 money received by the taxpayer which was not
18 expended in accordance with the provisions of
19 law (applicable to the year in which such con-
20 version was made) determining the taxable sta-
21 tus of the gain or loss upon such conversion,
22 and

23 “(B) increased in the amount of gain or
24 decreased in the amount of loss to the taxpayer
25 recognized upon such conversion under the law

1 applicable to the year in which such conversion
2 was made.

3 “(2) CONVERSIONS DESCRIBED IN SUBSECTION
4 (a)(2).—In the case of property purchased by the
5 taxpayer in a transaction described in subsection
6 (a)(2) which resulted in the nonrecognition of any
7 part of the gain realized as the result of a compul-
8 sory or involuntary conversion, the basis shall be the
9 cost of such property decreased in the amount of the
10 gain not so recognized; and if the property pur-
11 chased consists of more than 1 piece of property, the
12 basis determined under this sentence shall be allo-
13 cated to the purchased properties in proportion to
14 their respective costs.

15 “(3) PROPERTY HELD BY CORPORATION THE
16 STOCK OF WHICH IS REPLACEMENT PROPERTY.—

17 “(A) IN GENERAL.—If the basis of stock
18 in a corporation is decreased under paragraph
19 (2), an amount equal to such decrease shall also
20 be applied to reduce the basis of property held
21 by the corporation at the time the taxpayer ac-
22 quired control (as defined in subsection
23 (a)(2)(E)) of such corporation.

24 “(B) LIMITATION.—Subparagraph (A)
25 shall not apply to the extent that it would (but

1 for this subparagraph) require a reduction in
2 the aggregate adjusted bases of the property of
3 the corporation below the taxpayer's adjusted
4 basis of the stock in the corporation (deter-
5 mined immediately after such basis is decreased
6 under paragraph (2)).

7 “(C) ALLOCATION OF BASIS REDUCTION.—

8 The decrease required under subparagraph (A)
9 shall be allocated—

10 “(i) first to property which is similar
11 or related in service or use to the converted
12 property,

13 “(ii) second to depreciable property
14 (as defined in section 1017(b)(3)(B)) not
15 described in clause (i), and

16 “(iii) then to other property.

17 “(D) SPECIAL RULES.—

18 “(i) REDUCTION NOT TO EXCEED AD-
19 JUSTED BASIS OF PROPERTY.—No reduc-
20 tion in the basis of any property under this
21 paragraph shall exceed the adjusted basis
22 of such property (determined without re-
23 gard to such reduction).

24 “(ii) ALLOCATION OF REDUCTION
25 AMONG PROPERTIES.—If more than 1

1 property is described in a clause of sub-
2 paragraph (C), the reduction under this
3 paragraph shall be allocated among such
4 property in proportion to the adjusted
5 bases of such property (as so deter-
6 mined).”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to involuntary conversions occur-
9 ring after September 13, 1995.

10 **Subtitle G—Excise Tax on Amounts** 11 **of Private Excess Benefits**

12 **SEC. ___ 701. EXCISE TAXES FOR FAILURE BY CERTAIN** 13 **CHARITABLE ORGANIZATIONS TO MEET CER-** 14 **TAIN QUALIFICATION REQUIREMENTS.**

15 (a) IN GENERAL.—Chapter 42 (relating to private
16 foundations and certain other tax-exempt organizations)
17 is amended by redesignating subchapter D as subchapter
18 E and by inserting after subchapter C the following new
19 subchapter:

20 **“Subchapter D—Failure By Certain** 21 **Charitable Organizations To** 22 **Meet Certain Qualification Re-** 23 **quirements**

“Sec. 4958. Taxes on excess benefit transactions.

1 **“SEC. 4958. TAXES ON EXCESS BENEFIT TRANSACTIONS.**

2 “(a) INITIAL TAXES.—

3 “(1) ON THE DISQUALIFIED PERSON.—There is
4 hereby imposed on each excess benefit transaction a
5 tax equal to 25 percent of the excess benefit. The
6 tax imposed by this paragraph shall be paid by any
7 disqualified person referred to in subsection (f)(1)
8 with respect to such transaction.

9 “(2) ON THE MANAGEMENT.—In any case in
10 which a tax is imposed by paragraph (1), there is
11 hereby imposed on the participation of any organiza-
12 tion manager in the excess benefit transaction,
13 knowing that it is such a transaction, a tax equal to
14 10 percent of the excess benefit, unless such partici-
15 pation is not willful and is due to reasonable cause.
16 The tax imposed by this paragraph shall be paid by
17 any organization manager who participated in the
18 excess benefit transaction.

19 “(b) ADDITIONAL TAX ON THE DISQUALIFIED PER-
20 SON.—In any case in which an initial tax is imposed by
21 subsection (a)(1) on an excess benefit transaction and the
22 excess benefit involved in such transaction is not corrected
23 within the taxable period, there is hereby imposed a tax
24 equal to 200 percent of the excess benefit involved. The
25 tax imposed by this subsection shall be paid by any dis-

1 qualified person referred to in subsection (f)(1) with re-
2 spect to such transaction.

3 “(c) EXCESS BENEFIT TRANSACTION; EXCESS BEN-
4 EFIT.—For purposes of this section—

5 “(1) EXCESS BENEFIT TRANSACTION.—

6 “(A) IN GENERAL.—The term ‘excess ben-
7 efit transaction’ means any transaction in
8 which an economic benefit is provided by an ap-
9 plicable tax-exempt organization directly or in-
10 directly to or for the use of any disqualified
11 person if the value of the economic benefit pro-
12 vided exceeds the value of the consideration (in-
13 cluding the performance of services) received
14 for providing such benefit. For purposes of the
15 preceding sentence, an economic benefit shall
16 not be treated as consideration for the perform-
17 ance of services unless such organization clearly
18 indicated its intent to so treat such benefit.

19 “(B) EXCESS BENEFIT.—The term ‘excess
20 benefit’ means the excess referred to in sub-
21 paragraph (A).

22 “(2) AUTHORITY TO INCLUDE CERTAIN OTHER
23 PRIVATE INUREMENT.—To the extent provided in
24 regulations prescribed by the Secretary, the term
25 ‘excess benefit transaction’ includes any transaction

1 in which the amount of any economic benefit pro-
2 vided to or for the use of a disqualified person is de-
3 termined in whole or in part by the revenues of 1
4 or more activities of the organization but only if
5 such transaction results in inurement not permitted
6 under paragraph (3) or (4) of section 501(c), as the
7 case may be. In the case of any such transaction,
8 the excess benefit shall be the amount of the
9 inurement not so permitted.

10 “(d) SPECIAL RULES.—For purposes of this sec-
11 tion—

12 “(1) JOINT AND SEVERAL LIABILITY.—If more
13 than 1 person is liable for any tax imposed by sub-
14 section (a) or subsection (b), all such persons shall
15 be jointly and severally liable for such tax.

16 “(2) LIMIT FOR MANAGEMENT.—With respect
17 to any 1 excess benefit transaction, the maximum
18 amount of the tax imposed by subsection (a)(2) shall
19 not exceed \$10,000.

20 “(e) APPLICABLE TAX-EXEMPT ORGANIZATION.—
21 For purposes of this subchapter, the term ‘applicable tax-
22 exempt organization’ means—

23 “(1) any organization which (without regard to
24 any excess benefit) would be described in paragraph

1 (3) or (4) of section 501(c) and exempt from tax
2 under section 501(a), and

3 “(2) any organization which was described in
4 paragraph (1) at any time during the 10-year period
5 ending on the date of the transaction.

6 Such term shall not include a private foundation (as de-
7 fined in section 509(a)).

8 “(f) OTHER DEFINITIONS.—For purposes of this sec-
9 tion—

10 “(1) DISQUALIFIED PERSON.—The term ‘dis-
11 qualified person’ means, with respect to any trans-
12 action—

13 “(A) any person who was, at any time dur-
14 ing the 5-year period ending on the date of
15 such transaction, in a position to exercise sub-
16 stantial influence over the affairs of the organi-
17 zation,

18 “(B) a member of the family of an individ-
19 ual described in subparagraph (A), and

20 “(C) a 35-percent controlled entity.

21 “(2) ORGANIZATION MANAGER.—The term ‘or-
22 ganization manager’ means, with respect to any ap-
23 plicable tax-exempt organization, any officer, direc-
24 tor, or trustee of such organization (or any individ-
25 ual having powers or responsibilities similar to those

1 of officers, directors, or trustees of the organiza-
2 tion).

3 “(3) 35-PERCENT CONTROLLED ENTITY.—

4 “(A) IN GENERAL.—The term ‘35-percent
5 controlled entity’ means—

6 “(i) a corporation in which persons
7 described in subparagraph (A) or (B) of
8 paragraph (1) own more than 35 percent
9 of the total combined voting power,

10 “(ii) a partnership in which such per-
11 sons own more than 35 percent of the
12 profits interest, and

13 “(iii) a trust or estate in which such
14 persons own more than 35 percent of the
15 beneficial interest.

16 “(B) CONSTRUCTIVE OWNERSHIP
17 RULES.—Rules similar to the rules of para-
18 graphs (3) and (4) of section 4946(a) shall
19 apply for purposes of this paragraph.

20 “(4) FAMILY MEMBERS.—The members of an
21 individual’s family shall be determined under section
22 4946(d); except that such members also shall in-
23 clude the brothers and sisters (whether by the whole
24 or half blood) of the individual and their spouses.

1 “(5) TAXABLE PERIOD.—The term ‘taxable pe-
2 riod’ means, with respect to any excess benefit
3 transaction, the period beginning with the date on
4 which the transaction occurs and ending on the ear-
5 liest of—

6 “(A) the date of mailing a notice of defi-
7 ciency under section 6212 with respect to the
8 tax imposed by subsection (a)(1), or

9 “(B) the date on which the tax imposed by
10 subsection (a)(1) is assessed.

11 “(6) CORRECTION.—The terms ‘correction’ and
12 ‘correct’ mean, with respect to any excess benefit
13 transaction, undoing the excess benefit to the extent
14 possible, and where fully undoing the excess benefit
15 is not possible, such additional corrective action as
16 is prescribed by the Secretary by regulations.”

17 (b) APPLICATION OF PRIVATE INUREMENT RULE TO
18 TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SECTION
19 501(c)(4).—

20 (1) Paragraph (4) of section 501(c) is amended
21 by inserting “(A)” after “(4)” and by adding at the
22 end the following:

23 “(B) Subparagraph (A) shall not apply to an
24 entity unless no part of the net earnings of such en-

1 tity inures to the benefit of any private shareholder
2 or individual.”

3 (2) In the case of an organization operating on
4 a cooperative basis which, before the date of the en-
5 actment of this Act, was determined by the Sec-
6 retary of the Treasury or his delegate, to be de-
7 scribed in section 501(c)(4) of the Internal Revenue
8 Code of 1986 and exempt from tax under section
9 501(a) of such Code, the allocation or return of net
10 margins or capital to the members of such organiza-
11 tion in accordance with its incorporating statute and
12 bylaws shall not be treated for purposes of such
13 Code as the inurement of the net earnings of such
14 organization to the benefit of any private share-
15 holder or individual. The preceding sentence shall
16 apply only if such statute and bylaws are substan-
17 tially as such statute and bylaws were in existence
18 on the date of the enactment of this Act.

19 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

20 (1) Subsection (e) of section 4955 is amend-
21 ed—

22 (A) by striking “SECTION 4945” in the
23 heading and inserting “SECTIONS 4945 and
24 4958”, and

1 (B) by inserting before the period “or an
2 excess benefit for purposes of section 4958”.

3 (2) Subsections (a), (b), and (c) of section 4963
4 are each amended by inserting “4958,” after
5 “4955,”.

6 (3) Subsection (e) of section 6213 is amended
7 by inserting “4958 (relating to private excess bene-
8 fit),” before “4971”.

9 (4) Paragraphs (2) and (3) of section 7422(g)
10 are each amended by inserting “4958,” after
11 “4955,”.

12 (5) Subsection (b) of section 7454 is amended
13 by inserting “or whether an organization manager
14 (as defined in section 4958(f)(2)) has ‘knowingly’
15 participated in an excess benefit transaction (as de-
16 fined in section 4958(e)),” after “section 4912(b),”.

17 (6) The table of subchapters for chapter 42 is
18 amended by striking the last item and inserting the
19 following:

“Subchapter D. Failure by certain charitable organizations to
meet certain qualification requirements.

“Subchapter E. Abatement of first and second tier taxes in cer-
tain cases.”

20 (d) EFFECTIVE DATES.—

21 (1) IN GENERAL.—The amendments made by
22 this section (other than subsection (b)) shall apply

1 to excess benefit transactions occurring on or after
2 September 14, 1995.

3 (2) BINDING CONTRACTS.—The amendments
4 referred to in paragraph (1) shall not apply to any
5 benefit arising from a transaction pursuant to any
6 written contract which was binding on September
7 13, 1995, and at all times thereafter before such
8 transaction occurred.

9 (3) APPLICATION OF PRIVATE INUREMENT
10 RULE TO TAX-EXEMPT ORGANIZATIONS DESCRIBED
11 IN SECTION 501(C)(4).—

12 (A) IN GENERAL.—The amendment made
13 by subsection (b) shall apply to inurement oc-
14 ccurring on or after September 14, 1995.

15 (B) BINDING CONTRACTS.—The amend-
16 ment made by subsection (b) shall not apply to
17 any inurement occurring before January 1,
18 1997, pursuant to a written contract which was
19 binding on September 13, 1995, and at all
20 times thereafter before such inurement oc-
21 curred.

22 **SEC. ___ 702. REPORTING OF CERTAIN EXCISE TAXES AND**
23 **OTHER INFORMATION.**

24 (a) REPORTING BY ORGANIZATIONS DESCRIBED IN
25 SECTION 501(c)(3).—Subsection (b) of section 6033 (re-

1 lating to certain organizations described in section
2 501(c)(3)) is amended by striking “and” at the end of
3 paragraph (9), by redesignating paragraph (10) as para-
4 graph (14), and by inserting after paragraph (9) the fol-
5 lowing new paragraphs:

6 “(10) the respective amounts (if any) of the
7 taxes paid by the organization during the taxable
8 year under the following provisions:

9 “(A) section 4911 (relating to tax on ex-
10 cess expenditures to influence legislation),

11 “(B) section 4912 (relating to tax on dis-
12 qualifying lobbying expenditures of certain or-
13 ganizations), and

14 “(C) section 4955 (relating to taxes on po-
15 litical expenditures of section 501(c)(3) organi-
16 zations),

17 “(11) the respective amounts (if any) of the
18 taxes paid by the organization, or any disqualified
19 person with respect to such organization, during the
20 taxable year under section 4958 (relating to taxes on
21 private excess benefit from certain charitable organi-
22 zations),

23 “(12) such information as the Secretary may
24 require with respect to any excess benefit trans-
25 action (as defined in section 4958),

1 6033) is amended by striking “\$10” and inserting “\$20”
2 and by striking “\$5,000” and inserting “\$10,000”.

3 (b) LARGER PENALTY ON ORGANIZATIONS HAVING
4 GROSS RECEIPTS IN EXCESS OF \$1,000,000.—Subpara-
5 graph (A) of section 6652(e)(1) is amended by adding at
6 the end the following new sentence: “In the case of an
7 organization having gross receipts exceeding \$1,000,000
8 for any year, with respect to the return required under
9 section 6033 for such year, the first sentence of this sub-
10 paragraph shall be applied by substituting ‘\$100’ for ‘\$20’
11 and, in lieu of applying the second sentence of this sub-
12 paragraph, the maximum penalty under this subparagraph
13 shall not exceed \$50,000.”

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to returns for taxable years ending
16 on or after December 31, 1995.

17 **Subtitle H—Extension of Certain**
18 **Taxes**

19 **SEC. ___ 801. EXTENSION OF HAZARDOUS SUBSTANCE**
20 **SUPERFUND TAXES.**

21 (a) EXTENSION OF TAXES.—

22 (1) ENVIRONMENTAL TAX.—Section 59A(e) is
23 amended to read as follows:

1 “(e) APPLICATION OF TAX.—The tax imposed by this
2 section shall apply to taxable years beginning after De-
3 cember 31, 1986, and before January 1, 1997.”.

4 (2) EXCISE TAXES.—Section 4611(e) is amend-
5 ed to read as follows:

6 “(e) APPLICATION OF HAZARDOUS SUBSTANCE
7 SUPERFUND FINANCING RATE.—The Hazardous Sub-
8 stance Superfund financing rate under this section shall
9 apply after December 31, 1986, and before October 1,
10 1996.”.

11 (b) TERMINATION ON DEPOSITS OF TAXES INTO
12 HAZARDOUS SUBSTANCE SUPERFUND.—Paragraph (1) of
13 section 9507(b) is amended by inserting “before August
14 1, 1996” after “received”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on the date of the enactment
17 of this Act.

18 **SEC. ___ 802. EXTENSION OF OIL SPILL LIABILITY TAX.**

19 (a) IN GENERAL.—Section 4611(f)(1) (relating to
20 application of oil spill liability trust fund financing rate)
21 is amended by striking “after December 31, 1989, and
22 before January 1, 1995” and inserting “after December
23 31, 1995, and before October 1, 2002”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall take effect on January 1, 1996.

1 **SEC. ___803. EXTENSION OF FEDERAL UNEMPLOYMENT**
2 **TAX.**

3 Section 3301 (relating to rate of Federal unemploy-
4 ment tax) is amended—

5 (1) by striking “1998” in paragraph (1) and in-
6 serting “2002”, and

7 (2) by striking “1999” in paragraph (2) and in-
8 serting “2003”.

9 **Subtitle I—Provisions Relating To**
10 **Individuals**

11 **SEC. ___851. NO ROLLOVER OR EXCLUSION OF GAIN ON**
12 **SALE OF PRINCIPAL RESIDENCE WHICH IS**
13 **ATTRIBUTABLE TO DEPRECIATION DEDUC-**
14 **TIONS.**

15 (a) IN GENERAL.—Subsection (d) of section 1034
16 (relating to limitations) is amended by adding at the end
17 the following new paragraph:

18 “(3) RECOGNITION OF GAIN ATTRIBUTABLE TO
19 DEPRECIATION.—Subsection (a) shall not apply to
20 so much of the gain from the sale of any residence
21 as does not exceed the portion of the depreciation
22 adjustments (as defined in section 1250(b)(3)) at-
23 tributable to periods after December 31, 1995, in re-
24 spect of such residence.”.

25 (b) COMPARABLE TREATMENT UNDER 1-TIME EX-
26 CLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE.—

1 Subsection (d) of section 121 is amended by adding at
2 the end the following new paragraph:

3 “(10) RECOGNITION OF GAIN ATTRIBUTABLE
4 TO DEPRECIATION.—

5 “(A) IN GENERAL.—Subsection (a) shall
6 not apply to so much of the gain from the sale
7 of any property as does not exceed the portion
8 of the depreciation adjustments (as defined in
9 section 1250(b)(3)) attributable to periods after
10 December 31, 1995, in respect of such prop-
11 erty.

12 “(B) COORDINATION WITH PARAGRAPH
13 (5).—If this section does not apply to gain at-
14 tributable to a portion of a residence by reason
15 of paragraph (5), subparagraph (A) shall not
16 apply to depreciation adjustments attributable
17 to such portion.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years ending after De-
20 cember 31, 1995.

21 **SEC. ___ 852. EXTENSION OF WITHHOLDING TO CERTAIN**
22 **GAMBLING WINNINGS.**

23 (a) REPEAL OF EXEMPTION FOR BINGO AND
24 KENO.—Paragraph (5) of section 3402(q) is amended to
25 read as follows:

1 “(5) EXEMPTION FOR SLOT MACHINES.—The
2 tax imposed under paragraph (1) shall not apply to
3 winnings from a slot machine.”.

4 (b) THRESHOLD AMOUNT.—Paragraph (3) of section
5 3402(q) is amended—

6 (1) by striking “(B) and (C)” in subparagraph
7 (A) and inserting “(B), (C), and (D)”, and

8 (2) by adding at the end the following new sub-
9 paragraph:

10 “(D) BINGO AND KENO.—Proceeds of
11 more than \$5,000 from a wager placed in a
12 bingo or keno game.”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect on January 1, 1996.

15 **SEC. ___ 853. REPEAL OF SPECIAL RULE FOR RENTAL USE**
16 **OF VACATION HOMES, ETC., FOR LESS THAN**
17 **15 DAYS.**

18 (a) IN GENERAL.—Section 280A (relating to dis-
19 allowance of certain expenses in connection with business
20 use of home, rental of vacation homes, etc.) is amended
21 by striking subsection (g).

22 (b) NO BASIS REDUCTION UNLESS DEPRECIATION
23 CLAIMED.—Section 1016 is amended by redesignating
24 subsection (e) as subsection (f) and by inserting after sub-
25 section (d) the following new subsection:

1 “(e) SPECIAL RULE WHERE RENTAL USE OF VACA-
 2 TION HOME, ETC., FOR LESS THAN 15 DAYS.—If a dwell-
 3 ing unit is used during the taxable year by the taxpayer
 4 as a residence and such dwelling unit is actually rented
 5 for less than 15 days during the taxable year, the reduc-
 6 tion under subsection (a)(2) by reason of such rental use
 7 in any taxable year beginning after December 31, 1995,
 8 shall not exceed the depreciation deduction allowed for
 9 such rental use.”

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to taxable years beginning after
 12 December 31, 1995.

13 **Subtitle J—Reform of Earned** 14 **Income Credit**

15 **SEC. ___ 901. EARNED INCOME CREDIT DENIED TO INDIVID-**
 16 **UALS NOT AUTHORIZED TO BE EMPLOYED IN**
 17 **THE UNITED STATES.**

18 (a) IN GENERAL.—Section 32(c)(1) (relating to indi-
 19 viduals eligible to claim the earned income credit) is
 20 amended by adding at the end the following new subpara-
 21 graph:

22 “(F) IDENTIFICATION NUMBER REQUIRE-
 23 MENT.—The term ‘eligible individual’ does not
 24 include any individual who does not include on
 25 the return of tax for the taxable year—

1 “(i) such individual’s taxpayer identi-
2 fication number, and

3 “(ii) if the individual is married (with-
4 in the meaning of section 7703), the tax-
5 payer identification number of such indi-
6 vidual’s spouse.”.

7 (b) SPECIAL IDENTIFICATION NUMBER.—Section 32
8 is amended by adding at the end the following new sub-
9 section:

10 “(l) IDENTIFICATION NUMBERS.—Solely for pur-
11 poses of subsections (c)(1)(F) and (c)(3)(D), a taxpayer
12 identification number means a social security number is-
13 sued to an individual by the Social Security Administra-
14 tion (other than a social security number issued pursuant
15 to clause (II) (or that portion of clause (III) that relates
16 to clause (II)) of section 205(c)(2)(B)(i) of the Social Se-
17 curity Act).”.

18 (c) EXTENSION OF PROCEDURES APPLICABLE TO
19 MATHEMATICAL OR CLERICAL ERRORS.—Section
20 6213(g)(2) (relating to the definition of mathematical or
21 clerical errors) is amended by striking “and” at the end
22 of subparagraph (D), by striking the period at the end
23 of subparagraph (E) and inserting a comma, and by in-
24 serting after subparagraph (E) the following new subpara-
25 graphs:

1 “(F) an omission of a correct taxpayer
2 identification number required under section 32
3 (relating to the earned income credit) to be in-
4 cluded on a return, and

5 “(G) an entry on a return claiming the
6 credit under section 32 with respect to net
7 earnings from self-employment described in sec-
8 tion 32(e)(2)(A) to the extent the tax imposed
9 by section 1401 (relating to self-employment
10 tax) on such net earnings has not been paid.”.

11 (d) **EFFECTIVE DATE.**—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 1995.

14 **SEC. ___902. RULES RELATING TO DENIAL OF EARNED IN-**
15 **COME CREDIT ON BASIS OF DISQUALIFIED**
16 **INCOME.**

17 (a) **DEFINITION OF DISQUALIFIED INCOME.**—Para-
18 graph (2) of section 32(i) (defining disqualified income)
19 is amended by striking “and” at the end of subparagraph
20 (B), by striking the period at the end of subparagraph
21 (C) and inserting “, and”, and by adding at the end the
22 following new subparagraph:

23 “(D) the net capital gain (as defined in
24 section 1222) of the taxpayer for such taxable
25 year.”

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to taxable years beginning after
 3 December 31, 1995.

4 **TITLE 9—MIDDLE CLASS BILL OF**
 5 **RIGHTS**

6 **SEC. ____00. SHORT TITLE; AMENDMENT OF 1986 CODE.**

7 (a) SHORT TITLE.—This Act may be cited as the
 8 “Middle-Class Bill of Rights Tax Relief Act of 1996”.

9 (b) AMENDMENT OF 1986 CODE.—Except as other-
 10 wise expressly provided, whenever in this Act an amend-
 11 ment or repeal is expressed in terms of an amendment
 12 to, or repeal of, a section or other provision, the reference
 13 shall be considered to be made to a section or other provi-
 14 sion of the Internal Revenue Code of 1986.

15 (c) TABLE OF CONTENTS.—

TITLE ____—MIDDLE CLASS BILL OF RIGHTS

Sec. ____00. Short title; amendment of 1986 Code.

Subtitle A—Middle Class Tax Relief

Sec. ____01. Credit for families with young children.

Sec. ____02. Deduction for higher education expenses.

Subtitle B—Provisions Relating To Individual Retirement Plans

PART I—RETIREMENT SAVINGS INCENTIVES

SUBPART A—IRA DEDUCTION

Sec. ____11. Increase in income limitations.

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 tions.

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SUBPART B—NONDEDUCTIBLE TAX-FREE IRA'S

Sec. ____21. Establishment of nondeductible tax-free individual retirement ac-
 counts.

PART II—PENALTY-FREE DISTRIBUTIONS

Sec. ____21. Distributions from certain plans may be used without penalty to purchase first homes, to pay higher education or financially devastating medical expenses, or by the unemployed.

Sec. ____22. Contributions must be held at least 5 years in certain cases.

Subtitle C—Increase in Deduction for Health Care Costs of Self-Employed
Individuals

Sec. ____31. Increase in self-employed individuals' deduction for health insurance costs.

1 **Subtitle A—Middle Class Tax Relief**

2 **SEC. ____01. CREDIT FOR FAMILIES WITH YOUNG CHILD-** 3 **DREN.**

4 (a) IN GENERAL.—Subpart A of part IV of sub-
5 chapter A of chapter 1 (relating to nonrefundable personal
6 credits) is amended by inserting after section 22 the fol-
7 lowing new section:

8 **“SEC. 23. FAMILIES WITH YOUNG CHILDREN.**

9 “(a) ALLOWANCE OF CREDIT.—

10 “(1) IN GENERAL.—In the case of an individ-
11 ual, there shall be allowed as a credit against the tax
12 imposed by this chapter for the taxable year an
13 amount equal to \$300 multiplied by the number of
14 eligible children of the taxpayer for the taxable year.

15 “(2) INCREASE IN CREDIT.—In the case of tax-
16 able years beginning after December 31, 1998, para-
17 graph (1) shall be applied by substituting ‘\$500’ for
18 ‘\$300’.

19 “(b) LIMITATIONS.—

20 “(1) PHASE-OUT OF CREDIT.—

1 “(A) IN GENERAL.—The amount of the
2 credit allowed under subsection (a) shall be re-
3 duced (but not below zero) by the amount de-
4 termined under subparagraph (B).

5 “(B) AMOUNT OF REDUCTION.—The
6 amount determined under this subparagraph
7 equals the amount which bears the same ratio
8 to the credit (determined without regard to this
9 subsection) as—

10 “(i) the excess of—

11 “(I) the taxpayer’s adjusted
12 gross income for such taxable year,
13 over

14 “(II) \$60,000, bears to

15 “(ii) \$15,000.

16 Any amount determined under this subpara-
17 graph which is not a multiple of \$10 shall be
18 rounded to the next lowest \$10.

19 “(C) ADJUSTED GROSS INCOME.—For pur-
20 poses of this paragraph, adjusted gross income
21 of any taxpayer shall be increased by any
22 amount excluded from gross income under sec-
23 tion 911, 931, or 933.

24 “(2) LIMITATION BASED ON AMOUNT OF
25 TAX.—The credit allowed by subsection (a) for the

1 taxable year (after the application of paragraph (1))
2 shall not exceed the excess (if any) of—

3 “(A) the taxpayer’s regular tax liability for
4 the taxable year reduced by the credits allow-
5 able against such tax under this subpart (other
6 than this section) determined without regard to
7 section 26, over

8 “(B) the sum of—

9 “(i) the taxpayer’s tentative minimum
10 tax for such taxable year, plus

11 “(ii) the credit allowed for the taxable
12 year under section 32.

13 “(c) ELIGIBLE CHILD.—For purposes of this section,
14 the term ‘eligible child’ means any child (as defined in sec-
15 tion 151(c)(3)) of the taxpayer—

16 “(1) who has not attained age 13 as of the
17 close of the calendar year in which the taxable year
18 of the taxpayer begins,

19 “(2) who is a dependent of the taxpayer with
20 respect to whom the taxpayer is allowed a deduction
21 under section 151 for such taxable year, and

22 “(3) whose TIN is included on the taxpayer’s
23 return for such taxable year.

24 “(d) INFLATION ADJUSTMENTS.—In the case of a
25 taxable year beginning in a calendar year after 1999—

1 “(1) IN GENERAL.—The \$500 and \$60,000
2 amounts contained in subsections (a)(2) and (b)(2)
3 shall each be increased by an amount equal to—

4 “(A) such dollar amount, multiplied by

5 “(B) the cost-of-living adjustment deter-
6 mined under section 1(f)(3) for the calendar
7 year in which the taxable year begins, deter-
8 mined by substituting ‘calendar year 1998’ for
9 ‘calendar year 1992’ in subparagraph (B)
10 thereof.

11 “(2) INCREASE IN PHASEOUT RANGE.—If the
12 amount applicable under subsection (a) for any tax-
13 able year exceeds \$500, subsection (b)(2)(B) shall be
14 applied by substituting an amount equal to 30 times
15 such applicable amount for ‘\$15,000’.

16 “(3) ROUNDING.—If any amount as adjusted
17 under paragraph (1) is not a multiple of \$100, such
18 amount shall be rounded to the next lowest multiple
19 of \$100.

20 “(e) SPECIAL RULES.—

21 “(1) AMOUNT OF CREDIT MAY BE DETERMINED
22 UNDER TABLES.—The amount of the credit allowed
23 by this section may be determined under tables pre-
24 scribed by the Secretary.

1 amount of qualified higher education expenses paid by the
2 taxpayer during the taxable year.

3 “(b) LIMITATIONS.—

4 “(1) DOLLAR LIMITATION.—

5 “(A) IN GENERAL.—The amount allowed
6 as a deduction under subparagraph (a) for any
7 taxable year shall not exceed \$10,000.

8 “(B) PHASE-IN.—In the case of taxable
9 years beginning in 1996, 1997, or 1998,
10 ‘\$5,000’ shall be substituted for ‘\$10,000’ in
11 subparagraph (A).

12 “(2) LIMITATION BASED ON MODIFIED AD-
13 JUSTED GROSS INCOME.—

14 “(A) IN GENERAL.—The amount which
15 would (but for this paragraph) be taken into ac-
16 count under paragraph (1) shall be reduced
17 (but not below zero) by the amount determined
18 under subparagraph (B).

19 “(B) AMOUNT OF REDUCTION.—The
20 amount determined under this subparagraph
21 equals the amount which bears the same ratio
22 to the amount which would be so taken into ac-
23 count as—

24 “(i) the excess of—

1 “(I) the taxpayer’s modified ad-
2 justed gross income for such taxable
3 year, over

4 “(II) \$70,000 (\$100,000 in the
5 case of a joint return), bears to

6 “(ii) \$20,000.

7 “(C) MODIFIED ADJUSTED GROSS IN-
8 COME.—The term ‘modified adjusted gross in-
9 come’ means the adjusted gross income of the
10 taxpayer for the taxable year determined—

11 “(i) without regard to this section and
12 sections 911, 931, and 933, and

13 “(ii) after the application of sections
14 86, 135, 219 and 469.

15 For purposes of sections 86, 135, 219, and
16 469, adjusted gross income shall be determined
17 without regard to the deduction allowed under
18 this section.

19 “(D) INFLATION ADJUSTMENTS.—

20 “(i) IN GENERAL.—In the case of a
21 taxable year beginning after 1999, the
22 \$70,000 and \$100,000 amounts described
23 in subparagraph (B) shall each be in-
24 creased by an amount equal to—

1 “(I) such dollar amounts, multi-
2 plied by

3 “(II) the cost-of-living adjust-
4 ment determined under section 1(f)(3)
5 for the calendar year in which the tax-
6 able year begins, determined by sub-
7 stituting ‘calendar year 1998’ for ‘cal-
8 endar year 1992’ in subparagraph (B)
9 thereof.

10 “(ii) ROUNDING.—If any amount as
11 adjusted under clause (i) is not a multiple
12 of \$5,000, such amount shall be rounded
13 to the next lowest multiple of \$5,000.

14 “(c) QUALIFIED HIGHER EDUCATION EXPENSES.—
15 For purposes of this section—

16 “(1) QUALIFIED HIGHER EDUCATION EX-
17 PENSES.—

18 “(A) IN GENERAL.—The term ‘qualified
19 higher education expenses’ means tuition and
20 fees charged by an educational institution and
21 required for the enrollment or attendance of—

22 “(i) the taxpayer,

23 “(ii) the taxpayer’s spouse, or

1 “(iii) any dependent of the taxpayer
2 with respect to whom the taxpayer is al-
3 lowed a deduction under section 151,
4 as an eligible student at an institution of higher
5 education.

6 “(B) EXCEPTION FOR EDUCATION INVOLV-
7 ING SPORTS, ETC.—Such term does not include
8 expenses with respect to any course or other
9 education involving sports, games, or hobbies,
10 unless such expenses—

11 “(i) are part of a degree program, or

12 “(ii) are deductible under this chapter
13 without regard to this section.

14 “(C) EXCEPTION FOR NONACADEMIC
15 FEES.—Such term does not include any student
16 activity fees, athletic fees, insurance expenses,
17 or other expenses unrelated to a student’s aca-
18 demic course of instruction.

19 “(D) ELIGIBLE STUDENT.—For purposes
20 of subparagraph (A), the term ‘eligible student’
21 means a student who—

22 “(i) meets the requirements of section
23 484(a)(1) of the Higher Education Act of
24 1965 (20 U.S.C. 1091(a)(1)), as in effect

1 on the date of the enactment of this sec-
2 tion, and

3 “(ii)(I) is carrying at least one-half
4 the normal full-time work load for the
5 course of study the student is pursuing, as
6 determined by the institution of higher
7 education, or

8 “(II) is enrolled in a course which en-
9 ables the student to improve the student’s
10 job skills or to acquire new job skills.

11 “(E) IDENTIFICATION REQUIREMENT.—No
12 deduction shall be allowed under subsection (a)
13 to a taxpayer with respect to an eligible student
14 unless the taxpayer includes the name, age, and
15 taxpayer identification number of such eligible
16 student on the return of tax for the taxable
17 year.

18 “(2) INSTITUTION OF HIGHER EDUCATION.—
19 The term ‘institution of higher education’ means an
20 institution which—

21 “(A) is described in section 481 of the
22 Higher Education Act of 1965 (20 U.S.C.
23 1088), as in effect on the date of the enactment
24 of this section, and

1 “(B) is eligible to participate in programs
2 under title IV of such Act.

3 “(d) SPECIAL RULES.—

4 “(1) NO DOUBLE BENEFIT.—

5 “(A) IN GENERAL.—No deduction shall be
6 allowed under subsection (a) for qualified high-
7 er education expenses with respect to which a
8 deduction is allowable to the taxpayer under
9 any other provision of this chapter unless the
10 taxpayer irrevocably waives his right to the de-
11 duction of such expenses under such other pro-
12 vision.

13 “(B) DEPENDENTS.—No deduction shall
14 be allowed under subsection (a) to any individ-
15 ual with respect to whom a deduction under
16 section 151 is allowable to another taxpayer for
17 a taxable year beginning in the calendar year in
18 which such individual’s taxable year begins.

19 “(C) SAVINGS BOND EXCLUSION.—A de-
20 duction shall be allowed under subsection (a)
21 for qualified higher education expenses only to
22 the extent the amount of such expenses exceeds
23 the amount excludable under section 135 for
24 the taxable year.

1 “(2) LIMITATION ON TAXABLE YEAR OF DE-
2 DUCTION.—

3 “(A) IN GENERAL.—A deduction shall be
4 allowed under subsection (a) for any taxable
5 year only to the extent the qualified higher edu-
6 cation expenses are in connection with enroll-
7 ment at an institution of higher education dur-
8 ing the taxable year.

9 “(B) CERTAIN PREPAYMENTS ALLOWED.—
10 Subparagraph (A) shall not apply to qualified
11 higher education expenses paid during a taxable
12 year if such expenses are in connection with an
13 academic term beginning during such taxable
14 year or during the 1st 3 months of the next
15 taxable year.

16 “(3) ADJUSTMENT FOR CERTAIN SCHOLAR-
17 SHIPS AND VETERANS BENEFITS.—The amount of
18 qualified higher education expenses otherwise taken
19 into account under subsection (a) with respect to the
20 education of an individual shall be reduced (before
21 the application of subsection (b)) by the sum of the
22 amounts received with respect to such individual for
23 the taxable year as—

24 “(A) a qualified scholarship which under
25 section 117 is not includable in gross income,

1 “(B) an educational assistance allowance
2 under chapter 30, 31, 32, 34, or 35 of title 38,
3 United States Code, or

4 “(C) a payment (other than a gift, be-
5 quest, devise, or inheritance within the meaning
6 of section 102(a)) for educational expenses, or
7 attributable to enrollment at an eligible edu-
8 cational institution, which is exempt from in-
9 come taxation by any law of the United States.

10 “(4) NO DEDUCTION FOR MARRIED INDIVID-
11 UALS FILING SEPARATE RETURNS.—If the taxpayer
12 is a married individual (within the meaning of sec-
13 tion 7703), this section shall apply only if the tax-
14 payer and the taxpayer’s spouse file a joint return
15 for the taxable year.

16 “(5) NONRESIDENT ALIENS.—If the taxpayer is
17 a nonresident alien individual for any portion of the
18 taxable year, this section shall apply only if such in-
19 dividual is treated as a resident alien of the United
20 States for purposes of this chapter by reason of an
21 election under subsection (g) or (h) of section 6013.

22 “(6) REGULATIONS.—The Secretary may pre-
23 scribe such regulations as may be necessary or ap-
24 propriate to carry out this section, including regula-

1 tions requiring recordkeeping and information re-
2 porting.

3 “(e) TERMINATION.—This section shall not apply to
4 taxable years beginning after December 31, 2000.”

5 (b) DEDUCTION ALLOWED IN COMPUTING AD-
6 JUSTED GROSS INCOME.—Section 62(a) is amended by in-
7 serting after paragraph (15) the following new paragraph:

8 “(16) HIGHER EDUCATION TUITION AND
9 FEES.—The deduction allowed by section 220.”

10 (c) CONFORMING AMENDMENT.—The table of sec-
11 tions for part VII of subchapter B of chapter 1 is amended
12 by striking the item relating to section 220 and inserting:

“Sec. 220. Higher education tuition and fees.
“Sec. 221. Cross reference.”

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to payments made after December
15 31, 1995.

16 **Subtitle B—Provisions Relating To** 17 **Individual Retirement Plans**

18 **PART I—RETIREMENT SAVINGS INCENTIVES**

19 **Subpart A—IRA Deduction**

20 **SEC. ___ 11. INCREASE IN INCOME LIMITATIONS.**

21 (a) IN GENERAL.—Subparagraph (B) of section
22 219(g)(3) is amended—

23 (1) by striking “\$40,000” in clause (i) and in-
24 serting “\$80,000”, and

1 ‘calendar year 1992’ in subparagraph (B)
2 thereof.

3 “(2) DOLLAR AMOUNTS TO WHICH SUBSECTION
4 APPLIES.—This subsection shall apply to—

5 “(A) the \$2,000 amounts under subsection
6 (b)(1)(A) and (c), and

7 “(B) the applicable dollar amounts under
8 subsection (g)(3)(B).

9 “(3) ROUNDING RULES.—

10 “(A) DEDUCTION AMOUNTS.—If any
11 amount referred to in paragraph (2)(A) as ad-
12 justed under paragraph (1) is not a multiple of
13 \$500, such amount shall be rounded to the next
14 lowest multiple of \$500.

15 “(B) APPLICABLE DOLLAR AMOUNTS.—If
16 any amount referred to in paragraph (2)(B) as
17 adjusted under paragraph (1) is not a multiple
18 of \$5,000, such amount shall be rounded to the
19 next lowest multiple of \$5,000.”

20 (b) CONFORMING AMENDMENTS.—

21 (1) Clause (i) of section 219(c)(2)(A) is amend-
22 ed to read as follows:

23 “(i) the sum of \$250 and the dollar
24 amount in effect for the taxable year under
25 subsection (b)(1)(A), or”.

1 individual for any taxable year shall not exceed the
2 excess (if any) of—

3 “(A) the limitation applicable for the tax-
4 able year under section 402(g)(1), over

5 “(B) the elective deferrals (as defined in
6 section 402(g)(3)) of such individual for such
7 taxable year.”

8 (b) CONFORMING AMENDMENT.—Section 219(e) is
9 amended by adding at the end the following new para-
10 graph:

11 “(3) CROSS REFERENCE.—

“For reduction in paragraph (2) amount, see
subsection (b)(4).”

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 1995, and before January 1, 2001.

15 **Subpart B—Nondeductible Tax-Free IRA’s**

16 **SEC. ____ 21. ESTABLISHMENT OF NONDEDUCTIBLE TAX-**
17 **FREE INDIVIDUAL RETIREMENT ACCOUNTS.**

18 (a) IN GENERAL.—Subpart A of part I of subchapter
19 D of chapter 1 (relating to pension, profit-sharing, stock
20 bonus plans, etc.) is amended by inserting after section
21 408 the following new section:

22 **“SEC. 408A. SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.**

23 “(a) GENERAL RULE.—Except as provided in this
24 chapter, a special individual retirement account shall be

1 treated for purposes of this title in the same manner as
2 an individual retirement plan.

3 “(b) SPECIAL INDIVIDUAL RETIREMENT AC-
4 COUNT.—For purposes of this title, the term ‘special indi-
5 vidual retirement account’ means an individual retirement
6 plan which is designated at the time of establishment of
7 the plan as a special individual retirement account.

8 “(c) TREATMENT OF CONTRIBUTIONS.—

9 “(1) NO DEDUCTION ALLOWED.—No deduction
10 shall be allowed under section 219 for a contribution
11 to a special individual retirement account.

12 “(2) CONTRIBUTION LIMIT.—The aggregate
13 amount of contributions for any taxable year to all
14 special individual retirement accounts maintained for
15 the benefit of an individual shall not exceed the ex-
16 cess (if any) of—

17 “(A) the maximum amount allowable as a
18 deduction under section 219 with respect to
19 such individual for such taxable year, over

20 “(B) the amount so allowed.

21 “(3) SPECIAL RULES FOR QUALIFIED TRANS-
22 FERS.—

23 “(A) IN GENERAL.—No rollover contribu-
24 tion may be made to a special individual retire-
25 ment account unless it is a qualified transfer.

1 “(B) LIMIT NOT TO APPLY.—The limita-
2 tion under paragraph (2) shall not apply to a
3 qualified transfer to a special individual retire-
4 ment account.

5 “(d) TAX TREATMENT OF DISTRIBUTIONS.—

6 “(1) IN GENERAL.—Except as provided in this
7 subsection, any amount paid or distributed out of a
8 special individual retirement account shall not be in-
9 cluded in the gross income of the distributee.

10 “(2) EXCEPTION FOR EARNINGS ON CONTRIBU-
11 TIONS HELD LESS THAN 5 YEARS.—

12 “(A) IN GENERAL.—Any amount distrib-
13 uted out of a special individual retirement ac-
14 count which consists of earnings allocable to
15 contributions made to the account during the 5-
16 year period ending on the day before such dis-
17 tribution shall be included in the gross income
18 of the distributee for the taxable year in which
19 the distribution occurs.

20 “(B) ORDERING RULE.—

21 “(i) FIRST-IN, FIRST-OUT RULE.—
22 Distributions from a special individual re-
23 tirement account shall be treated as having
24 been made—

1 “(I) first from the earliest con-
2 tribution (and earnings allocable
3 thereto) remaining in the account at
4 the time of the distribution, and

5 “(II) then from other contribu-
6 tions (and earnings allocable thereto)
7 in the order in which made.

8 “(ii) ALLOCATIONS BETWEEN CON-
9 TRIBUTIONS AND EARNINGS.—Any portion
10 of a distribution allocated to a contribution
11 (and earnings allocable thereto) shall be
12 treated as allocated first to the earnings
13 and then to the contribution.

14 “(iii) ALLOCATION OF EARNINGS.—
15 Earnings shall be allocated to a contribu-
16 tion in such manner as the Secretary may
17 by regulations prescribe.

18 “(iv) CONTRIBUTIONS IN SAME
19 YEAR.—Except as provided in regulations,
20 all contributions made during the same
21 taxable year may be treated as 1 contribu-
22 tion for purposes of this subparagraph.

23 “(C) CROSS REFERENCE.—

**“For additional tax for early withdrawal, see
 section 72(t).**

24 “(3) QUALIFIED TRANSFER.—

1 “(A) IN GENERAL.—Paragraph (2) shall
2 not apply to any distribution which is trans-
3 ferred in a qualified transfer to another special
4 individual retirement account.

5 “(B) CONTRIBUTION PERIOD.—For pur-
6 poses of paragraph (2), the special individual
7 retirement account to which any contributions
8 are transferred shall be treated as having held
9 such contributions during any period such con-
10 tributions were held (or are treated as held
11 under this subparagraph) by the special individ-
12 ual retirement account from which transferred.

13 “(4) SPECIAL RULES RELATING TO CERTAIN
14 TRANSFERS.—

15 “(A) IN GENERAL.—Notwithstanding any
16 other provision of law, in the case of a qualified
17 transfer to a special individual retirement ac-
18 count from an individual retirement plan which
19 is not a special individual retirement account—

20 “(i) there shall be included in gross
21 income any amount which, but for the
22 qualified transfer, would be includible in
23 gross income, but

24 “(ii) section 72(t) shall not apply to
25 such amount.

1 “(B) TIME FOR INCLUSION.—In the case
2 of any qualified transfer which occurs before
3 January 1, 1997, any amount includible in
4 gross income under subparagraph (A) with re-
5 spect to such contribution shall be includible
6 ratably over the 4-taxable year period beginning
7 in the taxable year in which the amount was
8 paid or distributed out of the individual retire-
9 ment plan.

10 “(e) QUALIFIED TRANSFER.—For purposes of this
11 section—

12 “(1) IN GENERAL.—The term ‘qualified trans-
13 fer’ means a transfer to a special individual retire-
14 ment account from another such account or from an
15 individual retirement plan but only if such transfer
16 meets the requirements of section 408(d)(3).

17 “(2) LIMITATION.—A transfer otherwise de-
18 scribed in paragraph (1) shall not be treated as a
19 qualified transfer if the taxpayer’s adjusted gross in-
20 come for the taxable year of the transfer exceeds the
21 sum of—

22 “(A) the applicable dollar amount, plus

23 “(B) the dollar amount applicable for the
24 taxable year under section 219(g)(2)(A)(ii).

1 This paragraph shall not apply to a transfer from a
2 special individual retirement account to another spe-
3 cial individual retirement account.

4 “(3) DEFINITIONS.—For purposes of this sub-
5 section, the terms ‘adjusted gross income’ and ‘ap-
6 plicable dollar amount’ have the meanings given
7 such terms by section 219(g)(3), except subpara-
8 graph (A)(ii) thereof shall be applied without regard
9 to the phrase ‘or the deduction allowable under this
10 section’.”

11 (b) EARLY WITHDRAWAL PENALTY.—Section 72(t)
12 is amended by adding at the end the following new para-
13 graph:

14 “(6) RULES RELATING TO SPECIAL INDIVIDUAL
15 RETIREMENT ACCOUNTS.—In the case of a special
16 individual retirement account under section 408A—

17 “(A) this subsection shall only apply to
18 distributions out of such account which consist
19 of earnings allocable to contributions made to
20 the account during the 5-year period ending on
21 the day before such distribution, and

22 “(B) paragraph (2)(A)(i) shall not apply to
23 any distribution described in subparagraph
24 (A).”

1 (c) EXCESS CONTRIBUTIONS.—Section 4973(b) is
2 amended by adding at the end the following new sentence:
3 “For purposes of paragraphs (1)(B) and (2)(C), the
4 amount allowable as a deduction under section 219 shall
5 be computed without regard to section 408A.”

6 (d) CONFORMING AMENDMENT.—The table of sec-
7 tions for subpart A of part I of subchapter D of chapter
8 1 is amended by inserting after the item relating to section
9 408 the following new item:

“Sec. 408A. Special individual retirement accounts.”

10 (e) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 December 31, 1995, and before January 1, 2001.

13 **PART II—PENALTY-FREE DISTRIBUTIONS**

14 **SEC. ___ 21. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE**
15 **USED WITHOUT PENALTY TO PURCHASE**
16 **FIRST HOMES, TO PAY HIGHER EDUCATION**
17 **OR FINANCIALLY DEVASTATING MEDICAL EX-**
18 **PENSES, OR BY THE UNEMPLOYED.**

19 (a) IN GENERAL.—Paragraph (2) of section 72(t)
20 (relating to exceptions to 10-percent additional tax on
21 early distributions from qualified retirement plans) is
22 amended by adding at the end the following new subpara-
23 graph:

1 “(D) DISTRIBUTIONS FROM CERTAIN
2 PLANS FOR FIRST HOME PURCHASES OR EDU-
3 CATIONAL EXPENSES.—Distributions to an in-
4 dividual from an individual retirement plan—

5 “(i) which are qualified first-time
6 homebuyer distributions (as defined in
7 paragraph (7)); or

8 “(ii) to the extent such distributions
9 do not exceed the qualified higher edu-
10 cation expenses (as defined in paragraph
11 (8)) of the taxpayer for the taxable year.”

12 (b) FINANCIALLY DEVASTATING MEDICAL EX-
13 PENSES.—

14 (1) IN GENERAL.—Section 72(t)(3)(A) is
15 amended by striking “(B),”.

16 (2) CERTAIN LINEAL DESCENDANTS AND AN-
17 CESTORS TREATED AS DEPENDENTS AND LONG-
18 TERM CARE SERVICES TREATED AS MEDICAL
19 CARE.—Subparagraph (B) of section 72(t)(2) is
20 amended by striking “medical care” and all that fol-
21 lows and inserting “medical care determined—

22 “(i) without regard to whether the
23 employee itemizes deductions for such tax-
24 able year, and

1 “(ii) in the case of an individual re-
2 tirement plan—

3 “(I) by treating such employee’s
4 dependents as including all children,
5 grandchildren and ancestors of the
6 employee or such employee’s spouse
7 and

8 “(II) by treating qualified long-
9 term care services (as defined in para-
10 graph (9)) as medical care for pur-
11 poses of this subparagraph (B).”

12 (3) CONFORMING AMENDMENT.—Subparagraph
13 (B) of section 72(t)(2) is amended by striking “or
14 (C)” and inserting “, (C) or (D)”.

15 (c) DEFINITIONS.—Section 72(t), as amended by this
16 Act, is amended by adding at the end the following new
17 paragraphs:

18 “(7) QUALIFIED FIRST-TIME HOMEBUYER DIS-
19 TRIBUTIONS.—For purposes of paragraph
20 (2)(D)(i)—

21 “(A) IN GENERAL.—The term ‘qualified
22 first-time homebuyer distribution’ means any
23 payment or distribution received by an individ-
24 ual to the extent such payment or distribution
25 is used by the individual before the close of the

1 60th day after the day on which such payment
2 or distribution is received to pay qualified ac-
3 quisition costs with respect to a principal resi-
4 dence of a first-time homebuyer who is such in-
5 dividual or the spouse, child (as defined in sec-
6 tion 151(c)(3)), or grandchild of such individ-
7 ual.

8 “(B) QUALIFIED ACQUISITION COSTS.—
9 For purposes of this paragraph, the term
10 ‘qualified acquisition costs’ means the costs of
11 acquiring, constructing, or reconstructing a res-
12 idence. Such term includes any usual or reason-
13 able settlement, financing, or other closing
14 costs.

15 “(C) FIRST-TIME HOMEBUYER; OTHER
16 DEFINITIONS.—For purposes of this para-
17 graph—

18 “(i) FIRST-TIME HOMEBUYER.—The
19 term ‘first-time homebuyer’ means any in-
20 dividual if—

21 “(I) such individual (and if mar-
22 ried, such individual’s spouse) had no
23 present ownership interest in a prin-
24 cipal residence during the 3-year pe-
25 riod ending on the date of acquisition

1 of the principal residence to which
2 this paragraph applies, and

3 “(II) subsection (h) or (k) of sec-
4 tion 1034 did not suspend the run-
5 ning of any period of time specified in
6 section 1034 with respect to such in-
7 dividual on the day before the date
8 the distribution is applied pursuant to
9 subparagraph (A).

10 In the case of an individual described in
11 section 143(i)(1)(C) for any year, an own-
12 ership interest shall not include any inter-
13 est under a contract of deed described in
14 such section. An individual who loses an
15 ownership interest in a principal residence
16 incident to a divorce or legal separation is
17 deemed for purposes of this subparagraph
18 to have had no ownership interest in such
19 principal residence within the period re-
20 ferred to in subclause (II).

21 “(ii) PRINCIPAL RESIDENCE.—The
22 term ‘principal residence’ has the same
23 meaning as when used in section 1034.

24 “(iii) DATE OF ACQUISITION.—The
25 term ‘date of acquisition’ means the date—

1 “(I) on which a binding contract
2 to acquire the principal residence to
3 which subparagraph (A) applies is en-
4 tered into, or

5 “(II) on which construction or re-
6 construction of such a principal resi-
7 dence is commenced.

8 “(D) SPECIAL RULE WHERE DELAY IN AC-
9 QUISITION.—If any distribution from any indi-
10 vidual retirement plan fails to meet the require-
11 ments of subparagraph (A) solely by reason of
12 a delay or cancellation of the purchase or con-
13 struction of the residence, the amount of the
14 distribution may be contributed to an individual
15 retirement plan as provided in section
16 408(d)(3)(A)(i) (determined by substituting
17 ‘120 days’ for ‘60 days’ in such section), except
18 that—

19 “(i) section 408(d)(3)(B) shall not be
20 applied to such contribution, and

21 “(ii) such amount shall not be taken
22 into account in determining whether sec-
23 tion 408(d)(3)(A)(i) applies to any other
24 amount.

1 “(8) QUALIFIED HIGHER EDUCATION EX-
2 PENSES.—For purposes of paragraph (2)(D)(ii)—

3 “(A) IN GENERAL.—The term ‘qualified
4 higher education expenses’ means tuition and
5 fees required for the enrollment or attendance
6 of—

7 “(i) the taxpayer,

8 “(ii) the taxpayer’s spouse,

9 “(iii) a dependent of the taxpayer
10 with respect to whom the taxpayer is al-
11 lowed a deduction under section 151, or

12 “(iv) the taxpayer’s child (as defined
13 in section 151(c)(3)) or grandchild,

14 as an eligible student at an institution of higher
15 education (as defined in paragraphs (1)(D) and
16 (2) of section 220(c)).

17 “(B) EXCEPTIONS.—The term ‘qualified
18 higher education expenses’ does not include ex-
19 penses described in subparagraphs (B) and (C)
20 of section 220(c)(1).

21 “(C) COORDINATION WITH SAVINGS BOND
22 PROVISIONS.—The amount of qualified higher
23 education expenses for any taxable year shall be
24 reduced by any amount excludable from gross
25 income under section 135.

1 “(9) QUALIFIED LONG-TERM CARE SERVICES.—

2 For purposes of paragraph (2)(B)—

3 “(A) IN GENERAL.—The term ‘qualified
4 long-term care services’ means necessary diag-
5 nostic, curing, mitigating, treating, preventive,
6 therapeutic, and rehabilitative services, and
7 maintenance and personal care services (wheth-
8 er performed in a residential or nonresidential
9 setting) which—

10 “(i) are required by an individual dur-
11 ing any period the individual is an inca-
12 pacitated individual (as defined in subpara-
13 graph (B)),

14 “(ii) have as their primary purpose—

15 “(I) the provision of needed as-
16 sistance with 1 or more activities of
17 daily living (as defined in subpara-
18 graph (C)), or

19 “(II) protection from threats to
20 health and safety due to severe cog-
21 nitive impairment, and

22 “(iii) are provided pursuant to a con-
23 tinuing plan of care prescribed by a li-
24 censed professional (as defined in subpara-
25 graph (D)).

1 “(B) INCAPACITATED INDIVIDUAL.—The
2 term ‘incapacitated individual’ means any indi-
3 vidual who—

4 “(i) is unable to perform, without sub-
5 stantial assistance from another individual
6 (including assistance involving cueing or
7 substantial supervision), at least 2 activi-
8 ties of daily living as defined in subpara-
9 graph (C), or

10 “(ii) has severe cognitive impairment
11 as defined by the Secretary in consultation
12 with the Secretary of Health and Human
13 Services.

14 Such term shall not include any individual oth-
15 erwise meeting the requirements of the preced-
16 ing sentence unless a licensed professional with-
17 in the preceding 12-month period has certified
18 that such individual meets such requirements.

19 “(C) ACTIVITIES OF DAILY LIVING.—Each
20 of the following is an activity of daily living:

21 “(i) Eating.

22 “(ii) Toileting.

23 “(iii) Transferring.

24 “(iv) Bathing.

25 “(v) Dressing.

1 “(D) LICENSED PROFESSIONAL.—The
2 term ‘licensed professional’ means—

3 “(i) a physician or registered profes-
4 sional nurse, or

5 “(ii) any other individual who meets
6 such requirements as may be prescribed by
7 the Secretary after consultation with the
8 Secretary of Health and Human Services.

9 “(E) CERTAIN SERVICES NOT IN-
10 CLUDED.—The term ‘qualified long-term care
11 services’ shall not include any services provided
12 to an individual—

13 “(i) by a relative (directly or through
14 a partnership, corporation, or other entity)
15 unless the relative is a licensed professional
16 with respect to such services, or

17 “(ii) by a corporation or partnership
18 which is related (within the meaning of
19 section 267(b) or 707(b)) to the individual.

20 For purposes of this subparagraph, the term
21 ‘relative’ means an individual bearing a rela-
22 tionship to the individual which is described in
23 paragraphs (1) through (8) of section 152(a).”

24 (d) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN
25 UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section

1 72(t) is amended by adding at the end the following new
2 subparagraph:

3 “(E) DISTRIBUTIONS TO UNEMPLOYED IN-
4 DIVIDUALS.—A distribution from an individual
5 retirement plan to an individual after separa-
6 tion from employment, if—

7 “(i) such individual has received un-
8 employment compensation for 12 consecu-
9 tive weeks under any Federal or State un-
10 employment compensation law by reason of
11 such separation, and

12 “(ii) such distributions are made dur-
13 ing any taxable year during which such un-
14 employment compensation is paid or the
15 succeeding taxable year.”

16 (e) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to payments and distributions after
18 December 31, 1995, and before January 1, 2001.

19 **SEC. ___22. CONTRIBUTIONS MUST BE HELD AT LEAST 5**
20 **YEARS IN CERTAIN CASES.**

21 (a) IN GENERAL.—Section 72(t), as amended by this
22 Act, is amended by adding at the end the following new
23 paragraph:

24 “(10) CERTAIN CONTRIBUTIONS MUST BE HELD
25 5 YEARS.—

1 “(A) IN GENERAL.—Paragraph (2)(A)(i)
2 shall not apply to any amount distributed out
3 of an individual retirement plan (other than a
4 special individual retirement account) which is
5 allocable to contributions made to the plan dur-
6 ing the 5-year period ending on the date of
7 such distribution (and earnings on such con-
8 tributions).

9 “(B) ORDERING RULE.—For purposes of
10 this paragraph, distributions shall be treated as
11 having been made—

12 “(i) first from the earliest contribu-
13 tion (and earnings allocable thereto) re-
14 maining in the account at the time of the
15 distribution, and

16 “(ii) then from other contributions
17 (and earnings allocable thereto) in the
18 order in which made.

19 Earnings shall be allocated to contributions in
20 such manner as the Secretary may prescribe.

21 “(C) SPECIAL RULE FOR ROLLOVERS.—

22 “(i) PENSION PLANS.—Subparagraph
23 (A) shall not apply to distributions out of
24 an individual retirement plan which are al-
25 locable to rollover contributions to which

1 section 402(c), 403(a)(4), or 403(b)(8) ap-
2 plied.

3 “(ii) CONTRIBUTION PERIOD.—For
4 purposes of subparagraph (A), amounts
5 shall be treated as having been held by a
6 plan during any period such contributions
7 were held (or are treated as held under
8 this clause) by any individual retirement
9 plan from which transferred.

10 “(D) SPECIAL ACCOUNTS.—For rules ap-
11 plicable to special individual retirement ac-
12 counts under section 408A, see paragraph (8).”

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to contributions (and earnings allo-
15 cable thereto) which are made after December 31, 1995,
16 and before January 1, 2001.

17 **Subtitle C—Increase in Deduction**
18 **for Health Care Costs of Self-**
19 **Employed Individuals**

20 **SEC. ___ 31. INCREASE IN SELF-EMPLOYED INDIVIDUALS’**
21 **DEDUCTION FOR HEALTH INSURANCE COSTS.**

22 (a) IN GENERAL.—Section 162(l) (relating to special
23 rules for health insurance costs of self-employed individ-
24 uals) is amended—

1 (1) by striking “30 percent” in paragraph (1)
 2 and inserting “the applicable percentage”, and

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

5 “(6) APPLICABLE PERCENTAGE.—For purposes
 6 of this subsection, the term ‘applicable percentage’
 7 means the percentage determined in accordance with
 8 the following table:

“In the case of taxable years beginning in:	The applicable percentage is:
1996	35
1997	35
1998	40
1999	45
2000	50
2001 and thereafter	30.”

9 (b) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to taxable years beginning after
 11 December 31, 1995.

12 **TITLE X—BUDGET ENFORCEMENT**

13 **SEC. 10001. PURPOSE.**

14 The Congress declares that it is essential to—

15 (1) preserve the deficit reduction achieved by
 16 this Act;

17 (2) extend the system of discretionary spending
 18 limits for the single discretionary category set forth
 19 in section 601 of the Congressional Budget Act of
 20 1974;

1 (3) extend the pay-as-you-go enforcement sys-
2 tem;

3 (4) prohibit the consideration of direct spending
4 or receipts legislation that would decrease the pay-
5 as-you-go surplus achieved by this Act and created
6 under section 252 of the Balanced Budget and
7 Emergency Deficit Contract of 1985; and

8 (5) provide for additional deficit reduction, in-
9 vestment, and tax relief in the event that actual defi-
10 cit reduction exceeds that currently projected by the
11 Congressional Budget Office to result from enact-
12 ment of this Act.

13 **SEC. 10002. DISCRETIONARY SPENDING LIMITS.**

14 (a) DEFINITION OF “DISCRETIONARY SPENDING
15 LIMIT”.—Section 601(a)(2) of the Congressional Budget
16 Act of 1974 is amended—

17 (1) in subparagraph (E) by striking the word
18 “and”; and

19 (2) by striking subparagraph (F) and inserting
20 the following:

21 “(F) with respect to fiscal year 1996, for the
22 discretionary category: \$502,000,000,000 in new
23 budget authority and \$539,535,000,000 in outlays;

1 “(G) with respect to fiscal year 1997, for the
2 discretionary category: \$508,000,000,000 in new
3 budget authority and \$546,851,000,000 in outlays;

4 “(H) with respect to fiscal year 1998, for the
5 discretionary category: \$514,000,000,000 in new
6 budget authority and \$540,041,000,000 in outlays;

7 “(I) with respect to fiscal year 1999, for the
8 discretionary category: \$508,000,000,000 in new
9 budget authority and \$542,166,000,000 in outlays;

10 “(J) with respect to fiscal year 2000, for the
11 discretionary category: \$504,000,000,000 in new
12 budget authority and \$541,759,000,000 in outlays;

13 “(K) with respect to fiscal year 2001, for the
14 discretionary category: \$500,000,000,000 in new
15 budget authority and \$530,833,000,000 in outlays;

16 and

17 “(L) with respect to fiscal year 2002, for the
18 discretionary category: \$482,000,000,000 in new
19 budget authority and \$514,088,000,000 in outlays;”.

20 (b) POINT OF ORDER IN THE SENATE.—Section
21 601(b)(1) of the Congressional Budget Act of 1974 is
22 amended to read as follows:

23 “(1) Except as otherwise provided in this Act, it shall
24 not be in order in the Senate to consider any concurrent
25 resolution on the budget for fiscal year 1996, 1997, 1998,

1 1999, 2000, 2001, or 2002 (or amendment, motion, or
2 conference report on such a resolution) that would exceed
3 any of the deficit targets or discretionary spending limits
4 in this title.”.

5 (c) CONFORMING AMENDMENTS.—(1) Section 251 of
6 the Balanced Budget and Emergency Deficit Control Act
7 of 1985 is amended—

8 (A) in subsection (a) by striking “FISCAL
9 YEARS 1991–1998 ENFORCEMENT.—” and inserting
10 “FISCAL YEARS 1991–2002 ENFORCEMENT.—”;

11 (B) in subsection (b)(1)—

12 (i) in the matter before subparagraph (A),
13 by—

14 (I) striking “When the President sub-
15 mits the budget under section 1105(a) of
16 title 31, United States Code, for budget
17 year 1992, 1993, 1994, 1995, 1996, 1997,
18 or 1998” and inserting “When the Presi-
19 dent submits the budget under section
20 1105(a) of title 31, United States Code,
21 for budget year 1992, 1993, 1994, 1995,
22 1996, 1997, 1998, 1999, 2000, 2001, or
23 2002”; and

24 (II) striking “the budget shall include,
25 adjustments to discretionary spending lim-

1 its (and those limits as cumulatively ad-
2 justed) for the budget year and each out-
3 year through 1998” and inserting “the
4 budget shall include, adjustments to discre-
5 tionary spending limits (and those limits as
6 cumulatively adjusted) for the budget year
7 and each outyear through 2002”;

8 (ii) in paragraph (1)(B), by striking
9 “budget year 1996, 1997, or 1998,” and insert-
10 ing “budget year 1996, 1997, 1998, 2000,
11 2001, or 2002,”;

12 (iii) in the matter before subparagraph (A)
13 in paragraph (2) by—

14 (I) striking “When OMB submits a
15 sequestration report under section 254 (g)
16 or (h) for fiscal year 1991, 1992, 1993,
17 1994, 1995, 1996, 1997, or 1998,” and in-
18 serting “When OMB submits a sequestra-
19 tion report under section 254(g) or (h) for
20 fiscal year 1991, 1992, 1993, 1994, 1995,
21 1996, 1997, 1998, 1999, 2000, 2001, or
22 2002,”; and

23 (II) striking “for the fiscal year and
24 each succeeding year through 1998,” and

1 inserting “for the fiscal year and each suc-
2 ceeding year through 2002,”;

3 “(iv) by amending paragraph (2)(A) to
4 read as follows:

5 “(A) IRS FUNDING.—(i) To the extent
6 that appropriations are enacted that provide ad-
7 ditional new budget authority or result in addi-
8 tional outlays for the Internal Revenue Service
9 compliance initiative in any fiscal year, the ad-
10 justments for that year shall be those amounts
11 of additional new budget authority or additional
12 outlays (as defined in clause (ii)), but not to ex-
13 ceed in any fiscal year \$405,000,000 in new
14 budget authority and \$405,000,000 in outlays.

15 “(ii) ADDITIONAL AMOUNTS.—As used in
16 this subparagraph, the terms ‘additional new
17 budget authority’ or ‘additional outlays’ shall
18 mean, for any fiscal year, budget authority or
19 outlays (as the case may be) in excess of the
20 amounts requested for that fiscal year for the
21 Internal Revenue Service in the President’s
22 Budget for fiscal year 1996.”;

23 (v) in paragraph (2)(E)(iv), by striking
24 “fiscal years 1994, 1995, 1996, 1997, and
25 1998,” and inserting “fiscal years 1994, 1995,

1 1996, 1997, 1998, 1999, 2000, 2001, and
2 2002”; and

3 (vi) in paragraph (2)(F), by striking “fis-
4 cal year 1996, 1997, or 1998” and inserting
5 “fiscal year 1996, 1997, 1998, 1999, 2000,
6 2001, or 2002”.

7 (2) REPORTS.—Sections 254(d)(2) and 254(g)(2)(A)
8 of the Balanced Budget and Emergency Deficit Control
9 Act of 1985 are each amended by striking “1998” and
10 inserting “2002”.

11 (3) CONGRESSIONAL ENFORCEMENT.—

12 (A) Title VI of the Congressional Budget Act of
13 1974 is amended—

14 (i) in section 602(c) and (d), by striking
15 “1995” each time it appears and inserting
16 “2002”;

17 (ii) in section 606(a), by striking “fiscal
18 year 1992, 1993, 1994, or 1995,” and inserting
19 “any fiscal year”; and

20 (iii) in section 606(d)(1), by striking “fis-
21 cal years 1992, 1993, 1994, and 1995,” and in-
22 serting any fiscal year”.

23 (B) Section 210 of House Concurrent Resolu-
24 tion 67 (104th Congress) is repealed.

1 (4) EXPIRATION.—(A) Notwithstanding section
2 275(b) of the Balanced Budget and Emergency Deficit
3 Control Act of 1985, sections 250, 251, 252, and 254
4 through 258C of that Act, the second sentence of section
5 904(e) of the Congressional Budget Act, and the second
6 sentence of section 904(d) of the Congressional Budget
7 Act shall expire on September 30, 2002.

8 (B) Section 607 of the Congressional Budget Act of
9 1974 is amended by striking “shall apply to fiscal years
10 1991 to 1998” and inserting “shall apply to fiscal years
11 1991 to 2002”

12 **SEC. 10003. ENFORCING PAY-AS-YOU-GO.**

13 (a) Section 252 of the Balanced Budget and Emer-
14 gency Deficit Control Act of 1985 is amended—

15 (1) in subsection (a), by striking “FISCAL YEAR
16 1992–1998 ENFORCEMENT.” and inserting “FISCAL
17 YEAR 1992–2002 ENFORCEMENT.”;

18 (2) in subsection (d), by striking “estimate of
19 the amount of change in outlays or receipts, as the
20 case may be, in each fiscal year through fiscal year
21 1998” both places that it appears and inserting “es-
22 timate of the amount of change in outlays or re-
23 cepts, as the case may be, in each fiscal year
24 through fiscal year 2002” both places; and

1 (3) in subsection (e), by striking “for any fiscal
2 year from 1991 through 1998,” and inserting “for
3 any fiscal year from 1991 through 2002,”.

4 (b) Section 254(g)(3) of the Balanced Budget and
5 Emergency Deficit Control Act of 1985 is amended by
6 striking “1998” and inserting “2002”.

7 (c) Upon enactment of this Act, the director of the
8 Office of Management and Budget shall reduce the bal-
9 ances of direct spending and receipts legislation applicable
10 to each fiscal year under section 252 of the Balanced
11 Budget and Emergency Deficit Control Act of 1985 by
12 an amount equal to the net deficit reduction achieved
13 through the enactment in this Act of direct spending and
14 receipts legislation for that year.

15 **SEC. 10004. FISCAL DIVIDEND FOR DEFICIT REDUCTION, IN-**
16 **VESTMENT, AND TAX REDUCTION.**

17 Title VI of the Congressional Budget Act is amended
18 by inserting at the end thereof the following new section:

19 **“SEC. 608. FISCAL DIVIDEND FOR DEFICIT REDUCTION, IN-**
20 **VESTMENT, AND TAX REDUCTION.**

21 “(a) DEFINITIONS.—

22 “(1) DEFICIT TARGETS.—The term ‘deficit tar-
23 get’ means—

24 “(A) with respect to fiscal year 1999,
25 \$131,000,000,000;

1 “(B) with respect to fiscal year 2000,
2 \$114,000,000,000;

3 “(C) with respect to fiscal year 2001,
4 \$54,000,000,000; and

5 “(D) with respect to fiscal year 2002,
6 \$0.”.

7 “(2) FISCAL DIVIDEND.—The term ‘fiscal divi-
8 dend’ means, for any fiscal year, the amount by
9 which the deficit target exceeds the actual deficit.

10 “(b) USE OF THE FISCAL DIVIDEND IN THE CON-
11 GRESSIONAL BUDGET PROCESS—

12 “(1) FILINGS—As soon as practicable after the
13 actual deficit for the prior fiscal year is known, the
14 Chairs of the Committees on the Budget of the Sen-
15 ate and House shall file with their respective
16 Houses—

17 “(A) revised allocations under sections
18 302(a) and 602(a) of the Congressional Budget
19 Act of 1974 to the Committees on Appropria-
20 tions for the current fiscal year and correspond-
21 ing aggregates, increased by one third of the
22 fiscal dividend for the prior fiscal year; and

23 “(B) revised revenue aggregates for the
24 current fiscal year, decreased by one third of
25 the fiscal dividend for the prior fiscal year.

1 “(2) EFFECT OF REVISED ALLOCATIONS AND
2 AGGREGATES.—Revised allocations and aggregates
3 submitted under this subsection shall be considered
4 for the purposes of the Congressional Budget Act of
5 1974 as allocations and aggregates contained in the
6 most recently adopted concurrent resolution on the
7 budget.

8 “(B) USE OF THE FISCAL DIVIDEND IN
9 THE ENFORCEMENT OF DISCRETIONARY
10 SPENDING LIMITS.—As soon as practicable
11 after the actual deficit for the prior fiscal year
12 is known, the Director of the Office of Manage-
13 ment and Budget shall increase the discre-
14 tionary spending limits for the current fiscal
15 year by one third of the fiscal dividend for the
16 prior fiscal year.

17 “(C) USE OF THE FISCAL DIVIDEND IN
18 THE ENFORCEMENT OF PAY-AS-YOU-GO.—As
19 soon as practicable after the actual deficit for
20 the prior fiscal year is known, the Director of
21 the Office of Management and Budget shall
22 credit the balances of direct spending and re-
23 ceipts legislation applicable to the current fiscal
24 year under section 252 of the Balanced Budget
25 and Emergency Deficit Control Act of 1985 by

1 one third of the fiscal dividend for the prior fis-
2 cal year.”

3 **SEC. 10005. EXERCISE OF RULE-MAKING POWERS**

4 The Congress enacts the provisions of this part—

5 (1) as an exercise of the rule-making power of
6 the Senate and the House of Representatives, re-
7 spectively, and as such these provisions shall be con-
8 sidered as part of the rules of each House, respec-
9 tively, or of that House to which they specifically
10 apply, and such rules shall supersede other rules
11 only to the extent that they are inconsistent there-
12 with; and

13 (2) with full recognition of the constitutional
14 right of either House to change such rules (so far
15 as relating to such House) at any time, in the same
16 manner, and to the same extent as in the case of
17 any other rule of such House.

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