Calendar No. 216

104TH CONGRESS
1ST SESSION

S. 1357

A BILL

To provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

OCTOBER 23, 1995

Read twice and placed on the calendar

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U.S. GOVERNMENT
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Calendar No. 216

104TH CONGRESS
1ST SESSION

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To provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

IN THE SENATE OF THE UNITED STATES

OCTOBER 23, 1995

Mr. DOMENICI, from the Committee on the Budget, reported the following original bill; which was read twice and placed on the calendar

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A BILL

To provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Balanced Budget Reconciliation Act of 1995''.

SEC. 2. TABLE OF TITLES.

The table of titles for this Act is as follows:

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Title I. Committee on Agriculture, Nutrition, and Forestry	2
Title II. Committee on Armed Services	161
Title III. Committee on Banking, Housing, and Urban Affairs	181

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Title VII. Committee on Finance—Spending Control Provisions 434
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TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Agricultural Reconciliation Act of 1995''.

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 1001. Short title; table of contents.

Subtitle A—Commodity Programs

Sec. 1101. Eligibility for enrollment in annual programs.
Sec. 1102. Rice program.
Sec. 1103. Cotton program.
Sec. 1104. Feed grain program.
Sec. 1105. Wheat program.
Sec. 1106. Milk program.
Sec. 1107. Oilseeds program.
Sec. 1108. Sugar program.
Sec. 1109. Acreage base and yield system.
Sec. 1110. Extension of related price support provisions.
Sec. 1111. Repeal of miscellaneous authorities.
Sec. 1112. Commodity Credit Corporation interest rate.
Sec. 1113. Peanut program.
Sec. 1114. Catastrophic crop insurance coverage.
Sec. 1115. Savings adjustment.
Sec. 1116. Sense of the Senate regarding tax provisions relating to ethanol.
Sec. 1117. Effective date.

Subtitle B—Conservation

Sec. 1201. Conservation.

Subtitle C—Agricultural Promotion and Export Programs

Sec. 1301. Market promotion program.

Sec. 1302. Export enhancement program.
Sec. 1303. Export of sunflowerseed oil and cottonseed oil.

Subtitle D—Nutrition Assistance

Chapter 1—Food Stamp Program

Sec. 1401. Treatment of children living at home.
Sec. 1402. Optional additional criteria for separate household determinations.
Sec. 1403. Adjustment of thrifty food plan.
Sec. 1404. Definition of homeless individual.
Sec. 1405. State options in regulations.
Sec. 1406. Energy assistance.
Sec. 1407. Deductions from income.
Sec. 1408. Amount of vehicle asset limitation.
Sec. 1409. Benefits for aliens.
Sec. 1410. Disqualification.
Sec. 1411. Employment and training.
Sec. 1412. Income calculation.
Sec. 1413. Comparable treatment for disqualification.
Sec. 1414. Cooperation with child support agencies.
Sec. 1415. Disqualification for child support arrears.
Sec. 1416. Permanent disqualification for participating in 2 or more States.
Sec. 1417. Work requirement.
Sec. 1418. Disqualification of fleeing felons.
Sec. 1419. Electronic benefit transfers.
Sec. 1420. Minimum benefit.
Sec. 1421. Benefits on recertification.
Sec. 1422. Failure to comply with other welfare and public assistance programs.
Sec. 1423. Allotments for households residing in institutions.
Sec. 1424. Collection of overissuances.
Sec. 1425. Termination of Federal match for optional information activities.
Sec. 1426. Work supplementation or support program.
Sec. 1427. Private sector employment initiatives.
Sec. 1428. Reauthorization of appropriations.
Sec. 1429. Optional State food assistance block grant.
Sec. 1430. Effective date.

Chapter 2—Child Nutrition Programs

Part I—Reimbursement Rates

Sec. 1441. Termination of additional payment for lunches served in high free and reduced price participation schools.
Sec. 1442. Lunches, breakfasts, and supplements.
Sec. 1443. Free and reduced price breakfasts.
Sec. 1444. Conforming reimbursement for paid breakfasts and lunches.

Part II—Grant Programs

Sec. 1451. School breakfast startup grants.

Part III—Other Amendments

Sec. 1461. Child and adult care food program.

CHAPTER 3—ADDITIONAL SAVINGS

Sec. 1471. Earnings of students.
Sec. 1472. Standard deduction.
Sec. 1473. Vendor payments for transitional housing counted as income.
Sec. 1474. Extending claims retention rates.
Sec. 1475. Reauthorization of Puerto Rico nutrition assistance program.
Sec. 1476. Value of food assistance.
Sec. 1477. Commodity assistance.
Sec. 1478. Summer food service program for children.
Sec. 1479. Special milk program.
Sec. 1480. Nutrition education and training programs.
Sec. 1481. Effective date.

CHAPTER 4—EFFECTIVE DATE

Sec. 1491. Effective date.

Subtitle A—Commodity Programs

SEC. 1101. ELIGIBILITY FOR ENROLLMENT IN ANNUAL PROGRAMS.

(a) IN GENERAL.—Title III of the Agricultural Act of 1949 (7 U.S.C. 1447 et seq.) is amended to read as follows:

"TITLE III—ANNUAL PROGRAMS FOR 1996 THROUGH 2002 CROPS

"SEC. 301. ELIGIBILITY FOR ENROLLMENT IN ANNUAL PROGRAMS.

''(a) IN GENERAL.—To be eligible for enrollment in 1 or more of the annual programs established under this title, the land on a farm must have been enrolled in 1 or more of the annual programs established under this Act for rice, upland cotton, feed grains, or wheat for a total of at least 3 of the 1991 through 1995 crop years, as determined by the Secretary.

"(b) ADDITIONAL CRITERIA.—In addition to the requirements of subsection (a), for the purpose of determining the eligibility of land for enrollment in 1 or more of the annual programs established under this title, the Secretary shall include acreage on the farm considered planted under section 503(c), including a certification of crop acreage base filed with the Secretary in order to preserve base history, for any of the 1991 through 1995 crops.

"(c) ELIGIBILITY TO RECEIVE PAYMENTS AND LOANS.—Enrollment in the annual program for a program crop shall be required as a condition of the receipt of any payment or loan under this title for the program crop.".

(b) CONFORMING AMENDMENTS.—The Agricultural Act of 1949 is amended—

(1) in title I (7 U.S.C. 1441 et seq.)—

(A) by striking all sections other than sections 101B, 103B, 104(d), 105B, 106, 106A, 106B, 107B, 108B, 111, 114, and 115; and

(B) by moving sections 101B, 103B, 105B, and 107B to the end of title III (as amended by subsection (a)) and redesignating the sections as sections 302, 303, 304, and 305, respectively;

(2) in title II (7 U.S.C. 1446 et seq.), by striking all sections other than sections 202, 204, 205, and 206; and

(3) by striking title VI (7 U.S.C. 1471 et seq.).

SEC. 1102. RICE PROGRAM.

Section 302 of the Agricultural Act of 1949 (as redesignated by section 1101(b)(1)(B)) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 302. LOANS AND PAYMENTS FOR THE 1991 THROUGH 2002 CROPS OF RICE.";

(2) in subsection (a)—

(A) in paragraph (1), by striking "1995" and inserting "2002";

(B) in paragraph (3), by striking "1995" and inserting "2002"; and

(C) in paragraph (5)(D)(i), by striking "August 1, 1991, and ending July 31, 1996" and inserting "August 1, 1996, and ending July 31, 2003";

(3) in subsection (b)(1), by striking "1995" and inserting "2002";

(4) in subsection (c)(1)—

(A) in subparagraph (A), by striking "1995" and inserting "2002";

(B) in subparagraph (B)—

(i) in clause (ii)—

(I) in the clause heading, by striking ''AND 1995'' and inserting ''THROUGH 2002''; and

(II) by striking ''and 1995'' and inserting ''through 2002'';

(ii) by redesignating clause (iii) as clause (iv);

(iii) by inserting after clause (ii) the following:

''(iii) MAXIMUM PAYMENT RATE.—The payment rate for rice under this subsection shall not exceed (per hundredweight) $4.21 for the 1996 crop, $4.19 for the 1997 crop, $3.86 for the 1998 crop, $3.48 for the 1999 crop, $3.23 for the 2000 crop, $2.89 for the 2001 crop, and $2.66 for the 2002 crop.''; and

(iv) in clause (iv) (as so redesignated), by striking ''1995'' and inserting ''2002'';

(C) in subparagraph (C)—

(i) in clause (i), by striking ''within the permitted acreage''; and

(ii) in clause (ii)—

(I) by striking ''85 percent'' and inserting ''70 percent''; and

(II) by striking ''less the quantity'' and all that follows through ''(e)(2)(D))'';

(D) in subparagraph (D)—

(i) in the subparagraph heading, by striking ''50/85'' and inserting ''25/75'';

(ii) in clause (i)—

(I) by striking ''an acreage'' and all that follows through ''rice and'';

(II) by striking ''15 percent'' each place it appears and inserting ''25 percent'';

(III) by striking ''1997 crops (except as provided in clause (v)(II))'' each place it appears and inserting ''2002 crops'';

(IV) by striking ''(except as provided in subparagraph (E))'' each place it appears and inserting ''or alternative crops described in subparagraph (E)''; and

(V) in subclause (I), by striking "for the purpose" and all that follows through "(e)(2)(D)";

(iii) in clause (ii), by striking "50 percent" and inserting "25 percent";

(iv) in clause (iii), by striking "(or other uses as provided in subparagraph (E))" and inserting "or alternative crops described in subparagraph (E)";

(v) in clause (v)—

(I) in the clause heading, by striking "PREVENTED PLANTING AND REDUCED" and inserting "REDUCED";

(II) in the first sentence of subclause (I), by striking "under subsection (e)"; and

(III) in subclause (II)—

(aa) in the subclause heading, by striking "1997" and inserting "2002";

(bb) by striking "1997" and inserting "2002";

(cc) by striking "if an acreage limitation" and all that fol-

lows through ''(aa) the'' and inserting ''if the'';

(dd) by striking ''be prevented from planting the crop or'';

(ee) by striking ''8 percent'' the first place it appears and inserting ''25 percent''; and

(ff) by striking ''uses; or'' and all that follows through the period at the end of the subclause and inserting ''uses.'';

(vi) in clause (vi), by striking ''permitted rice'' and all that follows through ''this subparagraph'' and inserting ''rice payment acres of the farm was devoted to conserving uses or alternative crops described in subparagraph (E)''; and

(vii) by striking clause (viii); and

(E) in the first sentence of subparagraph (E)(ii), by inserting before the period at the end the following: ''or other oilseeds as determined by the Secretary'';

(5) by striking subsection (e) and inserting the following:

"(e) HAYING AND GRAZING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), haying and grazing of acreage under subsection (c)(1)(C) shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(2) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted to alfalfa when exercising the authority under this paragraph.";

(6) in subsection (f)—

(A) in paragraph (1), by striking "1995" and inserting "2002"; and

(B) in paragraph (4)(C), by striking "reduced by" and all that follows through "subsection (e)"; and

(7) in subsection (n), by striking "1995" and inserting "2002".

SEC. 1103. COTTON PROGRAM.

Section 303 of the Agricultural Act of 1949 (as redesignated by section 1101(b)(1)(B)) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 303. LOANS AND PAYMENTS FOR THE 1991 THROUGH 2002 CROPS OF UPLAND COTTON.";

(2) in subsection (a)—

(A) in paragraph (1), by striking "1997" and inserting "2002";

(B) by striking paragraph (4) and inserting the following:

"(4) STORAGE PAYMENTS.—The producer shall pay the cost of all storage payments incurred for a 10-month nonrecourse loan."; and

(C) in paragraph (5)—

(i) by striking "August 1, 1991, and ending July 31, 1998" each place it appears and inserting "August 1, 1996, and ending July 31, 2003";

(ii) in subparagraph (E), by striking "1.25 cents" each place it appears and inserting "2.50 cents"; and

(iii) in subparagraph (F)(i), by striking "August 1991 and ending July 31,

1998'' and inserting ''August 1, 1996, and ending July 31, 2003'';

(3) in subsection (b)(1), by striking ''1997'' and inserting ''2002'';

(4) in subsection (c)(1)—

(A) in subparagraph (A), by striking ''1997'' and inserting ''2002'';

(B) in subparagraph (B)—

(i) by redesignating clause (ii) as clause (iii);

(ii) by inserting after clause (i) the following:

''(ii) MAXIMUM PAYMENT RATE.—The payment rate for upland cotton under this subsection shall not exceed (per pound) 8.6 cents for the 1996 crop, 12.1 cents for the 1997 crop, 13.1 cents for the 1998 crop, 13.6 cents for the 1999 crop, 13.0 cents for the 2000 crop, 12.0 cents for the 2001 crop, and 11.5 cents for the 2002 crop.''; and

(iii) in clause (iii) (as so redesignated), by striking ''1997'' and inserting ''2002'';

(C) in subparagraph (C)—

(i) in clause (i), by striking ''within the permitted acreage''; and

(ii) in clause (ii)—

(I) by striking ''85 percent'' and inserting ''70 percent''; and

(II) by striking ''less the quantity'' and all that follows through ''(e)(2)(D))'';

(D) in subparagraph (D)—

(i) in the subparagraph heading, by striking ''50/85'' and inserting ''0/85'';

(ii) in clause (i)—

(I) by striking ''an acreage'' and all that follows through ''cotton and'';

(II) by striking ''1997 crops (except as provided in clause (v)(II))'' each place it appears and inserting ''2002 crops'';

(III) by striking ''(except as provided in subparagraph (E))'' each place it appears and inserting ''or alternative crops described in subparagraph (E)'';

(IV) in subclause (I), by striking ''for the purpose'' and all that follows through ''(e)(2)(D)''; and

(V) in subclause (II), by striking '', subject to the compliance of the producers with clause (ii)'';

(iii) by striking clauses (ii) and (viii);

(iv) by redesignating clauses (iii) through (vii) and clause (ix) as clauses (ii) through (vi) and clause (vii), respectively;

(v) in clause (ii) (as so redesignated), by striking ''(or other uses as provided in subparagraph (E))'' and inserting ''or alternative crops described in subparagraph (E)'';

(vi) in clause (iii) (as so redesignated), by striking '', without regard to the requirement imposed under clause (ii),'';

(vii) in clause (iv) (as so redesignated)—

(I) in the clause heading, by striking ''PREVENTED PLANTING AND REDUCED'' and inserting ''REDUCED'';

(II) in the first sentence of subclause (I)—

(aa) by striking ''under subsection (e)''; and

(bb) by striking ''without regard to the requirement imposed under clause (ii)''; and

(III) in subclause (II)—

(aa) in the subclause heading, by striking ''1997'' and inserting ''2002'';

(bb) by striking ''1997'' and inserting ''2002'';

(cc) by striking ''clause (iii) without regard'' and all that follows through ''(aa) the'' and inserting ''clause (ii) if the'';

(dd) by striking ''be prevented from planting the crop or'';

(ee) by striking ''8 percent'' the first place it appears and inserting ''15 percent''; and

(ff) by striking ''uses; or'' and all that follows through the period at the end of the subclause and inserting ''uses.'';

(viii) in clause (v) (as so redesignated), by striking ''permitted cotton'' and all that follows through ''this subparagraph'' and inserting ''cotton payment acres of the farm was devoted to conserving uses or alternative crops described in subparagraph (E)''; and

(ix) in clause (vi) (as so redesignated), by striking ''(vi)'' and inserting ''(v)''; and

(E) in the first sentence of subparagraph (E)(ii), by inserting before the period at the end the following: ''or other oilseeds as determined by the Secretary'';

(5) by striking subsection (e) and inserting the following:

''(e) HAYING AND GRAZING.—

''(1) IN GENERAL.—Except as provided in paragraph (2), haying and grazing of acreage under subsection (c)(1)(C) shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(2) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted to alfalfa when exercising the authority under this paragraph.";

(6) in subsection (f)—

(A) in paragraph (1), by striking "1995" and inserting "2002"; and

(B) in paragraph (4)(C), by striking "reduced by" and all that follows through "subsection (e)"; and

(7) in subsection (o), by striking "1997" and inserting "2002".

SEC. 1104. FEED GRAIN PROGRAM.

Section 304 of the Agricultural Act of 1949 (as redesignated by section 1101(b)(1)(B)) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 304. LOANS AND PAYMENTS FOR THE 1991 THROUGH 2002 CROPS OF FEED GRAINS.";

(2) in subsection (a)—

(A) in paragraph (1), by striking "1995" and inserting "2002";

(B) in paragraph (4)—

(i) in subparagraph (A)—

(I) by striking ''may'' and inserting ''shall'';

(II) in clause (i), by inserting ''or'' after the semicolon; and

(III) in clause (iii), by striking ''(iii) the'' and inserting the following:

''(III) the''; and

(ii) in subparagraph (C), by striking ''1995'' and inserting ''2002''; and

(C) in paragraph (6), by striking ''1995'' and inserting ''2002'';

(3) in subsection (b)(1), by striking ''1995'' and inserting ''2002'';

(4) in subsection (c)(1)—

(A) in subparagraph (A), by striking ''1995'' and inserting ''2002'';

(B) in subparagraph (B)—

(i) in clause (ii)—

(I) in the clause heading, by striking ''AND 1995'' and inserting ''THROUGH 2002''; and

(II) by striking ''and 1995'' and inserting ''through 2002'';

(ii) by redesignating clause (iii) as clause (iv);

(iii) by inserting after clause (ii) the following:

"(iii) MAXIMUM PAYMENT RATE.—The payment rates under this subsection shall not exceed (per bushel)—

"(I) in the case of corn, $.53 for the 1996 crop, $.53 for the 1997 crop, $.57 for the 1998 crop, $.56 for the 1999 crop, $.53 for the 2000 crop, $.54 for the 2001 crop, and $.55 for the 2002 crop;

"(II) in the case of grain sorghums, $.59 for the 1996 crop, $.59 for the 1997 crop, $.63 for the 1998 crop, $.61 for the 1999 crop, $.59 for the 2000 crop, $.60 for the 2001 crop, and $.61 for the 2002 crop;

"(III) in the case of oats, $.12 for the 1996 crop, $.11 for the 1997 crop, $.12 for the 1998 crop, $.11 for the 1999 crop, $.09 for the 2000 crop, $.09 for the 2001 crop, and $.10 for the 2002 crop; and

"(IV) in the case of barley, $.45 for the 1996 crop, $.43 for the 1997 crop, $.44 for the 1998 crop, $.42 for the 1999 crop, $.39 for the 2000 crop, $.39 for the 2001 crop, and $.40 for the 2002 crop."; and

(iv) in clause (iv) (as so redesignated), by striking "1995" each place it appears and inserting "2002";

(C) in subparagraph (C)—

(i) in clause (i)—

(I) by inserting after "crop" the following: "or to a commodity permitted under section 504(b)"; and

(II) by striking "within the permitted acreage"; and

(ii) in clause (ii)—

(I) by striking "85 percent" and inserting "70 percent"; and

(II) by striking "less the quantity" and all that follows through "(e)(2)(D))";

(D) in subparagraph (D)(i), by striking "Notwithstanding the foregoing provisions of this section, if" and inserting "If"; and

(E) in subparagraph (E)—

(i) in clause (i)—

(I) by striking ''an acreage'' and all that follows through ''grains and'';

(II) by striking ''1997 crops (except as provided in clause (vii))'' each place it appears and inserting ''2002 crops'';

(III) by striking ''(except as provided in subparagraph (F))'' each place it appears and inserting ''or alternative crops described in subparagraph (F)''; and

(IV) in subclause (I), by striking ''for the purpose'' and all that follows through ''(e)(2)(D)'';

(ii) in clause (ii), by striking ''(or other uses as provided in subparagraph (F))'' and inserting ''or alternative crops described in subparagraph (F)'';

(iii) in clause (iv), by striking ''permitted feed grain'' and all that follows through ''this subparagraph'' and inserting ''feed grain payment acres of the farm was

devoted to conserving uses or alternative crops described in subparagraph (F)''; (iv) by striking clause (vi); (v) by redesignating clause (vii) as clause (vi); and (vi) in clause (vi) (as so redesignated)—

(I) in the clause heading, by striking ''EXCEPTIONS TO 0/85'' and inserting ''REDUCED YIELDS''; (II) by striking ''an acreage'' and all that follows through ''crop and''; (III) by striking subclause (II); (IV) in subclause (I)(aa)—

(aa) by striking ''(aa)''; and (bb) by striking ''be prevented from planting the crop or''; and (V) in subclause (I)(bb)—

(aa) by striking ''(bb)'' and inserting ''(II)''; (bb) by striking ''8 percent'' and inserting ''15 percent''; and (cc) by striking ''; or'' and inserting a period;

(5) by striking subsection (e) and inserting the following:

"(e) HAYING AND GRAZING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), haying and grazing of acreage under subsection (c)(1)(C) shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(2) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted to alfalfa when exercising the authority under this paragraph.";

(6) in subsection (f)—

(A) in paragraph (1), by striking "1995" and inserting "2002"; and

(B) in paragraph (4)(C), by striking "reduced by" and all that follows through "subsection (e)";

(7) in subsection (g)(1), by striking ''under subsection (e)'';

(8) in subsection (o)(1), by striking ''and acreage reduction'';

(9) in subsection (p)(1), by striking ''1995'' and inserting ''2002'';

(10) in subsection (q)(1)—

(A) by striking ''1995'' and inserting ''2002'';

(B) in subparagraph (C), by inserting ''and'' after the semicolon at the end;

(C) in subparagraph (D), by striking ''; and'' and inserting a period; and

(D) by striking subparagraph (E); and

(11) in subsection (r), by striking ''1995'' and inserting ''2002''.

SEC. 1105. WHEAT PROGRAM.

Section 305 of the Agricultural Act of 1949 (as redesignated by section 1101(b)(1)(B)) is amended—

(1) by striking the section heading and inserting the following:

''SEC. 305. LOANS AND PAYMENTS FOR THE 1991 THROUGH 2002 CROPS OF WHEAT.'';

(2) in subsection (a)—

(A) in paragraph (1), by striking ''1995'' and inserting ''2002''; and

(B) in paragraph (4)—

(i) in subparagraph (A)—

(I) by striking ''may'' and inserting ''shall'';

(II) in clause (i), by inserting ''or'' after the semicolon; and

(III) in clause (iii), by striking ''(iii) the'' and inserting the following: ''(III) the''; and

(ii) in subparagraph (C), by striking ''1995'' and inserting ''2002'';

(3) in subsection (b)(1), by striking ''1995'' and inserting ''2002'';

(4) in subsection (c)(1)—

(A) in subparagraph (A), by striking ''1995'' and inserting ''2002'';

(B) in subparagraph (B)—

(i) in clause (ii)—

(I) in the clause heading, by striking ''AND 1995'' and inserting ''THROUGH 2002''; and

(II) by striking ''and 1995'' and inserting ''through 2002'';

(ii) by redesignating clause (iii) as clause (iv);

(iii) by inserting after clause (ii) the following:

"(iii) MAXIMUM PAYMENT RATE.—The payment rate for wheat under this subsection shall not exceed (per bushel) $.89 for the 1996 crop, $.94 for the 1997 crop, $.95 for the 1998 crop, $.89 for the 1999 crop, $.79 for the 2000 crop, $.78 for the 2001 crop, and $.71 for the 2002 crop."; and

(iv) in clause (iv) (as so redesignated), by striking "1995" and inserting "2002";

(C) in subparagraph (C)—

(i) in clause (i)—

(I) by inserting after "crop" the following: "or to a commodity permitted under section 504(b)"; and

(II) by striking "within the permitted acreage"; and

(ii) in clause (ii)—

(I) by striking "85 percent" and inserting "70 percent"; and

(II) by striking ''less the quantity'' and all that follows through ''(e)(2)(D))'';

(D) in subparagraph (D)(i), by striking ''Notwithstanding the foregoing provisions of this section, if'' and inserting ''If''; and

(E) in subparagraph (E)—

(i) in clause (i)—

(I) by striking ''an acreage'' and all that follows through ''wheat and'';

(II) by striking ''1997 crops (except as provided in clause (vii))'' each place it appears and inserting ''2002 crops'';

(III) by striking ''(except as provided in subparagraph (F))'' each place it appears and inserting ''or alternative crops described in subparagraph (F)''; and

(IV) in subclause (I), by striking ''for the purpose'' and all that follows through ''(e)(2)(D)'';

(ii) in clause (ii), by striking ''(or other uses as provided in subparagraph

(F))'' and inserting ''or alternative crops described in subparagraph (F)'';

(iii) in clause (iv), by striking ''permitted wheat'' and all that follows through ''this subparagraph'' and inserting ''wheat grain payment acres of the farm was devoted to conserving uses or alternative crops described in subparagraph (F)'';

(iv) by striking clause (vi);

(v) by redesignating clause (vii) as clause (vi); and

(vi) in clause (vi) (as so redesignated)—

(I) in the clause heading, by striking ''EXCEPTIONS TO 0/85'' and inserting ''REDUCED YIELDS'';

(II) by striking ''an acreage'' and all that follows through ''crop and'';

(III) by striking subclause (II);

(IV) in subclause (I)(aa)—

(aa) by striking ''(aa)''; and

(bb) by striking ''be prevented from planting the crop or''; and

(V) in subclause (I)(bb)—

(aa) by striking ''(bb)'' and inserting ''(II)'';

(bb) by striking ''8 percent'' and inserting ''15 percent''; and

(cc) by striking ''; or'' and inserting a period;

(5) by striking subsection (e) and inserting the following:

''(e) HAYING AND GRAZING.—

''(1) IN GENERAL.—Except as provided in paragraph (2), haying and grazing of acreage under subsection (c)(1)(C) shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

''(2) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted to alfalfa when exercising the authority under this paragraph.'';

(6) in subsection (f)—

(A) in paragraph (1), by striking ''1995'' and inserting ''2002''; and

(B) in paragraph (4)(C), by striking ''reduced by'' and all that follows through ''subsection (e)'';

(7) in subsection (g)(1), by striking ''under subsection (e)'';

(8) in subsection (o)(1), by striking ''and acreage reduction'';

(9) in subsection (p)(2)(B), by striking ''less the quantity'' and all that follows through ''(e)(2)(D))''; and

(10) in subsection (q), by striking ''1995'' and inserting ''2002''.

SEC. 1106. MILK PROGRAM.

(a) IN GENERAL.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended to read as follows:

''SEC. 204. MILK PRICE SUPPORT PROGRAM FOR CALENDAR YEARS 1996 THROUGH 2002.

''(a) IN GENERAL.—During the period beginning January 1, 1996, and ending December 31, 2002, the price of milk produced in the 48 contiguous States shall be supported as provided in this section.

''(b) SUPPORT PRICE.—

"(1) IN GENERAL.—During the period referred to in subsection (a), the price of milk used for cheese shall be supported at a rate equal to $10.00 per hundredweight for calendar year 1996, subject to subsection (d). Milk used for nonfat dry milk or butter shall not be supported under this section.

"(2) ANNUAL REDUCTION.—For each of calendar years 1997 through 2002, the Secretary shall reduce the rate of price support for milk used for cheese by 10 cents per hundredweight.

"(c) PURCHASES.—

"(1) IN GENERAL.—The price of milk used for cheese shall be supported through the purchase of cheese and based on the support price in effect during the applicable calendar year.

"(2) SALES THROUGH DEIP.—All sales for export under the dairy export incentive program established under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14) shall be considered as total purchases under subsection (d).

"(d) SUPPORT RATE ADJUSTMENTS.—Effective January 1 of each of the calendar years 1996 through 2002, if the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section (less sales under section 407 for unrestricted use),

through direct purchases or through sales under the dairy export incentive program established under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14), as estimated by the Secretary by November 20 of the preceding calendar year, will exceed 1,500,000,000 pounds (milk equivalent, total milk solids basis), the Secretary shall decrease by 25 cents per hundredweight, in addition to the annual reduction under subsection (b)(2), the rate of price support for milk used for cheese in effect for the calendar year. The support rate adjustment provided under this subsection shall be effective only for the calendar year applicable to the estimate of the Secretary. After the support rate adjustment terminates, the support price shall be the level provided under subsection (b)(2).

''(e) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

''(f) PERIOD.—This section shall be effective only during the period beginning January 1, 1996, and ending December 31, 2002.''.

(b) MILK MANUFACTURING MARKETING ADJUSTMENT.—Section 102 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e–1) is repealed.

SEC. 1107. OILSEEDS PROGRAM.

Section 205 of the Agricultural Act of 1949 (7 U.S.C. 1446f) is amended—

(1) in the section heading, by striking ''**1995**'' and inserting ''**2002**'';

(2) in subsections (b), (c), (e)(1), and (n), by striking ''1995'' each place it appears and inserting ''2002''; and

(3) in subsections (c) and (h)(2), by striking ''1997'' each places it appears and inserting ''2002''.

SEC. 1108. SUGAR PROGRAM.

(a) IN GENERAL.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended—

(1) in the section heading, by striking ''**1997**'' and inserting ''**2002**'';

(2) in subsection (a), by striking ''1997'' and inserting ''2002'';

(3) in subsection (b), by striking ''nonrecourse'';

(4) in subsection (c)—

(A) by striking ''1997'' and inserting ''2002''; and

(B) by striking ''nonrecourse'';

(5) by redesignating subsections (d) through (j) as subsections (f) through (l), respectively;

(6) by inserting after subsection (c) the following:

"(d) LOANS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall carry out this section through the use of recourse loans.

"(2) IMPORT TRIGGER FOR NONRECOURSE LOANS.—If in any fiscal year the tariff rate quota for imports of sugar into the United States is established at a level equal to 1,340,000 or more short tons, raw value, the Secretary shall for the duration of the fiscal year make available nonrecourse loans under this section. A recourse loan made during the fiscal year prior to the tariff rate quota being established at 1,340,000 or more short tons, raw value, under this section shall be modified by the Secretary into a nonrecourse loan for the remainder of the term of the loan.

"(3) PROCESSOR ASSURANCES.—The Secretary shall obtain from each processor that obtains either a recourse or nonrecourse loan under this section such assurances as the Secretary considers necessary to ensure that producers of sugarcane and sugar beets will receive payments that are proportional to

the value of the loan received by the processor, as determined by the Secretary.

''(e) FORFEITURES.—A penalty shall be assessed on the forfeiture of any sugar pledged as collateral for a nonrecourse loan. The penalty for cane sugar shall be equivalent to 1 cent per pound. The penalty for beet sugar shall bear the same relation to the penalty for cane sugar as the marketing assessment for sugar beets bears to the marketing assessment for sugarcane.'';

(7) in subsection (f)(1) (as so redesignated), by striking ''1997'' and inserting ''2002'';

(8) in subsection (h) (as so redesignated), by striking ''subsection (g)'' and inserting ''subsection (i)'';

(9) in subsection (i) (as so redesignated)—

(A) in the subsection heading, by striking ''NONRECOURSE''; and

(B) by striking ''price support'' each place it appears;

(10) in subsection (k) (as so redesignated)—

(A) in the subsection heading, by striking ''MARKETING ASSESSMENT'' and inserting ''ASSESSMENTS ON ALL MARKETED SUGAR'';

(B) in paragraph (1)—

(i) by striking ''1996'' and inserting ''2002'';

(ii) in subparagraph (A)—

(I) by striking ''each of fiscal years 1992 through 1994, 1.0'' and inserting ''fiscal year 1996, 1.1''; and

(II) by striking ''(but'' and all that follows through ''sugar),''; and

(iii) in subparagraph (B)—

(I) by striking ''1995 through 1998, 1.1'' and inserting ''1997 through 2003, 1.375''; and

(II) by striking ''(but'' and all that follows through ''sugar),''; and

(C) in paragraph (2)—

(i) by striking ''1996'' and inserting ''2002'';

(ii) in subparagraph (A)—

(I) by striking ''each of fiscal years 1992 through 1994, 1.0722'' and inserting ''fiscal year 1996, 1.1794''; and

(II) by striking ''(but'' and all that follows through ''sugar),''; and

(iii) in subparagraph (B)—

(I) by striking ''1995 through 1998, 1.1794'' and inserting ''1997 through 2003, 1.47425''; and

(II) by striking ''(but'' and all that follows through ''sugar),''; and

(D) by striking paragraph (6); and

(11) in subsection (l) (as so redesignated), by striking ''1997'' and inserting ''2002''.

(b) LOAN PROVISIONS.—Section 401(e)(1) of the Agricultural Act of 1949 (7 U.S.C. 1421(e)(1)) is amended by adding at the end the following: ''In the case of price support for sugarcane or sugar beets, the payment owed producers by a processor shall be reduced in proportion to the loan forfeiture penalty amounts incurred by the processor as provided in section 206(e).''.

(c) MARKETING ALLOTMENTS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

SEC. 1109. ACREAGE BASE AND YIELD SYSTEM.

Title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) is amended—

(1) in section 503 (7 U.S.C. 1463)—

(A) in subsection (a)—

(i) in paragraph (2), by adding ''and historical soybean acreage'' after ''crop acreage bases''; and

(ii) by adding at the end the following:

''(4) HISTORICAL SOYBEAN ACREAGE.—

''(A) IN GENERAL.—The Secretary shall provide for the establishment and maintenance of an historical soybean acreage for each farm.

''(B) QUANTITY.—

''(i) IN GENERAL.—Except as provided in clause (ii), the historical soybean acreage for a farm for a crop year shall be equal to the average of the acreage planted to soybeans for harvest on the farm in each of the previous 5 crop years.

''(ii) EXCEPTION.—In determining the historical soybean acreage for a farm for a crop year, the Secretary shall exclude from the acreage any soybean plantings that were considered planted to a program crop or are planted for harvest on a crop acreage base.'';

(B) in subsection (b)—

(i) by striking ''CALCULATION.—'' and all that follows through ''paragraph (2), the'' in paragraph (1) and inserting ''CALCULATION.—The''; and

(ii) by striking paragraph (2);

(C) in subsection (c)—

(i) in paragraph (1), by inserting ''in the case of each of the 1991 through 1995 crops,'' after ''(1)'';

(ii) in paragraph (3), by striking ''1997'' and inserting ''1995'';

(iii) in paragraph (4)—

(I) by inserting ''in the case of the 1991 through 1995 crops, and base acreage in the case of the 1996 through 2002 crops,'' after ''permitted acreage''; and

(II) by inserting ''or conservation uses or related commodity production permitted by the Secretary'' after ''section 504''; and

(iv) in paragraph (6), by inserting ''in the case of each of the 1991 through 1995 crops,'' after ''(6)''; and

(D) by striking subsection (h);

(2) in section 504 (7 U.S.C. 1464)—

(A) in subsection (b)—

(i) in paragraph (1)—

(I) in the paragraph heading, by striking ''PERMITTED CROPS'' and inserting ''PAYMENT ACRES'';

(II) by striking ''for purposes of this section,'';

(III) by striking ''a crop acreage base'' and inserting ''the payment acres of a crop acreage base'';

(IV) in subparagraph (D), by striking ''and'' at the end;

(V) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(VI) by adding at the end the following:

''(F) peas and lentils.''; and

(ii) by adding at the end the following:

''(4) CROP ACREAGE BASE NOT ELIGIBLE FOR PAYMENT.—Any crop or conserving crop that is planted on the acres of a crop acreage base that are not eligible for payments shall be eligible for loans.

Haying and grazing on the acres shall not be restricted.";

(B) by striking subsection (c) and inserting the following:

"(c) LIMITATIONS ON ACREAGE AND PAYMENTS.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the planting of a program crop may exceed 100 percent of the crop acreage base of the program crop. The program crop shall be eligible for loans.

"(2) UPLAND COTTON AND RICE.—In the case of upland cotton and rice, any crop other than upland cotton or rice that is planted on an upland cotton or rice crop acreage base shall not be eligible for payments.

"(3) WHEAT AND FEED GRAINS.—In the case of wheat and feed grains, except as provided in paragraph (4), any crop planted on a wheat or feed grain crop acreage base shall be eligible for payments that are attributable to the payment acres of the wheat or feed grain crop acreage base.

"(4) EXCEPTIONS.—

"(A) PAYMENTS ON MULTIPLE CROP ACREAGE BASES.—Producers on a farm with wheat or feed grain crop acreage base and up-

land cotton or rice crop acreage base may not receive payments with respect to the rice or upland cotton planted on the wheat or feed grain crop acreage base.

"(B) UPLAND COTTON OR RICE PAYMENTS.—Upland cotton or rice shall not be eligible for payments if planted in excess of the respective crop acreage base, except that—

"(i) upland cotton or rice planted on acreage not eligible for payments under subsection (b)(4) shall not affect the eligibility for payments under this subparagraph, but shall be eligible for loans; and

"(ii) acreage described in subsection (e)(1) shall be eligible for loans, but not for payments.";

(C) by striking subsection (d);

(D) by redesignating subsection (e) as subsection (d);

(E) in subsection (d)(2) (as so redesignated)—

(i) by striking "the producers—" and all that follows through "(A) plant" and inserting "the producers plant";

(ii) by striking ''25 percent'' and inserting ''100 percent''; and

(iii) by striking ''crop; and'' all that follows through the period at the end and inserting ''crop.''; and

(F) by adding at the end the following:

''(e) TWO-WAY FLEXIBILITY.—Producers of a crop of upland cotton or rice on a farm who are participating in the annual program for upland cotton or rice may plant the crop without losing eligibility for loans with respect to the crop if the acreage planted to the crop on the farm does not exceed the sum of—

''(1) 25 percent of the historical soybean acreage on the farm; and

''(2) 100 percent of the crop acreage base.'';

(3) in section 505 (7 U.S.C. 1465)—

(A) in subsection (a), by striking ''or (c)'';

(B) in subsection (b)—

(i) in paragraph (1)—

(I) by striking ''paragraphs (2) and (3)'' and inserting ''paragraph (2)''; and

(II) by striking ''1997'' and inserting ''2002'';

(ii) in paragraph (2), by striking "1997" and inserting "2002"; and

(iii) by striking paragraphs (3), (4), and (5); and

(C) by striking subsections (c), (d), and (e); and

(4) in section 509 (7 U.S.C. 1469), by striking "1997" and inserting "2002".

SEC. 1110. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

Title X of the Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1444) is amended—

(1) in section 1001 (7 U.S.C. 1308), by striking "1997" each place it appears in paragraphs (1)(A), (1)(B), and (2)(A) and inserting "2002"; and

(2) in section 1001C(a) (7 U.S.C. 1308–3(a)), by striking "1997" each place it appears and inserting "2002".

SEC. 1111. REPEAL OF MISCELLANEOUS AUTHORITIES.

(a) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Title III of the Agricultural Adjustment Act of 1938 is amended—

(1) in subtitle B—

(A) by striking parts II through V (7 U.S.C. 1326 et seq.); and

(B) in part VI, by striking sections 358, 358a, and 358d (7 U.S.C. 1358, 1358a, and 1359); and

(2) by striking subtitle D (7 U.S.C. 1379a et seq.).

(b) TREE ASSISTANCE PROGRAM.—The Secretary of Agriculture shall terminate the tree assistance program established under part 1478 of title 7, Code of Federal Regulations.

SEC. 1112. COMMODITY CREDIT CORPORATION INTEREST RATE.

Notwithstanding any other provision of law, the monthly Commodity Credit Corporation interest rate applicable to loans provided for agricultural commodities by the Corporation shall be 100 basis points greater than the rate determined under the applicable interest rate formula in effect on October 1, 1995.

SEC. 1113. PEANUT PROGRAM.

(a) PRICE SUPPORT.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3) is amended—

(1) in the section heading, by striking ''**1997**'' and inserting ''**2000**'';

(2) in subsection (a)—

(A) in paragraph (1), by striking ''1997'' and inserting ''2000''; and

(B) by striking paragraph (2) and inserting the following:

"(2) SUPPORT RATE.—The national average quota support rate for each of the 1996 through 2000 crops of quota peanuts shall be $628 per ton.";

(3) in subsection (b)(1), by striking "1997" and inserting "2000";

(4) in the first sentence of subsection (c)(2)(A), by inserting before the period at the end the following: "and that, in the case of the 1996 and subsequent crops, Valencia peanuts not produced in the State shall not be eligible to participate in the pools of the State";

(5) in subsection (g)—

(A) in paragraphs (1) and (2)(A)(ii)(II), by striking "1997 crops" each place it appears and inserting "2000 crops"; and

(B) by striking "the 1997 crop" each place it appears and inserting "each of the 1997 through 2000 crops"; and

(6) in subsection (h), by striking "1997" and inserting "2000".

(b) POUNDAGE QUOTAS.—Section 358–1 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1) is amended—

(1) in the section heading, by striking ''**1997**'' and inserting ''**2000**'';

(2) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by striking paragraph (1) and inserting the following:

''(1) ESTABLISHMENT.—The Secretary shall establish the national poundage quota for peanuts for each of the 1991 through 2000 marketing years.

''(2) LEVEL.—The Secretary shall establish the national poundage quota at a level that is equal to the quantity of peanuts (in tons) that the Secretary estimates will be devoted in each marketing year to domestic edible and related uses, excluding seed, plus a reasonable quantity of peanuts for carryover to ensure continuity of supply between marketing years. Undermarketings of quota peanuts from the previous year shall not be considered. In establishing the quota, the Secretary shall take into account—

"(A) any stocks of peanuts on hand in the inventory of the Commodity Credit Corporation; and

"(B) peanuts or products of peanuts imported into the United States;"; and

(C) in paragraph (4) (as so redesignated), by striking "established under paragraph (1)";

(3) in subsection (b)—

(A) by striking "1997" each place it appears and inserting "2000";

(B) in paragraph (2), by striking subparagraph (B) and inserting the following:

"(B) TEMPORARY QUOTA ALLOCATION.—

"(i) IN GENERAL.—Subject to clause (iv), temporary allocation of a poundage quota for the marketing year in which a crop of peanuts is planted shall be made to producers for each of the 1991 through 2000 marketing years in accordance with this subparagraph.

"(ii) QUANTITY.—The temporary quota allocation shall be equal to the quantity of seed peanuts (in pounds) planted on a farm, as determined in accordance with regulations issued by the Secretary.

"(iii) ALLOCATION.—The allocation of quota pounds to producers under this subparagraph shall be performed in such a manner as will not result in a net decrease in quota pounds on a farm in excess of 3 percent, after the temporary seed quota is added, from the basic farm quota for the 1995 marketing year. A decrease shall occur only once, and shall be applicable only to the 1996 marketing year.

"(iv) NO INCREASED COSTS.—The Secretary may carry out this subparagraph only if this subparagraph does not result in—

"(I) an increased cost to the Commodity Credit Corporation through displacement of quota peanuts by additional peanuts in the domestic market;

"(II) an increased loss in a loan pool of an area marketing association designated pursuant to section 108B(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445c–3(c)(1)); or

"(III) other increased costs.

"(v) USE OF QUOTA AND ADDITIONAL PEANUTS.—Nothing in this subparagraph affects the requirements of section 358b(b).

"(vi) ADDITIONAL ALLOCATION.—The temporary allocation of quota pounds under this subparagraph shall be in addition to the farm poundage quota established under this subsection and shall be credited to the producers of the peanuts on the farm in accordance with regulations issued by the Secretary."; and

(C) by striking paragraphs (8) and (9); and

(4) in subsection (f), by striking "1997" and inserting "2000".

(c) SALE, LEASE, OR TRANSFER.—Section 358b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b) is amended to read as follows:

"SEC. 358b. SALE, LEASE, OR TRANSFER OF FARM POUNDAGE QUOTA FOR 1991 THROUGH 2000 CROPS OF PEANUTS.

"(a) IN GENERAL.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—Subject to such terms, conditions, or limitations as the Secretary may prescribe, the owner, or operator with the permission of the owner, of any farm for which a farm poundage quota has been established under this Act may sell or lease all or any part of the poundage quota to any other owner or operator of a farm within counties of a State for transfer to the farm, except that any such lease of poundage quota may be entered into in the fall or after the normal planting season—

"(i) if not less than 90 percent of the basic quota (consisting of the farm quota and temporary quota transfers), plus any poundage quota transferred to the farm under this subsection, has been planted or considered planted on the farm from which the quota is to be leased; and

"(ii) under such terms and conditions as the Secretary may prescribe by regulation.

"(B) FALL TRANSFERS.—

"(i) NO TRANSFER AUTHORIZATION.—In the case of a fall transfer or a transfer after the normal planting season

by a cash lessee, the landowner shall not be required to sign the transfer authorization.

"(ii) TIME LIMITATION.—A fall transfer or a transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.

"(iii) LESSEES.—In the case of a fall transfer, poundage quota from a farm may be leased to an owner or operator of another farm within the same county or to an owner or operator of another farm in any other county within the State.

"(iv) EFFECT OF TRANSFER.—A fall transfer of poundage quota shall not affect the farm quota history for the transferring or receiving farm and shall not result in the reduction of the farm poundage quota on the transferring farm.

"(2) TRANSFERS TO OTHER SELF-OWNED FARMS.—The owner or operator of a farm may transfer all or any part of the farm poundage quota for the farm to any other farm owned or controlled

by the owner or operator that is in the same State and that had a farm poundage quota for the crop of the preceding year, if both the transferring and receiving farms were under the control of the owner or operator for at least 3 crop years prior to the crop year in which the farm poundage quota is to be transferred. Any farm poundage quota transferred under this paragraph shall not result in any reduction in the farm poundage quota for the transferring farm if sufficient acreage is planted on the receiving farm to produce the quota pounds transferred.

"(3) TRANSFERS IN STATES WITH SMALL QUOTAS.—In the case of any State for which the poundage quota allocated to the State was less than 10,000 tons for the crop of the preceding year, all or any part of a farm poundage quota may be transferred by sale or lease or otherwise from a farm in 1 county to a farm in another county in the State.

"(4) TRANSFERS BY SALE IN STATES HAVING QUOTAS OF 10,000 TONS OR MORE.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph and such terms and conditions as the Secretary may prescribe, the owner, or operator with the permission of the owner, of any farm for which a farm quota

has been established under this Act in a State for which the poundage quota allocated to the State was 10,000 tons or more may sell poundage quota to any other eligible owner or operator of a farm within the State.

"(B) LIMITATIONS BASED ON TOTAL POUNDAGE QUOTA.—

"(i) 1996 MARKETING YEAR.—Not more than 15 percent of the total poundage quota within a county as of January 1, 1996, may be sold and transferred under this paragraph during the 1996 marketing year.

"(ii) 1997–2000 MARKETING YEARS.—

"(I) IN GENERAL.—Except as provided in subclause (II), not more than 5 percent of the quota pounds remaining in a county as of January 1, 1997, and each January 1 thereafter through January 1, 2000, may be sold and transferred under this paragraph during the applicable marketing year.

"(II) CARRYOVER.—Any eligible quota that is not sold or transferred under clause (i) shall be eligible for sale or transfer under subclause (I).

"(C) COUNTY LIMITATION.—Not more than 35 percent of the total poundage quota within a county may be sold and transferred under this paragraph.

"(D) SUBSEQUENT LEASES OR SALES.—Quota pounds sold and transferred to a farm under this paragraph may not be leased or sold by the farm to another owner or operator of a farm within the same State for a period of 5 years following the date of the original transfer to the farm.

"(E) APPLICATION.—This paragraph shall not apply to a sale within the same county or to any sale, lease, or transfer described in paragraph (1).

"(b) CONDITIONS.—Transfers (including transfer by sale or lease) of farm poundage quotas under this section shall be subject to all of the following conditions:

"(1) LIENHOLDERS.—No transfer of the farm poundage quota from a farm subject to a mortgage

or other lien shall be permitted unless the transfer is agreed to by the lienholders.

"(2) TILLABLE CROPLAND.—No transfer of the farm poundage quota shall be permitted if the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) determines that the receiving farm does not have adequate tillable cropland to produce the farm poundage quota.

"(3) RECORD.—No transfer of the farm poundage quota shall be effective until a record of the transfer is filed with the county committee of each county to, and from, which the transfer is made and each committee determines that the transfer complies with this section.

"(4) OTHER TERMS.—The Secretary may establish by regulation other terms and conditions.

"(c) CROPS.—This section shall be effective only for the 1991 through 2000 crops of peanuts.".

(d) EXPERIMENTAL AND RESEARCH PROGRAMS FOR PEANUTS.—Section 358c(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358c(d)) is amended by striking "1995" and inserting "2000".

(e) MARKETING PENALTIES AND DISPOSITION OF ADDITIONAL PEANUTS.—Section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a) is amended—

(1) in the section heading, by striking ''**1997**'' and inserting ''**2000**'';

(2) in subsection (f), by adding at the end the following:

''(7) PRICE PROTECTION.—If the domestic market price for quota peanuts, as determined by the Secretary, exceeds 120 percent of the applicable price support loan rate for quota peanuts for 10 consecutive business days, the Secretary shall take immediate steps to facilitate the orderly marketing of additional peanuts for domestic edible use.''; and

(3) in subsection (i), by striking ''1997'' and inserting ''2000''.

SEC. 1114. CATASTROPHIC CROP INSURANCE COVERAGE.

(a) IN GENERAL.—Section 427 of the Agricultural Act of 1949 (7 U.S.C. 1433f) is amended by striking ''subsequent'' and inserting ''1996''.

(b) CONFORMING AMENDMENTS.—Section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) is amended—

(1) by striking paragraph (6); and

(2) by redesignating paragraphs (7) through (10) as paragraphs (6) through (9), respectively.

(c) CROPS.—The amendments made by subsection (b) shall apply beginning with the 1997 crop of an insurable commodity.

SEC. 1115. SAVINGS ADJUSTMENT.

(a) REPORT.—Not later than November 15, 1995, the Director of the Congressional Budget Office shall—

(1) estimate whether total direct spending savings obtained from the programs established by this subtitle and subtitles B and C, and the amendments made by these subtitles, excluding direct spending for the environmental quality incentives program, are less than $13,400,000,000; and

(2) submit a report on the estimate to the Committee on Agriculture, and the Committee on the Budget, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on the Budget, of the Senate.

(b) PAYMENT RATES.—If the Director estimates that total direct spending savings described in subsection (a)(1) are less than $13,400,000,000, the Secretary of Agriculture shall reduce the maximum payment rates for deficiency payments for rice, upland cotton, feed grains, and wheat provided in sections 302, 303, 304, and 305 of the

Agricultural Act of 1949 (as amended by this subtitle) by an equal percentage for each of the 1996 through 2002 crops of the commodity, to acheive total direct spending savings described in subsection (a)(1) of $13,400,000,000.

(c) MAXIMUM REDUCTION.—The maximum deficiency payment rate reduction under subsection (b) shall not exceed 2 percent.

SEC. 1116. SENSE OF THE SENATE REGARDING TAX PROVISIONS RELATING TO ETHANOL.

(a) IN GENERAL.—The Senate finds that—

(1) ethanol and its derivative ethyl tertiary butyl ether (ETBE) are used as fuels or additives to fuels for motor vehicles;

(2) ethanol and ETBE have been shown to improve air quality when used as fuels or fuel additives;

(3) ethanol and ETBE are primarily made from renewable resources and produced domestically;

(4) studies, including a study very recently released by the Department of Agriculture, have shown that when used as fuel, ethanol and ETBE yield more energy than is required to produce them;

(5) the use of domestically produced ethanol and ETBE can thus reduce our nation's reliance on energy imports and improve our energy security;

(6) the use of ethanol and ETBE adds significantly to market opportunities for corn, which constitutes about 95 percent of the feedstock for ethanol production, thereby improving corn prices and farm income;

(7) the production of ethanol and ETBE contributes substantially to improved economic and job growth, particularly in rural communities;

(8) ethanol and ETBE currently qualify for tax incentives which facilitate and promote the use of these clean-burning, renewable, and domestically-produced fuels; and

(9) a recently-released report from the General Accounting Office confirmed the results of numerous previous reports demonstrating that the ethanol tax incentives result in net savings to the Federal Government as farm program costs are reduced through improved grain prices.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any legislation enacted by Congress should not eliminate or in any way weaken or diminish incentives under Federal tax laws or regulations that facilitate or promote the production, blending, or use of ethanol and ETBE.

SEC. 1117. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection and as otherwise specifically provided in this subtitle, this subtitle and the amendments made by this subtitle shall apply beginning with the earlier of—

(A) the 1996 crop of an agricultural commodity; or

(B) November 1, 1995.

(2) MILK.—This subtitle and the amendments made by this subtitle shall apply to milk and dairy products beginning on January 1, 1996.

(b) PRIOR CROPS.—

(1) IN GENERAL.—Except as otherwise specifically provided and notwithstanding any other provision of law, this subtitle and the amendments made by this subtitle shall not affect the authority of the Secretary of Agriculture to carry out a price support or production adjustment program for any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law in effect immediately before the applicable effective date specified in subsection (a).

(2) LIABILITY.—A provision of this subtitle or an amendment made by this subtitle shall not affect

the liability of any person under any provision of law as in effect before the application of the provision in accordance with subsection (a).

Subtitle B—Conservation

SEC. 1201. CONSERVATION.

(a) FUNDING.—Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended to read as follows:

"Subtitle E—Funding

"SEC. 1241. FUNDING.

"(a) MANDATORY EXPENSES.—For each of fiscal years 1996 through 2002, the Secretary shall use the funds of the Commodity Credit Corporation to carry out the programs authorized by—

"(1) subchapter B of chapter 1 of subtitle D (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note));

"(2) subchapter C of chapter 1 of subtitle D; and

"(3) chapter 2 of subtitle D for practices related to livestock production.

"(b) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—For each of fiscal years 1996 through 2002,

$100,000,000 of the funds of the Commodity Credit Corporation shall be available for providing technical assistance, cost-sharing payments, and incentive payments for practices relating to livestock production under the environmental quality incentives program.

''(c) WETLANDS RESERVE PROGRAM.—Spending to carry out the wetlands reserve program under subchapter C of chapter 1 of subtitle D shall be not greater than $614,000,000 for fiscal years 1996 through 2002.

''(d) CONSERVATION RESERVE PROGRAM.—Spending for the conservation reserve program (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note)) shall be not greater than—

''(1) $1,787,000,000 for fiscal year 1996;

''(2) $1,784,000,000 for fiscal year 1997;

''(3) $1,445,000,000 for fiscal year 1998;

''(4) $1,246,000,000 for fiscal year 1999;

''(5) $1,101,000,000 for fiscal year 2000;

''(6) $999,000,000 for fiscal year 2001; and

''(7) $974,000,000 for fiscal year 2002.''.

(b) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—To carry out the programs funded under the amendment made by subsection (a), subtitle D of title XII

of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended by striking chapter 2 (16 U.S.C. 3838 et seq.) and inserting the following:

"CHAPTER 2—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

"SEC. 1238. DEFINITIONS.

''In this chapter:

''(1) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means a site-specific nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, or other land management practice that the Secretary determines is needed to protect soil, water, or related resources in the most cost effective manner.

''(2) LARGE CONFINED LIVESTOCK OPERATION.—The term 'large confined livestock operation' means a farm or ranch that—

''(A) is a confined animal feeding operation; and

''(B) has more than—

''(i) 700 mature dairy cattle;

''(ii) 1,000 beef cattle;

"(iii) 30,000 laying hens or broilers (if the facility has continuous overflow watering);

"(iv) 100,000 laying hens or broilers (if the facility has a liquid manure system);

"(v) 55,000 turkeys;

"(vi) 2,500 swine; or

"(vii) 10,000 sheep or lambs.

"(3) LIVESTOCK.—The term 'livestock' means mature dairy cows, beef cattle, laying hens, broilers, turkeys, swine, sheep, or lambs.

"(4) OPERATOR.—The term 'operator' means a person who is engaged in crop or livestock production (as defined by the Secretary).

"(5) STRUCTURAL PRACTICE.—The term 'structural practice' means the establishment of an animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, permanent wildlife habitat, or other structural practice that the Secretary determines is needed to protect soil, water, or related resources in the most cost effective manner.

"SEC. 1238A. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—During the 1996 through 2002 fiscal years, the Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators who enter into contracts with the Secretary, through an environmental quality incentives program that replaces the functions of the agricultural conservation program, the Great Plains conservation program, the water quality incentives program, and the Colorado River Basin salinity control program.

"(2) ELIGIBLE PRACTICES.—

"(A) STRUCTURAL PRACTICES.—An operator who implements a structural practice shall be eligible for technical assistance or cost-sharing payments, or both.

"(B) LAND MANAGEMENT PRACTICES.—An operator who performs a land management practice shall be eligible for technical assistance or incentive payments, or both.

"(3) ELIGIBLE LANDS.—Land on which structural and land management practices may be performed under this chapter includes agricultural land

(including cropland, rangeland, pasture, and other land on which crops or livestock are produced) that the Secretary determines poses a serious threat to soil, water, or related resources by reason of the soil types, terrain, climatic, soil, topographic, flood, or saline characteristics, or other factors or natural hazards.

"(4) PRIORITIES.—The Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators in a region, watershed, or conservation priority area in which an agricultural operation is located, as determined by the Secretary, based on national and regional priorities that include—

"(A) the significance of the soil, water, and related natural resource problems;

"(B) structural or land management practices for which State or local governments have provided, or will provide, financial or technical assistance to the operators;

"(C) structural practices or land management practices on lands on which agricultural production has been determined to contribute to, or create, the potential for failure to meet applicable water quality standards or other en-

vironmental objectives of a Federal or State law; and

"(D) maximization of environmental benefits per dollar expended.

"(b) APPLICATION AND TERM.—

"(1) IN GENERAL.—A contract between an operator and the Secretary under this chapter may—

"(A) apply to 1 or more structural practices or 1 or more land management practices, or both; and

"(B) have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract.

"(2) DUTIES OF OPERATORS AND SECRETARY.—To receive cost sharing or incentive payments, or technical assistance, participating operators shall comply with all terms and conditions of the contract and a plan, as established by the Secretary.

"(c) STRUCTURAL PRACTICES.—

"(1) COMPETITIVE OFFER.—The Secretary shall administer a competitive offer system for operators proposing to receive cost-sharing payments in exchange for the implementation of 1 or more struc-

tural practices by the operator. The competitive offer system shall consist of—

"(A) the submission of a competitive offer by the operator in such manner as the Secretary may prescribe; and

"(B) evaluation of the offer in light of the priorities established by subsection (a)(4) and the projected cost of the proposal, as determined by the Secretary.

"(2) CONCURRENCE OF OWNER.—If the operator making an offer to implement a structural practice is a tenant of the land involved in agricultural production, for the offer to be acceptable, the operator shall obtain the concurrence of the owner of the land with respect to the offer.

"(d) LAND MANAGEMENT PRACTICES.—The Secretary shall establish an application and evaluation process for awarding technical assistance or incentive payments, or both, to an operator in exchange for the performance of 1 or more land management practices by the operator.

"(e) COST-SHARING, INCENTIVE PAYMENTS, AND TECHNICAL ASSISTANCE.—

"(1) COST-SHARING PAYMENTS.—

"(A) IN GENERAL.—The Federal share of cost-sharing payments to an operator proposing to implement 1 or more structural practices shall not be greater than 75 percent of the projected cost of each practice, as determined by the Secretary, taking into consideration any payment received by the operator from a State or local government.

"(B) LIMITATION.—An operator of a large confined livestock operation shall not be eligible for cost-sharing payments to construct an animal waste management facility.

"(C) OTHER PAYMENTS.—An operator shall not be eligible for cost-sharing payments for structural practices on eligible land under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter 1 or 3.

"(2) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage an operator to perform 1 or more land management practices.

"(3) TECHNICAL ASSISTANCE.—

"(A) FUNDING.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided for a fiscal year. The allocated amount may vary according to the type of expertise required, quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided for a fiscal year.

"(B) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the operator to receive technical assistance under other authorities of law available to the Secretary.

"(f) LIMITATION ON PAYMENTS.—

"(1) IN GENERAL.—The total amount of cost-sharing and incentive payments paid to a person under this chapter may not exceed—

"(A) $10,000 for any fiscal year; or

"(B) $50,000 for any multiyear contract.

"(2) REGULATIONS.—The Secretary shall issue regulations that are consistent with section 1001 for the purpose of—

"(A) defining the term 'person' as used in paragraph (1); and

"(B) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this subsection.

"(g) REGULATIONS.—Not later than 180 days after the effective date of this subsection, the Secretary shall issue regulations to implement the environmental quality incentives program established under this chapter.

"SEC. 1238B. TEMPORARY ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

"(a) INTERIM ADMINISTRATION.—

"(1) IN GENERAL.—During the period beginning on the date of enactment of the Agricultural Reconciliation Act of 1995 and ending on the later of the dates specified in paragraph (2), to ensure that technical assistance, cost-sharing payments, and incentive payments continue to be administered in an orderly manner until such time as assistance can be provided through final regulations issued to implement the environmental quality incentives program established under this chapter, the Secretary shall continue to provide technical assistance, cost-sharing payments, and incentive payments under the

terms and conditions of the agricultural conservation program, the Great Plains conservation program, the water quality incentives program, and the Colorado River Basin salinity control program, to the extent that the terms and conditions of the programs are consistent with the environmental quality incentives program.

"(2) EXPIRATION OF AUTHORITY.—The authority of the Secretary to carry out paragraph (1) shall terminate on the later of—

"(A) the date that is 180 days after the date of enactment of the Agricultural Reconciliation Act of 1995; or

"(B) March 31, 1996.

"(b) PERMANENT ADMINISTRATION.—Effective beginning on the later of the dates specified in subsection (a)(2), the Secretary shall provide technical assistance, cost-sharing payments, and incentive payments for structural practices and land management practices related to crop and livestock production in accordance with final regulations issued to carry out the environmental quality incentives program.".

(c) CONFORMING AMENDMENTS.—

(1) COMMODITY CREDIT CORPORATION CHARTER ACT.—Section 5(g) of the Commodity Credit

Corporation Charter Act (15 U.S.C. 714c(g)) is amended to read as follows:

"(g) Carry out conservation functions and programs.".

(2) WETLANDS RESERVE PROGRAM.—

(A) IN GENERAL.—Section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended—

(i) in subsection (b)(2)—

(I) by striking "not less" and inserting "not more"; and

(II) by striking "2000" and inserting "2002"; and

(ii) in subsection (c), by striking "2000" and inserting "2002".

(B) LENGTH OF EASEMENT.—Section 1237A(e) of the Food Security Act of 1985 (16 U.S.C. 3837a(e)) is amended by striking paragraph (2) and inserting the following:

"(2) shall be for 20 or 30 years, but in no case shall be a permanent easement.".

(3) CONSERVATION RESERVE PROGRAM.—

(A) IN GENERAL.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(i) in subsections (a) and (b)(3), by striking ''1995'' each place it appears and inserting ''2002''; and

(ii) in subsection (d), by striking ''total of'' and all that follows through the period at the end of the subsection and inserting ''total of 36,400,000 acres during the 1986 through 2002 calendar years (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note), except that in no case may total spending for the conservation reserve exceed the spending limitations in section 1241(d).''.

(B) CONFORMING AMENDMENT.—Section 1232(c) of the Food Security Act of 1985 (16 U.S.C. 3832(c)) is amended by striking ''1995'' and inserting ''2002''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall become effective on the later of—

(A) the date of enactment of this Act; or

(B) November 1, 1995.

(2) TRANSITION PROVISIONS.—

(A) IN GENERAL.—Section 1238B of the Food Security Act of 1985 (as added by subsection (b)) shall become effective on the date of enactment of this Act.

(B) 1991 THROUGH 1995 CALENDAR YEARS.—Notwithstanding any other provision of law, this section and the amendments made by this section shall not affect the authority of the Secretary of Agriculture to carry out a program for any of the 1991 through 1995 calendar years under a provision of law in effect immediately before the effective dates specified in this subsection.

Subtitle C—Agricultural Promotion and Export Programs

SEC. 1301. MARKET PROMOTION PROGRAM.

Effective October 1, 1995, section 211(c)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)(1)) is amended—

(1) by striking ''and'' after ''1991 through 1993,''; and

(2) by striking "through 1997," and inserting "through 1995, and not more than $75,000,000 for each of fiscal years 1996 through 2002,".

SEC. 1302. EXPORT ENHANCEMENT PROGRAM.

Effective October 1, 1995, section 301(e)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)(1)) is amended to read as follows:

"(1) IN GENERAL.—The Commodity Credit Corporation shall make available to carry out the program established under this section not more than—

"(A) $767,200,000 for fiscal year 1996;

"(B) $705,600,000 for fiscal year 1997;

"(C) $624,800,000 for fiscal year 1998;

"(D) $544,000,000 for fiscal year 1999;

"(E) $463,200,000 for fiscal year 2000;

"(F) $382,400,000 for fiscal year 2001; and

"(G) $382,400,000 for fiscal year 2002.".

SEC. 1303. EXPORT OF SUNFLOWERSEED OIL AND COTTONSEED OIL.

(a) IN GENERAL.—Effective September 30, 1995, section 301 of the Disaster Assistance Act of 1988 (Public Law 100–387; 7 U.S.C. 1464 note) is repealed.

(b) FUNDING.—Notwithstanding any other provision of law, the Secretary of Agriculture shall not spend any funds made available under section 32 of the Act entitled ''An Act to amend the Agricultural Adjustment Act, and for other purposes'', approved August 24, 1935 (7 U.S.C. 612c), to carry out the programs established under section 301(b) of the Disaster Assistance Act of 1988 (Public Law 100–387; 7 U.S.C. 1464 note) (as in effect prior to the amendment made by subsection (a)).

Subtitle D—Nutrition Assistance

CHAPTER 1—FOOD STAMP PROGRAM

SEC. 1401. TREATMENT OF CHILDREN LIVING AT HOME.

The second sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking ''(who are not themselves parents living with their children or married and living with their spouses)''.

SEC. 1402. OPTIONAL ADDITIONAL CRITERIA FOR SEPARATE HOUSEHOLD DETERMINATIONS.

Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by inserting after the third sentence the following: ''Notwithstanding the preceding sentences, a State may establish criteria that prescribe when individuals who live together, and who would be allowed to participate as separate households under the preceding sentences, shall be considered a single household, without re-

gard to the common purchase of food and preparation of meals.''.

SEC. 1403. ADJUSTMENT OF THRIFTY FOOD PLAN.

The second sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—

(1) by striking ''and (11)'' and inserting ''(11)'';

(2) by inserting ''through October 1, 1994'' after ''1990, and each October 1 thereafter''; and

(3) by inserting before the period at the end the following: '', and (12) on October 1, 1995, and each October 1 thereafter, adjust the cost of the diet to reflect the cost of the diet, in the preceding June, and round the result to the nearest lower dollar increment for each household size, except that on October 1, 1995, the Secretary may not reduce the cost of the diet in effect on September 30, 1995''.

SEC. 1404. DEFINITION OF HOMELESS INDIVIDUAL.

Section 3(s)(2)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2012(s)(2)(C)) is amended by inserting ''for not more than 90 days'' after ''temporary accommodation''.

SEC. 1405. STATE OPTIONS IN REGULATIONS.

Section 5(b) of the Food Stamp Act of 1977 (7 U.S.C. 2014(b)) is amended—

(1) by striking ''(b) The Secretary'' and inserting the following:

''(b) UNIFORM STANDARDS.—Except as otherwise provided in this Act, the Secretary''; and

(2) by striking ''No plan'' and inserting ''Except as otherwise provided in this Act, no plan''.

SEC. 1406. ENERGY ASSISTANCE.

(a) IN GENERAL.—Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) by striking paragraph (11); and

(2) by redesignating paragraphs (12) through (15) as paragraphs (11) through (14), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 5(k) of the Act (7 U.S.C. 2014(k)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''plan for aid to families with dependent children approved'' and inserting ''program funded''; and

(ii) in subparagraph (B), by striking '', not including energy or utility-cost assistance,'';

(B) in paragraph (2)—

(i) by striking subparagraph (C); and

(ii) by redesignating subparagraphs (D) through (H) as subparagraphs (C) through (G), respectively; and

(C) by adding at the end the following:

"(4) THIRD PARTY ENERGY ASSISTANCE PAYMENTS.—

"(A) ENERGY ASSISTANCE PAYMENTS.—For purposes of subsection (d)(1), a payment made under a Federal or State law to provide energy assistance to a household shall be considered money payable directly to the household.

"(B) ENERGY ASSISTANCE EXPENSES.—For purposes of subsection (e), an expense paid on behalf of a household under a Federal or State law to provide energy assistance shall be considered an out-of-pocket expense incurred and paid by the household.".

(2) Section 2605(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(f)) is amended—

(A) by striking "(f)(1) Notwithstanding" and inserting "(f) Notwithstanding";

(B) by striking "food stamps,"; and

(C) by striking paragraph (2).

SEC. 1407. DEDUCTIONS FROM INCOME.

(a) IN GENERAL.—Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended—

(1) in the second sentence—

(A) by striking ''and (4)'' and inserting ''(4)'';

(B) by inserting ''through October 1, 1994'' after ''October 1 thereafter''; and

(C) by inserting before the period at the end the following: '', and (5) on October 1, 2002, and each October 1 thereafter, the Secretary shall adjust the standard deduction to the nearest lower dollar increment to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, for items other than food, for the 12-month period ending the preceding June 30'';

(2) in the third sentence, by striking ''willfully or fraudulently'' and all that follows through ''to report'' and inserting ''has not reported'';

(3) in the seventh sentence, by striking ''may use a standard'' and all that follows through ''except that a'' and inserting ''may make the use of a standard utility allowance mandatory for all households with qualifying utility costs if the State agency has

developed 1 or more standards that include the cost of heating and cooling and 1 or more standards that do not include the cost of heating and cooling and the Secretary finds that the standards will not result in an increased cost to the Secretary. A State agency that has not made the use of a standard utility allowance mandatory under the preceding sentence shall allow a household to switch, at the end of a certification period, between the standard utility allowance and a deduction based on the actual utility costs of the household. A''; and

(4) by striking ''A State agency shall allow a household to switch'' and all that follows through ''twelve-month period.''.

(b) HOMELESS SHELTER DEDUCTION.—Section 11(e)(3) of the Act (7 U.S.C. 2020(e)(3)) is amended by striking the last 3 sentences and inserting the following: ''A State agency may develop a standard homeless shelter deduction, which shall not exceed $139 per month, for such expenses as may reasonably be expected to be incurred by households in which all members are homeless individuals but are not receiving free shelter throughout the month. A State agency that develops the deduction may use the deduction in determining eligibility and allotments for the households, except that the State agency

may prohibit the use of the deduction for households with extremely low shelter costs;''.

SEC. 1408. AMOUNT OF VEHICLE ASSET LIMITATION.

The first sentence of section 5(g)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(2)) is amended by striking ''through September 30, 1995'' and all that follows through ''such date and on'' and inserting ''and shall be adjusted on October 1, 1996, and''.

SEC. 1409. BENEFITS FOR ALIENS.

Section 5(i) of the Food Stamp Act of 1977 (7 U.S.C. 2014(i)) is amended—

(1) in the first sentence of paragraph (1)—

(A) by inserting ''or who executed such an affidavit or similar agreement to enable the individual to lawfully remain in the United States,'' after ''respect to such individual,''; and

(B) by striking ''for a period'' and all that follows through the period at the end of the sentence and inserting ''until the end of the period ending on the later of the date agreed to in the affidavit or agreement or the date that is 5 years after the date on which the individual was first lawfully admitted into the United States following the execution of the affidavit or agreement.'';

(2) in paragraph (2)—

(A) in the first sentence of subparagraph (C)(i), by striking ''of three years after entry into the United States'' and inserting ''determined under paragraph (1)'';

(B) in the first sentence of subparagraph (D), by striking ''of three years after such alien's entry into the United States'' and inserting ''determined under paragraph (1)''; and

(C) by adding at the end the following:

''(F) LIMITATION ON MEASUREMENT OF ATTRIBUTED INCOME AND RESOURCES.—

''(i) IN GENERAL.—Notwithstanding any other provision of this subsection, if a determination described in clause (ii) is made, the amount of income and resources of the sponsor or the sponsor's spouse that shall be attributed to the sponsored individual shall not exceed the amount actually provided to the individual, for—

''(I) the 12-month period beginning on the date of the determination; or

''(II) if the address of the sponsor is unknown to the sponsored indi-

vidual on the date of the determination, the 12-month period beginning on the date the address becomes known to the sponsored individual or to the Secretary (who shall inform the individual of the address not later than 7 days after learning the address).

''(ii) DETERMINATION.—The determination described in this clause shall be a determination by the Secretary that a sponsored individual would, in the absence of the assistance provided by this Act, be unable to obtain food, taking into account the individual's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.''; and

(3) by adding at the end the following:

''(3) TREATMENT OF NONCITIZENS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, a noncitizen who has entered into the United States on or after the date of the enactment of this paragraph shall not, during the 5-year period beginning on the

date of the noncitizen's entry into the United States, be eligible to receive any benefits under this Act.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to any individual who is—

"(i) a noncitizen granted asylum under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) or whose deportation has been withheld under section 243(h) of the Act (8 U.S.C. 1253(b)) for a period of not more than 5 years after the date the noncitizen arrived in the United States;

"(ii) a noncitizen admitted to the United States as a refugee under section 207 of the Act (8 U.S.C. 1157) for not more than 5 years after the date the noncitizen arrived in the United States; or

"(iii) a noncitizen, lawfully present in any State (or any territory or possession of the United States), who is—

"(I) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized

as an honorable discharge and not on account of alienage; or

"(II) the spouse or unmarried dependent child of a veteran described in subclause (I).".

SEC. 1410. DISQUALIFICATION.

(a) IN GENERAL.—Section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)) is amended—

(1) by striking "(d)(1) Unless otherwise exempted by the provisions" and all that follows through "shall be ninety days. The" and inserting the following:

"(d) CONDITIONS OF PARTICIPATION.—

"(1) WORK REQUIREMENTS.—

"(A) IN GENERAL.—No physically and mentally fit individual over the age of 15 and under the age of 60 shall be eligible to participate in the food stamp program if the individual—

"(i) refuses, at the time of application and every 12 months thereafter, to register for employment in a manner prescribed by the Secretary;

"(ii) refuses without good cause to participate in an employment and training

program under paragraph (4), to the extent required by the State agency;

"(iii) refuses without good cause to accept an offer of employment, at a site or plant not subject to a strike or lockout at the time of the refusal, at a wage not less than the higher of—

"(I) the applicable Federal or State minimum wage; or

"(II) 80 percent of the wage that would have governed had the minimum hourly rate under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) been applicable to the offer of employment;

"(iv) refuses without good cause to provide a State agency with sufficient information to allow the State agency to determine the employment status or the job availability of the individual;

"(v) voluntarily and without good cause—

"(I) quits a job; or

"(II) reduces work effort and, after the reduction, the individual is working less than 30 hours per week; or

"(vi) fails to comply with section 20.

"(B) HOUSEHOLD INELIGIBILITY.—If an individual who is the head of a household becomes ineligible to participate in the food stamp program under subparagraph (A), the household shall, at the option of the State agency, become ineligible to participate in the food stamp program for a period, determined by the State agency, that does not exceed the lesser of—

"(i) the duration of the ineligibility of the individual determined under subparagraph (C); or

"(ii) 180 days.

"(C) DURATION OF INELIGIBILITY.—

"(i) FIRST VIOLATION.—The first time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 1 month after the date the individual became ineligible; or

"(III) a date determined by the State agency that is not later than 3 months after the date the individual became ineligible.

"(ii) SECOND VIOLATION.—The second time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 3 months after the date the individual became ineligible; or

"(III) a date determined by the State agency that is not later than 6

months after the date the individual became ineligible.

"(iii) THIRD OR SUBSEQUENT VIOLATION.—The third or subsequent time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 6 months after the date the individual became ineligible;

"(III) a date determined by the State agency; or

"(IV) at the option of the State agency, permanently.

"(D) OTHER CONDITIONS.—The"; and

(2) in paragraph (1), by striking "Any period of ineligibility" and all that follows through "violated.".

(b) CONFORMING AMENDMENT.—

(1) The second sentence of section 17(b)(2) of the Act (7 U.S.C. 2026(b)(2)) is amended by striking ''6(d)(1)(i)'' and inserting ''6(d)(1)(A)(i)''.

(2) Section 20 of the Act (7 U.S.C. 2029) is amended by striking subsection (f) and inserting the following:

''(f) DISQUALIFICATION.—An individual or a household may become ineligible under section 6(d)(1) to participate in the food stamp program for failing to comply with this section.''.

SEC. 1411. EMPLOYMENT AND TRAINING.

(a) IN GENERAL.—Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)) is amended by adding at the end the following:

''(O) LIMITATION ON FUNDING.—Notwithstanding any other provision of this paragraph, the amount of funds a State agency uses to carry out this paragraph (including under subparagraph (I)) for participants who are receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall not exceed the amount of funds the State agency used in fiscal year 1995 to carry out this paragraph for participants who were receiving benefits in fiscal

year 1995 under a State program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.).''.

(b) FUNDING.—Section 16(h) of the Act (7 U.S.C. 2025(h)) is amended by striking ''(h)(1)(A) The Secretary'' and all that follows through the end of paragraph (1) and inserting the following:

''(h) FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.—

''(1) IN GENERAL.—

''(A) AMOUNTS.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies from funds made available for each fiscal year under section 18(a)(1) the amount of—

''(i) for fiscal year 1996, $77,000,000;

''(ii) for fiscal year 1997, $80,000,000;

''(iii) for fiscal year 1998, $83,000,000;

''(iv) for fiscal year 1999, $86,000,000;

''(v) for fiscal year 2000, $89,000,000;

"(vi) for fiscal year 2001, $92,000,000; and

"(vii) for fiscal year 2002, $95,000,000.

"(B) ALLOCATION.—The Secretary shall allocate the amounts reserved under subparagraph (A) among the State agencies using a reasonable formula (as determined by the Secretary) that gives consideration to the population in each State affected by section 6(n).

"(C) REALLOCATION.—

"(i) NOTIFICATION.—A State agency shall promptly notify the Secretary if the State agency determines that the State agency will not expend all of the funds allocated to the State agency under subparagraph (B).

"(ii) REALLOCATION.—On notification under clause (i), the Secretary shall reallocate the funds that the State agency will not expend as the Secretary considers appropriate and equitable.

"(D) MINIMUM ALLOCATION.—Notwithstanding subparagraphs (A) through (C), the Secretary shall ensure that each State agency

operating an employment and training program shall receive not less than $50,000 for each fiscal year.''.

SEC. 1412. INCOME CALCULATION.

Section 6(f) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f)) is amended by striking the third sentence and inserting the following: ''The State agency may consider either all income and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection, or the income, less a pro rata share, and the financial resources of the ineligible individual, to determine the eligibility and the value of the allotment of the household of which the individual is a member.''.

SEC. 1413. COMPARABLE TREATMENT FOR DISQUALIFICATION.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended by adding at the end the following:

''(i) COMPARABLE TREATMENT FOR DISQUALIFICATION.—

''(1) IN GENERAL.—If a disqualification is imposed on a member of a household for a failure of the member to perform an action required under a Federal, State, or local law relating to a welfare or

public assistance program, the State agency may impose the same disqualification on the member of the household under the food stamp program.

"(2) APPLICATION AFTER DISQUALIFICATION PERIOD.—A member of a household disqualified under paragraph (1) may, after the disqualification period has expired, apply for benefits under this Act and shall be treated as a new applicant, except that a prior disqualification under subsection (d) shall be considered in determining eligibility.".

(b) CONFORMING AMENDMENT.—Section 6(d)(2)(A) of the Act (7 U.S.C. 2015(d)(2)(A)) is amended by striking "that is comparable to a requirement of paragraph (1)".

SEC. 1414. COOPERATION WITH CHILD SUPPORT AGENCIES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) (as amended by section 1413) is further amended by adding at the end the following:

"(j) CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—

"(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as 'the individual') who is living with and exercising parental con-

trol over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

"(A) in establishing the paternity of the child (if the child is born out of wedlock); and

"(B) in obtaining support for—

"(i) the child; or

"(ii) the individual and the child.

"(2) GOOD CAUSE FOR NONCOOPERATION.—Paragraph (1) shall not apply to the individual if good cause is found for refusing to cooperate, as determined by the State agency in accordance with standards prescribed by the Secretary in consultation with the Secretary of Health and Human Services. The standards shall take into consideration circumstances under which cooperation may be against the best interests of the child.

"(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).".

SEC. 1415. DISQUALIFICATION FOR CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) (as amended by section 1414) is further amended by adding at the end the following:

"(k) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

"(1) IN GENERAL.—At the option of a State agency, except as provided in paragraph (2), no individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) a court is allowing the individual to delay payment; or

"(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.".

SEC. 1416. PERMANENT DISQUALIFICATION FOR PARTICIPATING IN 2 OR MORE STATES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) (as amended by section 1415) is further amended by adding at the end the following:

''(l) PERMANENT DISQUALIFICATION FOR PARTICIPATING IN 2 OR MORE STATES.—An individual shall be permanently ineligible to participate in the food stamp program as a member of any household if the individual is found by a State agency to have made, or is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual in order to receive benefits simultaneously from 2 or more States under the food stamp program.''.

SEC. 1417. WORK REQUIREMENT.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) (as amended by section 1416) is further amended by adding at the end the following:

''(m) WORK REQUIREMENT.—

''(1) DEFINITION OF WORK PROGRAM.—In this subsection, the term 'work program' means—

''(A) a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

''(B) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

"(C) a program of employment or training operated or supervised by a State or political subdivision of a State that meets standards approved by the Governor of the State, including a program under subsection (d)(4) other than a job search program or a job search training program under clause (i) or (ii) of subsection (d)(4)(B).

"(2) WORK REQUIREMENT.—Except as otherwise provided in this subsection, no individual shall be eligible to participate in the food stamp program as a member of any household if, during the preceding 12-month period, the individual received food stamp benefits for not less than 6 months during which the individual did not—

"(A) work 20 hours or more per week, averaged monthly; or

"(B) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency.

"(3) EXCEPTIONS.—Paragraph (2) shall not apply to an individual if the individual is—

"(A) under 18 or over 50 years of age;

"(B) medically certified as physically or mentally unfit for employment;

"(C) a parent or other member of a household with responsibility for a dependent child; or

"(D) otherwise exempt under subsection (d)(2).

"(4) WAIVER.—On the request of a State agency, the Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

"(A) has an unemployment rate of over 8 percent; or

"(B) does not have a sufficient number of jobs to provide employment for the individuals.".

(b) TRANSITION PROVISION.—Prior to October 1, 1996, the term "preceding 12-month period" in section 6(m)(2) of the Food Stamp Act of 1977 (as added by subsection (a)) means the preceding period that begins on October 1, 1995.

SEC. 1418. DISQUALIFICATION OF FLEEING FELONS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) (as amended by section 1417) is further amended by adding at the end the following:

''(n) DISQUALIFICATION OF FLEEING FELONS.—No member of a household who is otherwise eligible to participate in the food stamp program shall be eligible to participate in the program as a member of that or any other household during any period during which the individual is—

''(1) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of the State; or

''(2) violating a condition of probation or parole imposed under a Federal or State law.''.

SEC. 1419. ELECTRONIC BENEFIT TRANSFERS.

Section 7 of the Food Stamp Act of 1977 (7 U.S.C. 2016) is amended by adding at the end the following:

''(j) ELECTRONIC BENEFIT TRANSFERS.—

''(1) APPLICABLE LAW.—

''(A) IN GENERAL.—Disclosures, protections, responsibilities, and remedies established

by the Federal Reserve Board under section 904 of the Electronic Fund Transfer Act (15 U.S.C. 1693b) shall not apply to benefits under this Act delivered through any electronic benefit transfer system.

"(B) DEFINITION OF ELECTRONIC BENEFIT TRANSFER SYSTEM.—In this paragraph, the term 'electronic benefit transfer system' means a system under which a governmental entity distributes benefits under this Act or other benefits or payments by establishing accounts to be accessed by recipients of the benefits electronically, including through the use of an automated teller machine, a point-of-sale terminal, or an intelligent benefit card.

"(2) CHARGING FOR ELECTRONIC BENEFIT TRANSFER CARD REPLACEMENT.—

"(A) IN GENERAL.—A State agency may charge an individual for the cost of replacing a lost or stolen electronic benefit transfer card.

"(B) REDUCING ALLOTMENT.—A State agency may collect a charge imposed under subparagraph (A) by reducing the monthly allotment of the household of which the individual is a member.".

SEC. 1420. MINIMUM BENEFIT.

The proviso in section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by striking ", and shall be adjusted" and all that follows through "$5".

SEC. 1421. BENEFITS ON RECERTIFICATION.

Section 8(c)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)(2)(B)) is amended by striking "of more than one month".

SEC. 1422. FAILURE TO COMPLY WITH OTHER WELFARE AND PUBLIC ASSISTANCE PROGRAMS.

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by striking subsection (d) and inserting the following:

"(d) REDUCTION OF PUBLIC ASSISTANCE BENEFITS.—If the benefits of a household are reduced under a Federal, State, or local law relating to a welfare or public assistance program for the failure to perform an action required under the law or program, for the duration of the reduction—

"(1) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of the reduction; and

"(2) the State agency may reduce the allotment of the household by not more than 25 percent.".

SEC. 1423. ALLOTMENTS FOR HOUSEHOLDS RESIDING IN INSTITUTIONS.

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by adding at the end the following:

"(f) ALLOTMENTS FOR HOUSEHOLDS RESIDING IN INSTITUTIONS.—In the case of an individual who resides in a homeless shelter, or in an institution or center for the purpose of a drug or alcoholic treatment program, described in the last sentence of section 3(i), a State agency may provide an allotment for the individual to—

"(1) the institution as an authorized representative for the individual for a period that is less than 1 month; and

"(2) the individual, if the individual leaves the institution.".

SEC. 1424. COLLECTION OF OVERISSUANCES.

(a) IN GENERAL.—Section 13 of the Food Stamp Act of 1977 (7 U.S.C. 2022) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) COLLECTION OF OVERISSUANCES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, a State agency shall collect any overissuance of coupons issued to a household by—

"(A) reducing the allotment of the household;

"(B) withholding unemployment compensation from a member of the household under subsection (c);

"(C) recovering from Federal pay or a Federal income tax refund under subsection (d); or

"(D) any other means.

"(2) COST EFFECTIVENESS.—Paragraph (1) shall not apply if the State agency demonstrates to the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective.

"(3) HARDSHIPS.—A State agency may not use an allotment reduction under paragraph (1)(A) as a means of collecting an overissuance from a household if the allotment reduction would cause a hardship on the household, as determined by the State agency.

"(4) MAXIMUM REDUCTION ABSENT FRAUD.—If a household received an overissuance of coupons without any member of the household being found ineligible to participate in the program under section 6(b)(1) and a State agency elects to reduce the allot-

ment of the household under paragraph (1)(A), the State agency shall reduce the monthly allotment of the household under paragraph (1)(A) by the greater of—

"(A) 10 percent of the monthly allotment of the household; or

"(B) $10.

"(5) PROCEDURES.—A State agency shall collect an overissuance of coupons issued to a household under paragraph (1) in accordance with requirements established by the State agency for providing notice, electing a means of payment, and establishing a time schedule for payment."; and

(2) in subsection (d)—

(A) by striking "as determined under subsection (b) and except for claims arising from an error of the State agency," and inserting ", as determined under subsection (b)(1),"; and

(B) by inserting before the period at the end the following: "or a Federal income tax refund as authorized by section 3720A of title 31, United States Code".

(b) CONFORMING AMENDMENT.—Section 11(e)(8) of the Act (7 U.S.C. 2020(e)(8)) is amended—

(1) by striking ''and excluding claims'' and all that follows through ''such section''; and

(2) by inserting before the semicolon at the end the following: ''or a Federal income tax refund as authorized by section 3720A of title 31, United States Code''.

SEC. 1425. TERMINATION OF FEDERAL MATCH FOR OPTIONAL INFORMATION ACTIVITIES.

(a) IN GENERAL.—Section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively.

(b) CONFORMING AMENDMENT.—Section 16(g) of the Act (7 U.S.C. 2025(g)) is amended by striking ''an amount equal to'' and all that follows through ''1991, of'' and inserting ''the amount provided under subsection (a)(5) for''.

SEC. 1426. WORK SUPPLEMENTATION OR SUPPORT PROGRAM.

Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by adding at the end the following:

''(k) WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—

"(1) DEFINITION.—In this subsection, the term 'work supplementation or support program' means a program in which, as determined by the Secretary, public assistance (including any benefits provided under a program established by the State and the food stamp program) is provided to an employer to be used for hiring and employing a new employee who is a public assistance recipient.

"(2) PROGRAM.—A State agency may elect to use amounts equal to the allotment that would otherwise be allotted to a household under the food stamp program, but for the operation of this subsection, for the purpose of subsidizing or supporting jobs under a work supplementation or support program established by the State.

"(3) PROCEDURE.—If a State agency makes an election under paragraph (2) and identifies each household that participates in the food stamp program that contains an individual who is participating in the work supplementation or support program—

"(A) the Secretary shall pay to the State agency an amount equal to the value of the allotment that the household would be eligible to receive but for the operation of this subsection;

"(B) the State agency shall expend the amount paid under subparagraph (A) in accordance with the work supplementation or support program in lieu of providing the allotment that the household would receive but for the operation of this subsection;

"(C) for purposes of—

"(i) sections 5 and 8(a), the amount received under this subsection shall be excluded from household income and resources; and

"(ii) section 8(b), the amount received under this subsection shall be considered to be the value of an allotment provided to the household; and

"(D) the household shall not receive an allotment from the State agency for the period during which the member continues to participate in the work supplementation or support program.

"(4) MAXIMUM LENGTH OF PARTICIPATION.—A work supplementation or support program may not allow the participation of any individual for longer than 1 year, unless the Secretary approves a longer period.".

SEC. 1427. PRIVATE SECTOR EMPLOYMENT INITIATIVES.

Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by adding at the end the following:

"(m) PRIVATE SECTOR EMPLOYMENT INITIATIVES.—

"(1) ELECTION TO PARTICIPATE.—

"(A) IN GENERAL.—Subject to the other provisions of this subsection, a State may elect to carry out a private sector employment initiative program under this subsection.

"(B) REQUIREMENT.—A State shall be eligible to carry out a private sector employment initiative under this subsection only if not less than 50 percent of the households that received food stamp benefits during the summer of 1993 also received benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) during the summer of 1993.

"(2) PROCEDURE.—A State that has elected to carry out a private sector employment initiative under paragraph (1) may use amounts equal to the food stamp allotments that would otherwise be allotted to a household under the food stamp program, but for the operation of this subsection, to provide cash benefits in lieu of the food stamp allotments to

the household if the household is eligible under paragraph (3).

"(3) ELIGIBILITY.—A household shall be eligible to receive cash benefits under paragraph (2) if an adult member of the household—

"(A) has worked in unsubsidized employment in the private sector for not less than the preceding 90 days;

"(B) has earned not less than $350 per month from the employment referred to in subparagraph (A) for not less than the preceding 90 days;

"(C)(i) is eligible to receive benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(ii) was eligible to receive benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at the time the member first received cash benefits under this subsection and is no longer eligible for the State program because of earned income;

"(D) is continuing to earn not less than $350 per month from the employment referred to in subparagraph (A); and

"(E) elects to receive cash benefits in lieu of food stamp benefits under this subsection.".

SEC. 1428. REAUTHORIZATION OF APPROPRIATIONS.

The first sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by striking "1995" and inserting "2002".

SEC. 1429. OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.

The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

"SEC. 24. OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.

"(a) ESTABLISHMENT.—The Secretary shall establish a program to make grants to States in accordance with this section to provide—

"(1) food assistance to needy individuals and families residing in the State;

"(2) at the option of a State, wage subsidies and payments in return for work for needy individuals under the program;

"(3) funds to operate an employment and training program under subsection (g)(2) for needy individuals under the program; and

"(4) funds for administrative costs incurred in providing the assistance.

"(b) ELECTION.—

"(1) IN GENERAL.—A State may elect to participate in the program established under subsection (a).

"(2) ELECTION REVOCABLE.—A State that elects to participate in the program established under subsection (a) may subsequently reverse the election of the State only once thereafter. Following the reversal, the State shall only be eligible to participate in the food stamp program in accordance with the other sections of this Act and shall not receive a block grant under this section.

"(3) PROGRAM EXCLUSIVE.—A State that is participating in the program established under subsection (a) shall not be subject to, or receive any benefit under, this Act except as provided in this section.

"(c) LEAD AGENCY.—

"(1) DESIGNATION.—A State desiring to participate in the program established under this sec-

tion shall designate, in an application submitted to the Secretary under subsection (d)(1), an appropriate State agency that complies with paragraph (2) to act as the lead agency for the State.

"(2) DUTIES.—The lead agency shall—

"(A) administer, either directly, through other State agencies, or through local agencies, the assistance received under this section by the State;

"(B) develop the State plan to be submitted to the Secretary under subsection (d)(1); and

"(C) coordinate the provision of food assistance under this section with other Federal, State, and local programs.

"(d) APPLICATION AND PLAN.—

"(1) APPLICATION.—To be eligible to receive assistance under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall by regulation require, including—

"(A) an assurance that the State will comply with the requirements of this section;

"(B) a State plan that meets the requirements of paragraph (3); and

"(C) an assurance that the State will comply with the requirements of the State plan under paragraph (3).

"(2) ANNUAL PLAN.—The State plan contained in the application under paragraph (1) shall be submitted for approval annually.

"(3) REQUIREMENTS OF PLAN.—

"(A) LEAD AGENCY.—The State plan shall identify the lead agency.

"(B) USE OF BLOCK GRANT FUNDS.—The State plan shall provide that the State shall use the amounts provided to the State for each fiscal year under this section—

"(i) to provide food assistance to needy individuals and families residing in the State, other than residents of institutions who are ineligible for food stamps under section 3(i);

"(ii) at the option of a State, to provide wage subsidies or workfare under section 20(a) (except that any reference in section 20(a) to an allotment shall be considered a reference to the food assistance

or benefits in lieu of food assistance received by an individual or family during a month under this section) for needy individuals and families participating in the program;

"(iii) to administer an employment and training program under subsection (g)(2) for needy individuals under the program and to provide reimbursements to needy individuals and families as would be allowed under section 16(h)(3); and

"(iv) to pay administrative costs incurred in providing the assistance.

"(C) ASSISTANCE FOR ENTIRE STATE.—The State plan shall provide that benefits under this section shall be available throughout the entire State.

"(D) NOTICE AND HEARINGS.—The State plan shall provide that an individual or family who applies for, or receives, assistance under this section shall be provided with notice of, and an opportunity for a hearing on, any action under this section that adversely affects the individual or family.

"(E) OTHER ASSISTANCE.—

"(i) COORDINATION.—The State plan may coordinate assistance received under this section with assistance provided under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

"(ii) PENALTIES.—If an individual or family is penalized for violating part A of title IV of the Act, the State plan may reduce the amount of assistance provided under this section or otherwise penalize the individual or family.

"(F) ELIGIBILITY LIMITATIONS.—The State plan shall describe the income and resource eligibility limitations that are established for the receipt of assistance under this section.

"(G) RECEIVING BENEFITS IN MORE THAN 1 JURISDICTION.—The State plan shall establish a system to verify and otherwise ensure that no individual or family shall receive benefits under this section in more than 1 jurisdiction within the State.

"(H) PRIVACY.—The State plan shall provide for safeguarding and restricting the use and disclosure of information about any individ-

ual or family receiving assistance under this section.

"(I) OTHER INFORMATION.—The State plan shall contain such other information as may be required by the Secretary.

"(4) APPROVAL OF APPLICATION AND PLAN.—The Secretary shall approve an application and State plan that satisfies the requirements of this section.

"(e) LIMITATIONS ON STATE ALLOTMENTS.—

"(1) NO INDIVIDUAL OR FAMILY ENTITLEMENT TO ASSISTANCE.—Nothing in this section—

"(A) entitles any individual or family to assistance under this section; or

"(B) limits the right of a State to impose additional limitations or conditions on assistance under this section.

"(2) CONSTRUCTION OF FACILITIES.—No funds made available under this section shall be expended for the purchase or improvement of land, or for the purchase, construction, or permanent improvement of any building or facility.

"(f) BENEFITS FOR ALIENS.—

"(1) ELIGIBILITY.—No individual shall be eligible to receive benefits under a State plan approved

under subsection (d)(4) if the individual is not eligible to participate in the food stamp program under section 6(f).

"(2) INCOME.—The State plan shall provide that the income of an alien shall be determined in accordance with section 5(i).

"(g) EMPLOYMENT AND TRAINING.—

"(1) WORK REQUIREMENTS.—No individual or member of a family shall be eligible to receive benefits under a State plan funded under this section if the individual is not eligible to participate in the food stamp program under subsection (d) or (m) of section 6.

"(2) WORK PROGRAMS.—Each State shall implement an employment and training program described in section 6(d)(4) for needy individuals under the program.

"(h) ENFORCEMENT.—

"(1) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this section and the State plan approved under subsection (d)(4).

"(2) NONCOMPLIANCE.—

"(A) IN GENERAL.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—

"(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the State plan approved under subsection (d)(4); or

"(ii) in the operation of any program or activity for which assistance is provided under this section, there is a failure by the State to comply substantially with any provision of this section;

the Secretary shall notify the State of the finding and that no further payments will be made to the State under this section (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to the program or activity) until the Secretary is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected.

"(B) OTHER SANCTIONS.—In the case of a finding of noncompliance made pursuant to subparagraph (A), the Secretary may, in addition to, or in lieu of, imposing the sanctions de-

scribed in subparagraph (A), impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this section and disqualification from the receipt of financial assistance under this section.

"(C) NOTICE.—The notice required under subparagraph (A) shall include a specific identification of any additional sanction being imposed under subparagraph (B).

"(3) ISSUANCE OF REGULATIONS.—The Secretary shall establish by regulation procedures for—

"(A) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this section; and

"(B) imposing sanctions under this section.

"(4) INCOME AND ELIGIBILITY VERIFICATION SYSTEM.—The Secretary may withhold not more than 5 percent of the amount allotted to a State under subsection (l)(2) if the State does not use an income and eligibility verification system established under section 1137 of the Social Security Act (42 U.S.C. 1320b–7).

"(i) PAYMENTS.—

"(1) IN GENERAL.—For each fiscal year, the Secretary shall pay to a State that has an application approved by the Secretary under subsection (d)(4) an amount that is equal to the allotment of the State under subsection (l)(2) for the fiscal year.

"(2) METHOD OF PAYMENT.—The Secretary shall make payments to a State for a fiscal year under this section by issuing 1 or more letters of credit for the fiscal year, with necessary adjustments on account of overpayments or underpayments, as determined by the Secretary.

"(3) SPENDING OF FUNDS BY STATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), payments to a State from an allotment under subsection (l)(2) for a fiscal year may be expended by the State only in the fiscal year.

"(B) CARRYOVER.—The State may reserve up to 10 percent of an allotment under subsection (l)(2) for a fiscal year to provide assistance under this section in subsequent fiscal years, except that the reserved funds may not exceed 30 percent of the total allotment received under this section for a fiscal year.

"(4) FOOD ASSISTANCE AND ADMINISTRATIVE EXPENDITURES.—In each fiscal year, of the Federal funds expended by a State under this section—

"(A) not less than 80 percent shall be for food assistance; and

"(B) not more than 6 percent shall be for administrative expenses.

"(5) PROVISION OF FOOD ASSISTANCE.—A State may provide food assistance under this section in any manner determined appropriate by the State to provide food assistance to needy individuals and families in the State, such as electronic benefits transfer limited to food purchases, coupons limited to food purchases, or direct provision of commodities.

"(6) DEFINITION OF FOOD ASSISTANCE.—In this section, the term 'food assistance' means assistance that may be used only to obtain food, as defined in section 3(g).

"(j) AUDITS.—

"(1) REQUIREMENT.—After the close of each fiscal year, a State shall arrange for an audit of the expenditures of the State during the program period from amounts received under this section.

"(2) INDEPENDENT AUDITOR.—An audit under this section shall be conducted by an entity that is independent of any agency administering activities that receive assistance under this section and be in accordance with generally accepted auditing principles.

"(3) PAYMENT ACCURACY.—Each annual audit under this section shall include an audit of payment accuracy under this section that shall be based on a statistically valid sample of the caseload in the State.

"(4) SUBMISSION.—Not later than 30 days after the completion of an audit under this section, the State shall submit a copy of the audit to the legislature of the State and to the Secretary.

"(5) REPAYMENT OF AMOUNTS.—Each State shall repay to the United States any amounts determined through an audit under this section to have not been expended in accordance with this section or to have not been expended in accordance with the State plan, or the Secretary may offset the amounts against any other amount paid to the State under this section.

"(k) NONDISCRIMINATION.—

"(1) IN GENERAL.—The Secretary shall not provide financial assistance for any program, project, or activity under this section if any person with responsibilities for the operation of the program, project, or activity discriminates with respect to the program, project, or activity because of race, religion, color, national origin, sex, or disability.

"(2) ENFORCEMENT.—The powers, remedies, and procedures set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) may be used by the Secretary to enforce paragraph (1).

"(l) ALLOTMENTS.—

"(1) DEFINITION OF STATE.—In this section, the term 'State' means each of the 50 States, the District of Columbia, Guam, and the Virgin Islands of the United States.

"(2) STATE ALLOTMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), from the amounts made available under section 18 of this Act for each fiscal year, the Secretary shall allot to each State participating in the program established under this section an amount that is equal to the sum of—

"(i) the greater of, as determined by the Secretary—

"(I) the total dollar value of all benefits issued under the food stamp program established under this Act by the State during fiscal year 1994; or

"(II) the average per fiscal year of the total dollar value of all benefits issued under the food stamp program by the State during each of fiscal years 1992 through 1994; and

"(ii) the greater of, as determined by the Secretary—

"(I) the total amount received by the State for administrative costs and the employment and training program under subsections (a) and (h), respectively, of section 16 of this Act for fiscal year 1994; or

"(II) the average per fiscal year of the total amount received by the State for administrative costs and the employment and training program under subsections (a) and (h), respectively, of section 16 of this Act for

each of fiscal years 1992 through 1994.

"(B) INSUFFICIENT FUNDS.—If the Secretary finds that the total amount of allotments to which States would otherwise be entitled for a fiscal year under subparagraph (A) will exceed the amount of funds that will be made available to provide the allotments for the fiscal year, the Secretary shall reduce the allotments made to States under this subsection, on a pro rata basis, to the extent necessary to allot under this subsection a total amount that is equal to the funds that will be made available.".

SEC. 1430. EFFECTIVE DATE.

Except as otherwise provided in this chapter, this chapter and the amendments made by this chapter shall become effective on October 1, 1995.

CHAPTER 2—CHILD NUTRITION PROGRAMS

PART I—REIMBURSEMENT RATES

SEC. 1441. TERMINATION OF ADDITIONAL PAYMENT FOR LUNCHES SERVED IN HIGH FREE AND REDUCED PRICE PARTICIPATION SCHOOLS.

(a) IN GENERAL.—Section 4(b)(2) of the National School Lunch Act (42 U.S.C. 1753(b)(2)) is amended by

striking ''except that'' and all that follows through ''2 cents more''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on July 1, 1996.

SEC. 1442. LUNCHES, BREAKFASTS, AND SUPPLEMENTS.

(a) IN GENERAL.—Section 11(a)(3)(B) of the National School Lunch Act (42 U.S.C. 1759a(a)(3)(B)) is amended—

(1) by designating the second and third sentences as subparagraphs (C) and (D), respectively; and

(2) by striking subparagraph (D) (as so designated) and inserting the following:

''(D) ROUNDING.—Except as otherwise provided in this paragraph, in the case of each school year, the Secretary shall—

''(i) base the adjustment made under this paragraph on the amount of the unrounded adjustment for the preceding school year;

''(ii) adjust the resulting amount in accordance with subparagraphs (B) and (C); and

''(iii) round the result to the nearest lower cent increment.

"(E) ADJUSTMENT ON JANUARY 1, 1996.—On January 1, 1996, the Secretary shall adjust the rates and factor for the remainder of the school year by rounding the previously established rates and factor to the nearest lower cent increment.

"(F) ADJUSTMENT FOR 24-MONTH PERIOD BEGINNING JULY 1, 1996.—In the case of the 24-month period beginning July 1, 1996, the national average payment rates for paid lunches, paid breakfasts, and paid supplements shall be the same as the national average payment rate for paid lunches, paid breakfasts, and paid supplements, respectively, for the school year beginning July 1, 1995, rounded to the nearest lower cent increment.

"(G) ADJUSTMENT FOR SCHOOL YEAR BEGINNING JULY 1, 1998.—In the case of the school year beginning July 1, 1998, the Secretary shall—

"(i) base the adjustments made under this paragraph for—

"(I) paid lunches and paid breakfasts on the amount of the unrounded adjustment for paid lunches for the

school year beginning July 1, 1995; and

"(II) paid supplements on the amount of the unrounded adjustment for paid supplements for the school year beginning July 1, 1995;

"(ii) adjust each resulting amount in accordance with subparagraph (C); and

"(iii) round each result to the nearest lower cent increment.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1996.

SEC. 1443. FREE AND REDUCED PRICE BREAKFASTS.

(a) IN GENERAL.—Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended—

(1) in paragraph (1)(B)—

(A) in the first sentence, by striking "section 11(a)" and inserting "subparagraphs (B) through (E) of section 11(a)(3)"; and

(B) in the second sentence, by striking ", adjusted to the nearest one-fourth cent" and inserting "(as adjusted pursuant to subparagraphs (B) through (E) of section 11(a)(3) of the National School Lunch Act (42 U.S.C. 1759a(a)(3)))"; and

(2) in paragraph (2)(B)(ii)—

(A) by striking ''nearest one-fourth cent'' and inserting ''nearest lower cent increment for the applicable school year''; and

(B) by inserting before the period at the end the following: '', and the adjustment required by this clause shall be based on the unrounded adjustment for the preceding school year''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on July 1, 1996.

SEC. 1444. CONFORMING REIMBURSEMENT FOR PAID BREAKFASTS AND LUNCHES.

(a) IN GENERAL.—The last sentence of section 4(b)(1)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(1)(B)) is amended by striking ''8.25 cents'' and all that follows through ''Act)'' and inserting ''the same as the national average lunch payment for paid meals established under section 4(b) of the National School Lunch Act (42 U.S.C. 1753(b))''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1996.

PART II—GRANT PROGRAMS

SEC. 1451. SCHOOL BREAKFAST STARTUP GRANTS.

(a) IN GENERAL.—Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended by striking subsection (g).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1996.

PART III—OTHER AMENDMENTS

SEC. 1461. CHILD AND ADULT CARE FOOD PROGRAM.

(a) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—

(1) RESTRUCTURED DAY CARE HOME REIMBURSEMENTS.—Section 17(f)(3) of the National School Lunch Act (42 U.S.C. 1766(f)(3)) is amended by striking ''(3)(A) Institutions'' and all that follows through the end of subparagraph (A) and inserting the following:

''(3) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

''(A) REIMBURSEMENT FACTOR.—

''(i) IN GENERAL.—An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home sponsored by the organization, reimbursement factors in ac-

cordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.

"(ii) TIER I FAMILY OR GROUP DAY CARE HOMES.—

"(I) DEFINITION.—In this paragraph, the term 'tier I family or group day care home' means—

"(aa) a family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9;

"(bb) a family or group day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total num-

ber of children enrolled are certified as eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

"(cc) a family or group day care home that is operated by a provider whose household meets the income eligibility guidelines for free or reduced price meals under section 9 and whose income is verified by the sponsoring organization of the home under regulations established by the Secretary.

"(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or sup-

plements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

"(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on the date of enactment of this subclause.

"(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on August 1, 1996, July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded

adjustment in effect on June 30 of the preceding school year.

"(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

"(I) IN GENERAL.—

"(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be $1 for lunches and suppers, 30 cents for breakfasts, and 15 cents for supplements.

"(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be

rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

"(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

"(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in

accordance with the following requirements:

"(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

"(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the income eligibility guidelines, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

"(III) INFORMATION AND DETERMINATIONS.—

"(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

"(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized

under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the income eligibility guidelines under section 9.

"(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

"(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting

procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that sponsors the home. The procedures the Secretary prescribes may include 1 or more of the following:

"(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

"(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the

percentage of children in the home whose households have incomes that meet the income eligibility guidelines under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

"(cc) Such other simplified procedures as the Secretary may prescribe.

"(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any necessary minimum verification requirements.".

(2) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—Section 17(f)(3) of the Act is amended by adding at the end the following:

"(D) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—

"(i) IN GENERAL.—

"(I) RESERVATION.—From amounts made available to carry out this section, the Secretary shall reserve $5,000,000 of the amount made available for fiscal year 1996.

"(II) PURPOSE.—The Secretary shall use the funds made available under subclause (I) to provide grants to States for the purpose of providing—

"(aa) assistance, including grants, to family and day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automated data processing assistance, and other assistance for the staff of the sponsoring organizations; and

"(bb) training and other assistance to family and group day

care homes in the implementation of the amendments to subparagraph (A) made by section 1461(a)(1) of the Agricultural Reconciliation Act of 1995.

"(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i)(I)—

"(I) $30,000 in base funding to each State; and

"(II) any remaining amount among the States, based on the number of family day care homes participating in the program in a State during fiscal year 1994 as a percentage of the number of all family day care homes participating in the program during fiscal year 1994.

"(iii) RETENTION OF FUNDS.—Of the amount of funds made available to a State for fiscal year 1996 under clause (i), the State may retain not to exceed 30 percent of the amount to carry out this subparagraph.

"(iv) ADDITIONAL PAYMENTS.—Any payments received under this subparagraph shall be in addition to payments that a State receives under subparagraph (A) (as amended by section 1461(a)(1) of the Agricultural Reconciliation Act of 1995).".

(3) PROVISION OF DATA.—Section 17(f)(3) of the Act (as amended by paragraph (2)) is further amended by adding at the end the following:

"(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child and adult care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

"(ii) SCHOOL DATA.—

"(I) IN GENERAL.—A State agency administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall provide to approved family or group day care home sponsoring organizations a list of schools serving elementary school children in the State in which not less than ½ of the children enrolled are certified to receive free or reduced price meals. The State agency shall collect the data necessary to create the list annually and provide the list on a timely basis to any approved family or group day care home sponsoring organization that requests the list.

"(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home

under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

''(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.''.

(4) CONFORMING AMENDMENTS.—Section 17(c) of the Act is amended by inserting ''except as provided in subsection (f)(3),'' after ''For purposes of

this section,'' each place it appears in paragraphs (1), (2), and (3).

(b) ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN.—Section 17 of the Act is amended by striking subsection (k) and inserting the following:

''(k) TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.

(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1), (3), and (4) of subsection (a) shall become effective on August 1, 1996.

CHAPTER 3—ADDITIONAL SAVINGS

SEC. 1471. EARNINGS OF STUDENTS.

Section 5(d)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(7)) is amended by striking ''21'' and inserting ''17''.

SEC. 1472. STANDARD DEDUCTION.

Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by adding at the end the following: ''Notwithstanding any other provision of this subsection, the Secretary shall allow a standard deduction of $134 for fiscal year 1995, $132 for the period consisting of October 1, 1995, through December 31, 1995, and $116 for the period consisting of January 1, 1996, through fiscal year 2002, except that households in Alaska, Hawaii, Guam, and the Virgin Islands of the United States shall be allowed a standard deduction of $229, $189, $269, and $118, respectively, for fiscal year 1995; $225, $186, $265, and $116, respectively, for the period consisting of October 1, 1995, through December 31, 1995; and $198, $164, $233, and $102, respectively, for the period consisting of January 1, 1996, through fiscal year 2002.''.

SEC. 1473. VENDOR PAYMENTS FOR TRANSITIONAL HOUSING COUNTED AS INCOME.

Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) (as amended by section 1406(b)(1)(B)) is amended—

(1) by striking subparagraph (E); and

(2) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively.

SEC. 1474. EXTENDING CLAIMS RETENTION RATES.

The first sentence of section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended by striking ''1995'' each place it appears and inserting ''2002''.

SEC. 1475. REAUTHORIZATION OF PUERTO RICO NUTRITION ASSISTANCE PROGRAM.

The first sentence of section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by striking ''$974,000,000'' and all that follows through ''fiscal year 1995'' and inserting ''$1,143,000,000 for each of fiscal years 1995 and 1996, $1,171,000,000 for fiscal year 1997, $1,212,000,000 for fiscal year 1998, $1,255,000,000 for fiscal year 1999, $1,299,000,000 for fiscal year 2000, $1,342,000,000 for fiscal year 2001, and $1,376,000,000 for fiscal year 2002''.

SEC. 1476. VALUE OF FOOD ASSISTANCE.

(a) IN GENERAL.—Section 6(e)(1) of the National School Lunch Act (42 U.S.C. 1755(e)(1)) is amended by striking subparagraph (B) and inserting the following:

''(B) ADJUSTMENTS.—

''(i) IN GENERAL.—The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and

Institutions for March, April, and May each year.

"(ii) ADJUSTMENTS.—Except as otherwise provided in this subparagraph, in the case of each school year, the Secretary shall—

"(I) base the adjustment made under clause (i) on the amount of the unrounded adjustment for the preceding school year;

"(II) adjust the resulting amount in accordance with clause (i); and

"(III) round the result to the nearest lower cent increment.

"(iii) ADJUSTMENT ON JANUARY 1, 1996.—On January 1, 1996, the Secretary shall adjust the value of food assistance for the remainder of the school year by rounding the previously established value of food assistance to the nearest lower cent increment.

"(iv) ADJUSTMENT FOR 24-MONTH PERIOD BEGINNING JULY 1, 1996.—In the case of the 24-month period beginning July 1, 1996, the value of food assistance

shall be the same as the value of food assistance in effect on June 30, 1996.

"(v) ADJUSTMENT FOR SCHOOL YEAR BEGINNING JULY 1, 1998.—In the case of the school year beginning July 1, 1998, the Secretary shall—

"(I) base the adjustment made under clause (i) on the amount of the unrounded adjustment for the value of food assistance for the school year beginning July 1, 1995;

"(II) adjust the resulting amount to reflect the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May for the most recent 12-month period for which the data are available; and

"(III) round the result to the nearest lower cent increment.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1996.

SEC. 1477. COMMODITY ASSISTANCE.

(a) IN GENERAL.—Section 6(g) of the National School Lunch Act (42 U.S.C. 1755(g)) is amended by striking ''12 percent'' and inserting ''10 percent''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on July 1, 1996.

SEC. 1478. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) IN GENERAL.—Section 13(b) of the National School Lunch Act (42 U.S.C. 1761(b)) is amended—

(1) by striking ''(b)(1)'' and all that follows through the end of paragraph (1) and inserting the following:

''(b) SERVICE INSTITUTIONS.—

''(1) PAYMENTS.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, payments to service institutions shall equal the full cost of food service operations (which cost shall include the costs of obtaining, preparing, and serving food, but shall not include administrative costs).

''(B) MAXIMUM AMOUNTS.—Subject to subparagraph (C), payments to any institution under subparagraph (A) shall not exceed—

''(i) $1.82 for each lunch and supper served;

"(ii) $1.13 for each breakfast served; and

"(iii) 46 cents for each meal supplement served.

"(C) ADJUSTMENTS.—Amounts specified in subparagraph (B) shall be adjusted each January 1 to the nearest lower cent increment in accordance with the changes for the 12-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Each adjustment shall be based on the unrounded adjustment for the prior 12-month period.";

(2) in the second sentence of paragraph (3), by striking "levels determined" and all that follows through "this subsection" and inserting "level determined by the Secretary"; and

(3) by striking paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1996.

SEC. 1479. SPECIAL MILK PROGRAM.

(a) IN GENERAL.—Section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) is amended by striking paragraph (8) and inserting the following:

"(8) ADJUSTMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, in the case of each school year, the Secretary shall—

"(i) base the adjustment made under paragraph (7) on the amount of the unrounded adjustment for the preceding school year;

"(ii) adjust the resulting amount in accordance with paragraph (7); and

"(iii) round the result to the nearest lower cent increment.

"(B) ADJUSTMENT ON JANUARY 1, 1996.—On January 1, 1996, the Secretary shall adjust the minimum rate for the remainder of the school year by rounding the previously established minimum rate to the nearest lower cent increment.

"(C) ADJUSTMENT FOR 24-MONTH PERIOD BEGINNING JULY 1, 1996.—In the case of the 24-month period beginning July 1, 1996, the

minimum rate shall be the same as the minimum rate in effect on June 30, 1996.

"(D) ADJUSTMENT FOR SCHOOL YEAR BEGINNING JULY 1, 1998.—In the case of the school year beginning July 1, 1998, the Secretary shall—

"(i) base the adjustment made under paragraph (7) on the amount of the unrounded adjustment for the minimum rate for the school year beginning July 1, 1995;

"(ii) adjust the resulting amount to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period for which the data are available; and

"(iii) round the result to the nearest lower cent increment.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1996.

SEC. 1480. NUTRITION EDUCATION AND TRAINING PROGRAMS.

(a) IN GENERAL.—Section 19(i)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(i)(2)(A)) is amended by striking ''$10,000,000'' and inserting ''$7,000,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1996.

SEC. 1481. EFFECTIVE DATE.

Except as otherwise provided in this chapter, this chapter and the amendments made by this chapter shall become effective on October 1, 1995.

CHAPTER 4—EFFECTIVE DATE

SEC. 1491. EFFECTIVE DATE.

Notwithstanding any other provision of this subtitle, if the Act entitled ''An Act to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence'' is enacted on or before December 31, 1996, the amendments made by chapters 1 and 2 of this subtitle shall be effective only during the period prior to the date of enactment of such Act.

TITLE II—COMMITTEE ON ARMED SERVICES

SEC. 2001. SALE OF NAVAL PETROLEUM RESERVES.

(a) SALE OF REQUIRED.—Chapter 641 of title 10, United States Code, is amended by inserting after section 7421 the following:

"§ 7421a. Sale of Naval Petroleum Reserve Numbered 1 (Elk Hills)

''(a) SALE REQUIRED.—(1) Notwithstanding any other provision of this chapter other than section 7431(a)(2) of this title, the Secretary shall sell all right, title, and interest of the United States in and to lands owned or controlled by the United States inside Naval Petroleum Reserve Numbered 1. Subject to subsection (j), within one year after the effective date, the Secretary shall enter into one or more contracts for the sale of all of the interest of the United States in the reserve.

''(2) In this section:

''(A) The terms 'Naval Petroleum Reserve Numbered 1' and 'reserve' mean Naval Petroleum Reserve Numbered 1, commonly referred to as the Elk Hills Unit, located in Kern County, California, and established by Executive order of the President, dated September 2, 1912.

"(B) The term 'unit plan contract' means the unit plan contract between equity owners of the lands within the boundaries of Naval Petroleum Reserve Numbered 1 entered into on June 19, 1944.

"(C) The term 'effective date' means the date of the enactment of the Omnibus Budget Reconciliation Act of 1995.

"(b) EQUITY FINALIZATION.—(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) The Secretary shall retain the services of an independent petroleum engineer, mutually acceptable to the equity owners, who shall prepare a recommendation on final equity figures. The Secretary may accept the recommendation of the independent petroleum engineer for final equity in each known oil and gas zone and establish final equity interest in the Naval Petroleum Reserve Numbered 1 in accordance with such recommendation, or the Secretary may use such other method to establish final equity interest in the reserve as the Secretary considers appropriate.

"(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, such dispute shall be resolved in the manner provided in the unit plan contract within five months after the effective date. Such resolution shall be considered final for all purposes under this section.

"(c) TIMING AND ADMINISTRATION OF SALE.—(1) Not later than two months after the effective date, the Secretary shall publish a notice of intent to sell the Naval Petroleum Reserve Numbered 1. The Secretary shall make all technical, geological, and financial information relevant to the sale of the reserve available to all interested and qualified buyers upon request. The Secretary, in consultation with the Administrator of General Services, shall ensure that the sale process is fair and open to all interested and qualified parties.

"(2)(A) Not later than two months after the effective date, the Secretary shall retain the services of five independent experts in the valuation of oil and gas fields to conduct separate assessments, in a manner consistent with commercial practices, of the value of the interest of the United States in Naval Petroleum Reserve Numbered 1. In making their assessments, the independent experts shall consider (among other factors) all equipment and facilities to be included in the sale, the estimated quantity of petroleum and natural gas in the reserve, and the net

present value of the anticipated revenue stream that the Secretary and the Director of the Office of Management and Budget jointly determine the Treasury would receive from the reserve if the reserve were not sold, adjusted for any anticipated increases in tax revenues that would result if the reserve were sold. The independent experts shall complete their assessments within six months after the effective date.

"(B) The independent experts shall also determine and submit to the Secretary the estimated total amount of the cost of any environmental restoration and remediation necessary at the reserve. The Secretary shall report the estimate to the Director of the Office of Management and Budget, the Secretary of the Treasury, and Congress.

"(C) The Secretary, in consultation with the Director of the Office of Management and Budget, shall set the minimum acceptable price for the reserve. The Secretary may not set the minimum acceptable price below the average of three of the assessments (after excluding the high and low assessments) made under subparagraph (A).

"(3) Not later than two months after the effective date, the Secretary shall retain the services of an investment banker to independently administer, in a manner consistent with commercial practices and in a manner that maximizes sale proceeds to the Government, the sale of

Naval Petroleum Reserve Numbered 1 under this section. Notwithstanding section 7433(b) of this title, costs and fees of retaining the investment banker may be paid out of the proceeds of the sale of the reserve.

''(4)(A) Not later than six months after the effective date, the investment banker serving as the sales administrator under paragraph (3) shall complete a draft contract or contracts for the sale of Naval Petroleum Reserve Numbered 1, which shall accompany the solicitation of offers and describe the terms and provisions of the sale of the interest of the United States in the reserve.

''(B) The draft contract or contracts shall identify—

''(i) all equipment and facilities to be included in the sale; and

''(ii) any potential claim or liability (including liability for environmental restoration and remediation), and the extent of any such claim or liability, for which the United States is responsible under subsection (d).

''(C) The draft contract or contracts, including the terms and provisions of the sale of the interest of the United States in the reserve, shall be subject to review and approval by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget. Each of those officials shall complete the review of, and

approve or disapprove, the draft contract or contracts not later than seven months after the effective date.

"(5) Not later than seven months after the effective date, the Secretary shall publish the solicitation of offers for the Naval Petroleum Reserve Numbered 1.

"(6) Not later than 10 months after the effective date, the Secretary shall identify the highest responsible offer or offers for purchase of the interest of the United States in Naval Petroleum Reserve Numbered 1 that, in total, meet or exceed the minimum acceptable price determined under paragraph (2).

"(7) The Secretary shall take such action immediately after the effective date as is necessary to obtain from an independent petroleum engineer within six months after that date a reserve report prepared in a manner consistent with commercial practices. The Secretary shall use the reserve report in support of the preparation of the solicitation of offers for the reserve.

"(d) FUTURE LIABILITIES.—The United States shall hold harmless and fully indemnify the purchaser or purchasers (as the case may be) of the interest of the United States in Naval Petroleum Reserve Numbered 1 from and against any claim or liability as a result of ownership in the reserve by the United States, including any claim referred to in subsection (e).

"(e) TREATMENT OF STATE OF CALIFORNIA CLAIM.—After the costs incurred in the conduct of the sale of Naval Petroleum Reserve Numbered 1 under this section are deducted, seven percent of the remaining proceeds from the sale of the reserve shall be reserved in a contingent fund in the Treasury (for a period not to exceed 10 years after the effective date) for payment to the State of California in the event that, and to the extent that, the claims of the State against the United States regarding production and proceeds of sale from Naval Petroleum Reserve Numbered 1 are resolved in favor of the State by a court of competent jurisdiction. Funds in the contingent fund shall be available for paying any such claim to the extent provided in appropriation Acts. After final disposition of the claims, any unobligated balance in the contingent fund shall be credited to the general fund of the Treasury.

"(f) MAINTAINING ELK HILLS UNIT PRODUCTION.—Until the sale of Naval Petroleum Reserve Numbered 1 is completed under this section, the Secretary shall continue to produce the reserve at the maximum daily oil or gas rate from a reservoir, which will permit maximum economic development of the reservoir consistent with sound oil field engineering practices in accordance with section 3 of the unit plan contract. The definition of maximum

efficient rate in section 7420(6) of this title shall not apply to the reserve.

"(g) EFFECT ON EXISTING CONTRACTS.—(1) In the case of any contract, in effect on the effective date, for the purchase of production from any part of the United States' share of Naval Petroleum Reserve Numbered 1, the sale of the interest of the United States in the reserve shall be subject to the contract for a period of three months after the closing date of the sale or until termination of the contract, whichever occurs first. The term of any contract entered into after the effective date for the purchase of such production shall not exceed the anticipated closing date for the sale of the reserve.

"(2) The Secretary shall exercise the termination procedures provided in the contract between the United States and Bechtel Petroleum Operation, Inc., Contract Number DE–AC01–85FE60520 so that the contract terminates not later than the date of closing of the sale of Naval Petroleum Reserve Numbered 1 under subsection (c).

"(3) The Secretary shall exercise the termination procedures provided in the unit plan contract so that the unit plan contract terminates not later than the date of closing of the sale of reserve.

"(h) EFFECT ON ANTITRUST LAWS.—Nothing in this section shall be construed to alter the application of the antitrust laws of the United States to the purchaser or purchasers (as the case may be) of Naval Petroleum Reserve Numbered 1 or to the lands in the reserve subject to sale under this section upon the completion of the sale.

"(i) PRESERVATION OF PRIVATE RIGHT, TITLE, AND INTEREST.—Nothing in this section shall be construed to adversely affect the ownership interest of any other entity having any right, title, and interest in and to lands within the boundaries of Naval Petroleum Reserve Numbered 1 and which are subject to the unit plan contract.

"(j) NOTICE TO CONGRESS.—(1) Subject to paragraph (2), the Secretary may not enter into any contract for the sale of the reserve until the end of the 31-day period beginning on the date on which the Secretary notifies the Committee on Armed Services of the Senate and the Committee on National Security and the Committee on Commerce of the House of Representatives of the conditions of the proposed sale and the Secretary's assessment of whether it is in the best interests of the United States to sell the reserve under those conditions.

"(2) If the Secretary receives only one offer for purchase of the reserve or any parcel thereof, the Secretary

may not enter into a contract for the sale of the reserve or parcel (as the case may be) unless—

"(A) the Secretary submits to Congress a notification of the receipt of only one offer together with the conditions of the proposed sale of the reserve or parcel (as the case may be) to the offeror; and

"(B) a joint resolution of approval described in subsection (k) is enacted within 45 days after the date of the notification.

"(3) It is the sense of Congress that, if the Secretary includes in a notification regarding a proposed sale that is submitted to Congress under paragraph (1) an assessment that the sale is not in the best interests of the United States—

"(A) Congress should promptly consider and act on legislation regarding whether to proceed with the sale; and

"(B) the President should act promptly on any legislation described in subparagraph (A) that is presented to the President.

"(k) JOINT RESOLUTION OF APPROVAL.—(1) For the purpose of paragraph (2)(B) of subsection (j), 'joint resolution of approval' means only a joint resolution that is introduced after the date on which the notification referred to in that paragraph is received by Congress, and—

"(A) that does not have a preamble;

"(B) the matter after the resolving clause of which reads only as follows: 'That Congress approves the proposed sale of Naval Petroleum Reserve Numbered 1 reported in the notification submitted to Congress by the Secretary of Energy on _____.' (the blank space being filled in with the appropriate date); and

"(C) the title of which is as follows: 'Joint resolution approving the sale of Naval Petroleum Reserve Numbered 1'.

"(2) A resolution described in paragraph (1) introduced in the House of Representatives shall be referred to the Committee on National Security of the House of Representatives. A resolution described in paragraph (1) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. Such a resolution may not be reported before the 8th day after its introduction.

"(3) If the committee to which is referred a resolution described in paragraph (1) has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction, such committee shall be deemed to be discharged from further consideration of

such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

"(4)(A) When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the res-

olution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

''(C) Immediately following the conclusion of the debate on a resolution described in paragraph (2), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

''(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

''(5) If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

''(A) The resolution of the other House shall not be referred to a committee.

"(B) With respect to a resolution described in paragraph (2) of the House receiving the resolution—

"(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(ii) the vote on final passage shall be on the resolution of the other House.

"(6) This subsection is enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(l) NONCOMPLIANCE WITH DEADLINES.—If, at any time during the one-year period beginning on the effective date, the Secretary determines that the actions necessary

to complete the sale of the reserve within that period are not being taken or timely completed, the Secretary shall transmit to the Committee on Armed Services of the Senate and the Committees on National Security and on Commerce of the House of Representatives a notification of that determination together with a plan setting forth the actions that will be taken to ensure that the sale of the reserve will be completed within that period. The Secretary shall consult with the Director of the Office of Management and Budget in preparing the plan for submission to the committees.

''(m) OVERSIGHT.—The Comptroller General shall monitor the actions of the Secretary relating to the sale of the reserve and report to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives any findings on such actions that the Comptroller General considers appropriate to report to such committees.

''(n) ACQUISITION OF SERVICES.—The Secretary may enter into contracts for the acquisition of services required under this section under the authority of paragraph (7) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)), except that the notification required under subparagraph (B) of such paragraph for each contract shall be submitted to

Congress not less than 7 days before the award of the contract.

"§ 7421b. Sale of naval petroleum reserves other than Naval Petroleum Reserve Numbered 1 (Elk Hills)

"(a) SALE REQUIRED.—(1) Notwithstanding any other provision of this chapter other than section 7431(a)(2) of this title, the Secretary shall sell all right, title, and interest of the United States in and to lands owned or controlled by the United States inside the naval petroleum reserves.

"(b) ADMINISTRATION OF SALE.—(1) Except as provided in paragraph (2), subsections (c), (d), (h), (i), (j), (k), (l), (m), and (n) of section 7421a of this title shall apply to the sale of the naval petroleum reserves under this section as if the reference to Naval Petroleum Reserve Numbered 1 in such subsections referred to the naval petroleum reserves.

"(2)(A) The time requirements set forth in subsection (c) do not apply under paragraph (1) to the sale of the naval petroleum reserves under this section.

"(B) In the application of subsection (d) under paragraph (1), the reference in that subsection to subsection (e) does not apply.

"(C) In the application of subsections (j) and (k) to the sale of the naval petroleum reserves under paragraph (1), 'joint resolution of approval' means only a joint resolution that is introduced after the date on which the notification to which the joint resolution relates is received by Congress, and—

"(i) that does not have a preamble;

"(ii) the matter after the resolving clause of which reads only as follows: 'That Congress approves the proposed sale of naval petroleum reserves reported in the notification submitted to Congress by the Secretary of Energy on _____.' (the blank space being filled in with the appropriate date); and

"(iii) the title of which is as follows: 'Joint resolution approving the sale of naval petroleum reserves'.

"(D) In the application of subsection (l) to the sale of the naval petroleum reserves under paragraph (1), the period referred to in that subsection shall be deemed to be the two-year period beginning on the effective date.

"(c) COMPLETION OF SALE.—The Secretary shall complete the sale of lands under subsection (a) not later than September 30, 1997.

"(d) INAPPLICABILITY TO NAVAL PETROLEUM RESERVE NUMBERED 1.—This section does not apply to Naval Petroleum Reserve Numbered 1, as defined in section 7421a(a)(2)(A) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7421 the following:

"7421a. Sale of Naval Petroleum Reserve Numbered 1 (Elk Hills).
"7421b. Sale of naval petroleum reserves other than Naval Petroleum Reserve Numbered 1 (Elk Hills).".

SEC. 2002. DISPOSAL OF OBSOLETE AND EXCESS MATERIALS CONTAINED IN THE NATIONAL DEFENSE STOCKPILE.

(a) DISPOSAL AUTHORIZED.—During the 7-year period beginning on October 1, 1995, the President shall sell in accordance with this section such quantities of materials currently contained in the National Defense Stockpile (within the limits of subsection (c)) as are necessary to achieve proceeds in the total amount of $649,000,000.

(b) MINIMUM SALES EACH YEAR.—The President shall sell materials under subsection (a) as necessary in a fiscal year to ensure that, by the end of that fiscal year, the total amount of the proceeds received by the United States from such sales and from the sales under subsection (a) during preceding fiscal years equals or exceeds the amount indicated for that fiscal year as follows:

(1) By the end of fiscal year 1996, $71,000,000.

(2) By the end of fiscal year 1997, $115,000,000.

(3) By the end of fiscal year 1998, $181,000,000.

(4) By the end of fiscal year 1999, $272,000,000.

(5) By the end of fiscal year 2000, $388,000,000.

(6) By the end of fiscal year 2001, $530,000,000.

(7) By the end of fiscal year 2002, $649,000,000.

(c) MATERIALS COVERED.— The materials subject to sale under this section and the maximum quantity of each material authorized to be sold by the President are set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Aluminum	20,000 short tons
Chromium Metal	2,000 short tons
Cobalt	30,000,000 pounds of contained cobalt
Columbium Carbide	10,000 pounds of contained columbium
Columbium Ferro	500,000 pounds of contained columbium
Diamond, Bort	40,000 carats
Diamond Stones	2,500,000 carats
Germanium Metal	40,000 kilograms
Indium	35,000 troy ounces

Authorized Stockpile Disposals—Continued

Material for disposal	Quantity
Mica, Phlogopite Block	65,000 pounds
Platinum	25,000 troy ounces
Palladium	55,000 troy ounces
Rubber, Natural	75,000 long tons
Tantalum, Carbide Powder	6,000 pounds of contained tantalum
Tantalum, Minerals	750,000 pounds of contained tantalum
Tantalum, Oxide	40,000 pounds of contained tantalum
Titanium Sponge	15,000 short tons
Tungsten, Ore and Concentrate	19,850,000 pounds of contained tungsten
Tungsten Carbide	50,000 pounds of contained tungsten
Tungsten Metal Powder	50,000 pounds of contained tungsten
Tungsten Ferro	50,000 pounds of contained tungsten
Vegetable Tannin, Chestnut	2,500 long tons
Vegetable Tannin, Quebracho	35,000 long tons
Vegetable Tannin, Wattle	3,000 long tons

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—(1) The disposal authority provided in this section is in addition to any other disposal authority provided by law.

(2) The President may not sell materials under this section before disposing of the maximum quantities of materials in the National Defense Stockpile that the President is authorized to dispose of under laws enacted before the date of the enactment of this Act (except the Strategic and Critical Materials Stock Piling Act).

(e) DISPOSITION OF PROCEEDS.—Proceeds of sales under this section shall be credited to the general fund of the Treasury for reduction of budget deficits.

TITLE III—COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

SEC. 3001. STABILIZATION OF THE SAVINGS ASSOCIATION INSURANCE FUND.

(a) SPECIAL ASSESSMENT TO CAPITALIZE SAIF.—

(1) IN GENERAL.—Except as provided in paragraph (6), the Board of Directors shall impose a special assessment on the SAIF-assessable deposits of each insured depository institution at a rate that the Board of Directors, in its sole discretion, determines will cause the Savings Association Insurance Fund to achieve the designated reserve ratio on the first business day of January 1996.

(2) FACTORS TO BE CONSIDERED.—In carrying out paragraph (1), the Board of Directors shall base its determination on—

(A) the monthly Savings Association Insurance Fund balance most recently calculated;

(B) data on insured deposits reported in the most recent reports of condition filed not later than 70 days before the date of enactment

of this Act by insured depository institutions; and

(C) any other factors that the Board of Directors deems appropriate.

(3) DATE OF DETERMINATION.—For purposes of paragraph (1), the amount of the SAIF-assessable deposits of an insured depository institution shall be determined as of March 31, 1995.

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

(A) due on the first business day of January 1996; and

(B) paid to the Corporation on the later of—

(i) the first business day of January 1996; or

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

(5) ASSESSMENT DEPOSITED IN SAIF.—Notwithstanding any other provision of law, the proceeds of the special assessment imposed under this subsection shall be deposited in the Savings Association Insurance Fund.

(6) DISCRETION TO EXEMPT WEAK INSTITUTIONS.—

(A) IN GENERAL.—The Board of Directors may, by order, in its sole discretion, exempt any insured depository institution that the Board of Directors determines to be weak from paying the special assessment imposed under this subsection if the Board of Directors determines that the exemption would reduce risk to the Savings Association Insurance Fund.

(B) GUIDELINES REQUIRED.—Not later than 30 days after the date of enactment of this Act, the Board of Directors shall prescribe guidelines setting forth the criteria that the Board of Directors will use in exempting institutions under subparagraph (A). Such guidelines shall be published in the Federal Register.

(C) EXEMPT INSTITUTIONS REQUIRED TO PAY ASSESSMENTS AT FORMER RATES.—

(i) PAYMENTS TO SAIF AND DIF.—Any insured depository institution that the Board of Directors exempts under this paragraph from paying the special assessment imposed under this subsection shall pay semiannual assessments—

(I) into the Savings Association Insurance Fund during calendar years 1996 and 1997, based on SAIF-assessable deposits of that institution, at assessment rates calculated under the schedule in effect for Savings Association Insurance Fund members on June 30, 1995; and

(II) into the Deposit Insurance Fund during the period beginning on January 1, 1998 and ending on December 31, 1999, based on SAIF-assessable deposits of that institution, at assessment rates calculated under the schedule in effect for Savings Association Insurance Fund members on June 30, 1995, except that subclause (I) shall continue to apply if and only so long as the Bank Insurance Fund and the Savings Association Insurance Fund are not merged into the Deposit Insurance Fund.

(ii) OPTIONAL PRO RATA PAYMENT OF SPECIAL ASSESSMENT.—This subparagraph shall not apply with respect to any

insured depository institution (or successor insured depository institution) that has paid, during any calendar year from 1997 through 1999, upon such terms as the Corporation may announce, an amount equal to the product of—

(I) 12.5 percent of the special assessment that the institution would have been required to pay under paragraph (1), if the Board of Directors had not exempted the institution; and

(II) the number of full semi-annual periods remaining between the date of the payment and December 31, 1999.

(7) ADJUSTMENT OF SPECIAL ASSESSMENT FOR CERTAIN BANK INSURANCE FUND MEMBER BANKS.—

(A) IN GENERAL.—For purposes of computing the special assessment imposed under this subsection with respect to a Bank Insurance Fund member bank, the amount of any deposits which section 5(d)(3) of the Federal Deposit Insurance Act treats as insured by the Savings Association Insurance Fund shall be

reduced by 5 percent, if the adjusted attributable deposit amount of the Bank Insurance Fund member bank is less than 50 percent of the total deposits of that member bank as of June 30, 1995.

(B) ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—For purposes of this paragraph, the ''adjusted attributable deposit amount'' shall be determined in accordance with section 5(d)(3)(C) of the Federal Deposit Insurance Act.

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

(A) in subparagraph (C), by striking ''The adjusted attributable deposit amount'' and inserting ''Except as provided in subparagraph (K), the adjusted attributable deposit amount''; and

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

''(K) ADJUSTMENT OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The amount deter-

mined under subparagraph (C)(i) for deposits acquired by March 31, 1995, shall be reduced by 5 percent for purposes of computing the adjusted attributable deposit amount for the payment of any assessment for any semiannual period after December 31, 1995 (other than the special assessment imposed under section 3001(a) of the Balanced Budged Reconciliation Act of 1995), for a Bank Insurance Fund member bank that had an adjusted attributable deposit amount that was less than 50 percent of the total deposits of that member bank as of June 30, 1995.''.

(9) ADJUSTMENT OF SPECIAL ASSESSMENT FOR CERTAIN SAVINGS ASSOCIATIONS.—

(A) SPECIAL ASSESSMENT REDUCTION.—For purposes of computing the special assessment imposed under this subsection, in the case of any converted association, the amount of any deposits of such association which were insured by the Savings Association Insurance Fund as of March 31, 1995, shall be reduced by 5 percent.

(B) CONVERTED ASSOCIATION.—For purposes of this paragraph, the term ''converted association'' means—

(i) any Federal savings association that is a member of the Savings Association Insurance Fund and that had been, or has acquired by merger, consolidation, or otherwise the deposits of an institution that had been, a State savings bank, the deposits of which were insured under the Federal Deposit Insurance Act prior to August 9, 1989; and

(ii) a State depository institution that is a member of the Savings Association Insurance Fund that had been a State savings bank prior to October 1, 1992, and was a Federal savings association on August 9, 1989.

(b) FINANCING CORPORATION ASSESSMENTS SHARED PROPORTIONALLY BY ALL INSURED DEPOSITORY INSTITUTIONS.—

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

(A) in subsection (f)(2)—

(i) in the matter immediately preceding subparagraph (A)—

(I) by striking ''Savings Association Insurance Fund member'' and inserting ''insured depository institution''; and

(II) by striking ''members'' and inserting ''institutions''; and

(ii) in subparagraph (A), by striking ''against Savings Association Insurance Fund members'' and inserting ''against insured depository institutions'';

(B) in subsection (k)—

(i) by striking ''section—'' and inserting ''section, the following definitions shall apply:'';

(ii) by striking paragraph (1);

(iii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

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

''(3) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the same

meaning as in section 3 of the Federal Deposit Insurance Act.''.

(2) CONFORMING AMENDMENT.—Section 7(b)(2)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(D)) is amended by striking ''against Savings Association Insurance Fund members'' and inserting ''against insured depository institutions''.

(3) EFFECTIVE DATE.—This subsection and the amendments made by this subsection shall become effective on January 1, 1996.

(c) INSURANCE PREMIUMS FOR CAPITALIZED INSURANCE FUNDS.—

(1) REBATES FOR CAPITALIZED FUND.—Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended—

(A) by redesignating subsections (d) through (n) as subsections (e) through (o), respectively; and

(B) by inserting after subsection (c) the following new subsection:

''(d) BANK INSURANCE FUND ASSESSMENT CREDITS.—

''(1) CREDIT AMOUNT.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, if the Corporation determines, after considering the operating costs and expenses, case resolution expenditures, investment income, and assessment income of the Bank Insurance Fund, that the reserve ratio of the Bank Insurance Fund is expected to exceed the designated reserve ratio during the succeeding semiannual period, the Board of Directors may, in its sole discretion, provide an assessment credit with respect to Bank Insurance Fund assessments (for that succeeding semiannual period)—

"(i) in an amount that the Corporation determines will reduce the reserve ratio of the Bank Insurance Fund to the designated reserve ratio; or

"(ii) in a lesser amount, as determined by the Corporation.

"(B) LIMIT.—The amount of assessment credit under subparagraph (A) shall not exceed 100 percent of the net assessment income to be received with respect to the Bank Insurance Fund in the succeeding semiannual period.

"(2) DEFINITIONS.—For purposes of this subsection, the terms 'net assessment income', 'operating costs and expenses', 'insurance costs', and 'investment income' shall have the same meanings as in paragraphs (4) and (5) of section 7(d) of the Federal Deposit Insurance Act, as in effect on the day before the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, except that the term 'semiannual period' shall be substituted for the term 'calendar year' wherever that term appears.".

(2) STABILIZING PREMIUMS FOR BIF AND SAIF.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by adding at the end the following new paragraph:

"(8) RATE COMPARABILITY.—Notwithstanding any other provision of law, assessment rates for members of the Savings Association Insurance Fund shall not be lower than assessment rates for members of the Bank Insurance Fund of comparable risk until the first full semiannual period following the last maturity date of all obligations issued by the Financing Corporation pursuant to section 21(c) of the Federal Home Loan Bank Act.".

(d) MERGER OF BIF AND SAIF.—

(1) IN GENERAL.—Effective as provided in paragraph (4)—

(A) the Bank Insurance Fund and the Savings Association Insurance Fund shall be merged into the Deposit Insurance Fund established by section 11(a)(4) of the Federal Deposit Insurance Act, as amended by this subsection;

(B) all assets and liabilities of the Bank Insurance Fund and the Savings Association Insurance Fund shall be transferred to the Deposit Insurance Fund; and

(C) the separate existence of the Bank Insurance Fund and the Savings Association Insurance Fund shall cease.

(2) SPECIAL RESERVE OF THE DEPOSIT INSURANCE FUND.—Effective as provided in paragraph (4), if, immediately before the merger of the Bank Insurance Fund and the Savings Association Insurance Fund, the reserve ratio of the Savings Association Insurance Fund exceeds the designated reserve ratio, the amount by which that reserve ratio exceeds the designated reserve ratio shall be placed in the Special Reserve of the Deposit Insurance Fund, established under section 11(a)(5) of the Federal

Deposit Insurance Act, as amended by this subsection.

(3) CONFORMING AMENDMENTS.—

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

(i) by redesignating subparagraph (B) as subparagraph (C);

(ii) by striking subparagraph (A) and inserting the following:

''(A) ESTABLISHMENT.—There is established the Deposit Insurance Fund, which the Corporation shall—

''(i) maintain and administer;

''(ii) use to carry out its insurance purposes in the manner provided by this subsection; and

''(iii) invest in accordance with section 13(a).

''(B) USES.—The Deposit Insurance Fund shall be available to the Corporation for use with respect to Deposit Insurance Fund members.''; and

(iii) by striking ''(4) GENERAL PROVISIONS RELATING TO FUNDS.—'' and inserting the following:

''(4) DEPOSIT INSURANCE FUND.—''.

(B) OTHER REFERENCES.—Section 11(a)(4)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)(C) (as redesignated by subparagraph (A) of this paragraph)) is amended by striking ''Bank Insurance Fund and the Savings Association Insurance Fund'' and inserting ''Deposit Insurance Fund''.

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

''(D) DEPOSITS.—All amounts assessed against insured depository institutions by the Corporation shall be deposited in the Deposit Insurance Fund.''.

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

''(5) SPECIAL RESERVE OF DEPOSIT INSURANCE FUND.—

"(A) SPECIAL RESERVE OF DEPOSIT INSURANCE FUND ESTABLISHED.—

"(i) ESTABLISHMENT.—There is established a Special Reserve of the Deposit Insurance Fund, which shall be administered by the Corporation and shall be invested in accordance with section 13(a).

"(ii) LIMITATION.—The Corporation shall not provide any assessment credit, refund, or other payment from any amount in the Special Reserve.

"(B) EMERGENCY USE OF SPECIAL RESERVE.—Notwithstanding subparagraph (A)(ii), the Corporation may, in its sole discretion, transfer amounts from the Special Reserve to the Deposit Insurance Fund, for the purposes set forth in paragraph (4), only if—

"(i) the reserve ratio of the Deposit Insurance Fund is less than 50 percent of the designated reserve ratio; and

"(ii) the Corporation expects the reserve ratio of the Deposit Insurance Fund to remain less than 50 percent of the designated reserve ratio for each of the next 4 calendar quarters.

"(C) EXCLUSION OF SPECIAL RESERVE IN CALCULATING RESERVE RATIO.—Notwithstanding any other provision of law, any amounts in the Special Reserve shall be excluded in calculating the reserve ratio of the Deposit Insurance Fund under section 7.".

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

(i) in subclause (I), by striking "to Savings Associations Insurance Fund members" and inserting "to insured depository institutions, and their successors, which were Savings Association Insurance Fund members on September 1, 1995"; and

(ii) in subclause (II), by striking "to Savings Associations Insurance Fund members" and inserting "to insured depository institutions, and their successors, which were Savings Association Insurance Fund members on September 1, 1995".

(F) REPEALS.—

(i) SECTION 3.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended—

(I) by striking subsection (y); and

(II) by redesignating subsection (z) as subsection (y).

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

(I) by striking subsection (l);

(II) by redesignating subsections (m) and (n) as subsections (l) and (m), respectively;

(III) in subsection (b)(2), by striking subparagraph (B); and

(IV) in subsection (b)(2), by redesignating subparagraphs (C) through (H) as subparagraphs (B) through (G), respectively.

(iii) SECTION 11.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1121(a)) is amended—

(I) by striking paragraphs (6) and (7); and

(II) by redesignating paragraph (8) as paragraph (6).

(iv) RATE COMPARABILITY.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by striking paragraph (8) (as added by subsection (c) of this section).

(4) EFFECTIVE DATE.—This subsection and the amendments made by this subsection shall become effective on January 1, 1998, if no insured depository institution is a savings association on that date.

(e) DEFINITIONS.—For purposes of this section—

(1) the term ''Bank Insurance Fund'' means the fund established pursuant to section (11)(a)(5)(A) of the Federal Deposit Insurance Act, as that section existed on the day before the date of enactment of this Act;

(2) the terms ''Board of Directors'', ''Corporation'', ''insured depository institution'', ''Federal savings association'', ''savings association'', ''State savings bank'', and ''State depository institution'' have the same meanings as in section 3 of the Federal Deposit Insurance Act;

(3) the term ''Deposit Insurance Fund'' means the fund established under section 11(a)(4) of the

Federal Deposit Insurance Act, as amended by subsection (d) of this section;

(4) the term ''designated reserve ratio'' has the same meaning as in section 7(b)(2)(A)(iv) of the Federal Deposit Insurance Act;

(5) the term ''Savings Association Insurance Fund'' means the fund established pursuant to section 11(a)(6)(A) of the Federal Deposit Insurance Act, as that section existed on the day before the date of enactment of this Act; and

(5) the term ''SAIF-assessable deposit'' means—

(A) a deposit that is subject to assessment for purposes of the Savings Association Insurance Fund under the Federal Deposit Insurance Act; and

(B) a deposit that section 5(d)(3) of the Federal Deposit Insurance Act treats as insured by the Savings Association Insurance Fund.

SEC. 3002. DEPOSIT INSURANCE STUDY.

(a) IN GENERAL.—The Secretary of the Treasury shall conduct a study of the feasibility of converting the Federal Deposit Insurance Corporation into a self-funded deposit insurance system.

(b) CONTENTS.—The study required by subsection (a) shall examine and evaluate—

(1) savings to the Federal Government if the Corporation becomes self-funded and operates independently of the Federal Government;

(2) the time necessary to convert the Corporation to a self-funded entity and factors that would affect the timing of such a conversion;

(3) the composition of the administrative body of a self-funded deposit insurance system;

(4) the appropriate level of insurance to protect small depositors;

(5) re-insurance;

(6) the ''too big to fail'' doctrine and the appropriate role of deposit insurance, if any, in covering systemic risk;

(7) industry capital necessary to a self-funding deposit insurance fund;

(8) supervision of financial institutions by the Federal banking supervisory agencies, consistent with early intervention and prompt corrective action provisions of the Federal Deposit Insurance Act;

(9) the effect of a self-funded deposit insurance system on the supervision of financial institutions;

(10) increased risks, if any, to the payment system from a self-funded system; and

(11) the type of financial institutions whose liabilities should be covered by deposit insurance.

(c) CONSULTATION.—In conducting the study required by this section, the Secretary of the Treasury shall consult with—

(1) the Board of Governors of the Federal Reserve System;

(2) the Office of the Comptroller of the Currency;

(3) the National Credit Union Administration;

(4) the Office of Management and Budget;

(5) individuals from the private sector with expertise in deposit insurance;

(6) the Corporation; and

(7) individuals from the financial services industry.

(d) REPORT TO THE CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the Congress a report containing a detailed statement of findings made and conclusions drawn from the study conducted under this section, including such recommendations for administrative and leg-

islative action as the Secretary determines to be appropriate.

(e) DEFINITION.—For purposes of this section, the term ''Corporation'' means the Federal Deposit Insurance Corporation.

SEC. 3003. ANNUAL ADJUSTMENT FACTORS FOR OPERATING COSTS ONLY; RESTRAINT ON SECTION 8 RENT INCREASES FOR STAYERS IN THE CERTIFICATE PROGRAM.

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

(1) by striking ''(2)(A)'' and inserting ''(2)(A)(i)'';

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

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

''(ii)(I) Except as provided in subclause (II), if the maximum monthly rent for a unit in a new construction or substantial rehabilitation project to be adjusted using an annual adjustment factor exceeds 100 percent of the fair market rent for an existing dwelling unit in the market area, the Secretary shall adjust the rent using an oper-

ating costs factor that increases the rent to reflect increases in operating costs in the market area.

"(II) If the owner of a unit in a project described in subclause (I) demonstrates that the adjusted rent determined under subclause (I) would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary, the Secretary shall use the otherwise applicable annual adjustment factor.".

(b) RESTRAINT ON SECTION 8 RENT INCREASES FOR STAYERS IN THE CERTIFICATE PROGRAM.—Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)), as amended by subsection (a), is amended by adding at the end the following new clause:

"(iii) In the case of assistance under the certificate program under this section, 0.01 shall be subtracted from the amount of the annual adjustment factor, except that the annual adjustment factor shall not be reduced to less than 1.0.".

(c) APPLICABILITY.—The amendments made by subsection (a) shall apply to all contracts for new construction or substantial rehabilitation projects under which rents are adjusted under section 8(c)(2)(A) of the United States Housing Act of 1937, by applying an annual adjustment factor.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall become effective on October 1, 1996.

SEC. 3004. WORKING FAMILY PREFERENCE FOR ADMISSION TO ASSISTED HOUSING.

Section 8(d)(1)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)(i)) is amended to read as follows:

> ''(i) provide that not less than 50 percent of the units shall be made available for occupancy by families that include one or more adult members who are employed on a full- or part-time basis;''.

TITLE IV—COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Subtitle A—Communications

SEC. 4001. SPECTRUM AUCTIONS.

(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—

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

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

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

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

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

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

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

existing television licenses, unless the Commission—

"(i) not later than 180 days after the date of enactment of the Omnibus Budget Reconciliation Act of 1995, after notice and public comment, submits to Congress a proposal to use the authority provided in this subsection for the assignment of initial licenses or construction permits for use of the electromagnetic spectrum allocated but not assigned as of the date of enactment of that Act for television broadcast services; and

"(ii) the Congress takes action to approve the plan or to authorize the use of the authority provided by this subsection for such licenses or permits.

Except as provided in this subparagraph, the Commission may not assign initial licenses or construction permits under this title to terrestrial commercial television broadcast licensees to replace their existing broadcast licenses before January 1, 1998."; and

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

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

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

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

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

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

(C) are located below 3 gigahertz; and

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

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

(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923); or

(iii) reserved for Federal Government use pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305).

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

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

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

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

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

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

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

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

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

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

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

(ii) allocated for Federal Government use, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 921 et seq.), as amended by this Act.

(c) IDENTIFICATION AND REALLOCATION OF FREQUENCIES; RELOCATION OF FEDERAL GOVERNMENT STA-

TIONS.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) by adding at the end of section 113 the following:

"(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a notice from the Commission pursuant to section 4001(b)(3) of the Omnibus Budget Reconciliation Act of 1995, the Secretary shall prepare and submit to the President and the Congress a report recommending for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that are suitable for the uses identified in the Commission's notice.

"(g) RELOCATION OF FEDERAL GOVERNMENT STATIONS.—

"(1) IN GENERAL.—In order to expedite the efficient use of the electromagnetic spectrum and notwithstanding section 3302(b) of title 31, United States Code, any Federal entity which operates a Federal Government station may accept payment in advance or in-kind reimbursement of costs, or a combination of payment in advance and in-kind reimbursement, from any person to defray entirely the expenses of relocating the Federal entity's oper-

ations from one or more radio spectrum frequencies to any other frequency or frequencies, including, without limitation, the costs of any modification, replacement, or reissuance of equipment, facilities, operating manuals, regulations, or other expenses incurred by that entity. Any such payment shall be deposited in the account of such Federal entity in the Treasury of the United States. Funds deposited according to this section shall be available, without appropriation or fiscal year limitation, only for the operations of the Federal entity for which such funds were deposited under this section.

"(2) PROCESS FOR RELOCATION.—Any person seeking to relocate a Federal Government station that has been assigned a frequency within a band allocated for mixed Federal and non-Federal use may submit a petition for such relocation to NTIA. The NTIA shall limit the Federal Government station's operating license to secondary status when the following requirements are met—

"(A) the person seeking relocation of the Federal Government station has guaranteed to defray entirely, through payment in advance, in-kind reimbursement of costs, or a combination thereof, all relocation costs incurred by the

Federal entity, including all engineering, equipment, site acquisition and construction, and regulatory fee costs;

"(B) the person seeking relocation completes all activities necessary for implementing the relocation, including construction of replacement facilities (if necessary and appropriate) and identifying and obtaining on the Federal entity's behalf new frequencies for use by the relocated Federal Government station (where such station is not relocating to spectrum reserved exclusively for Federal use);

"(C) any necessary replacement facilities, equipment modifications, or other changes have been implemented and tested to ensure that the Federal Government station is able to successfully accomplish its purposes; and

"(D) NTIA has determined that the proposed use of the spectrum frequency band to which the Federal entity will relocate its operations is—

"(i) consistent with obligations undertaken by the United States in international agreements and with United States na-

tional security and public safety interests; and

"(ii) suitable for the technical characteristics of the band and consistent with other uses of the band.

In exercising its authority under subparagraph (D) with respect to issues that could have national security or foreign relations implications, NTIA shall consult with the Secretary of Defense or the Secretary of State, or both, as appropriate.

"(3) RIGHT TO RECLAIM.—If within one year after the relocation the Federal Government station demonstrates to the Commission that the new facilities or spectrum are not comparable to the facilities or spectrum from which the Federal Government station was relocated, the person seeking such relocation must take reasonable steps to remedy any defects or pay the Federal entity for the costs of returning the Federal Government station to the spectrum from which such station was relocated.

"(h) FEDERAL ACTION TO EXPEDITE SPECTRUM TRANSFER.—Any Federal Government station which operates on electromagnetic spectrum that has been identified for reallocation for mixed Federal and non-Federal

use in the Spectrum Reallocation Final Report shall, to the maximum extent practicable through the use of the authority granted under subsection (g) and any other applicable provision of law, take action to relocate its spectrum use to other frequencies that are reserved for Federal use or to consolidate its spectrum use with other Federal Government stations in a manner that maximizes the spectrum available for non-Federal use. Subsection (c)(4) of this section shall not apply to the extent that a non-Federal user seeks to relocate or relocates a Federal power agency under subsection (g).

''(i) DEFINITIONS.—For purposes of this section—

''(1) FEDERAL ENTITY.—The term 'Federal entity' means any Department, agency, or other element of the Federal Government that utilizes radio frequency spectrum in the conduct of its authorized activities, including a Federal power agency.

''(2) SPECTRUM REALLOCATION FINAL REPORT.—The term 'Spectrum Reallocation Final Report' means the report submitted by the Secretary to the President and Congress in compliance with the requirements of subsection (a).''; and

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

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

(1) by striking the heading of paragraph (1) of section 113(b) and inserting ''INITIAL REALLOCATION REPORT.—'';

(2) by inserting ''in the first report required by subsection (a)'' after ''recommend for reallocation'' in such paragraph;

(3) by inserting ''or (3)'' after ''paragraph (1)'' each place it appears in paragraph (2) of section 113(b);

(4) by adding at the end of section 113(b) the following:

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

(5) by striking "the report required by section 113(a)" in section 115(b) and inserting "the initial reallocation report required by section 113(a)"; and

(6) by adding at the end of section 115 the following:

"(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND REALLOCATION REPORT.—With respect to the frequencies made available for reallocation pursuant to section 113(b)(3), the Commission shall, not later than 1 year after receipt of the second reallocation report required by such section, prepare, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the 1934 Act of such frequencies. Such plan shall propose the immediate allocation and assignment of all such frequencies in accordance with section 309(j) of the 1934 Act (47 U.S.C. 309(j)).".

SEC. 4002. ANNUAL REGULATORY FEES.

(a) IN GENERAL.—The Schedule of Regulatory Fees set forth in 1.1153 of title 47, CFR, authorized by section 9(g) of the Communications Act of 1934 (47 U.S.C. 9(g)), is amended by—

(1) striking "$22,420" in the Annual Regulatory Fee column for VHF Commercial Markets 1 thru 10 and inserting "$32,000";

(2) striking ''$19,925'' in the Annual Regulatory Fee column for VHF Commercial Markets 11 thru 25 and inserting ''$26,000'';

(3) striking ''$14,950'' in the Annual Regulatory Fee column for VHF Commercial Markets 26 thru 50 and inserting ''$17,000'';

(4) striking ''$9,975'' in the Annual Regulatory Fee column for VHF Commercial Markets 51 thru 100 and inserting ''$9,000'';

(5) striking ''$6,225'' in the Annual Regulatory Fee column for VHF Commercial Remaining Markets and inserting ''$2,500'';

(6) striking ''$17,925'' in the Annual Regulatory Fee column for UHF Commercial Markets 1 thru 10 and inserting ''$25,000'';

(7) striking ''$15,950'' in the Annual Regulatory Fee column for UHF Commercial Markets 11 thru 25 and inserting ''$20,000'';

(8) striking ''$11,950'' in the Annual Regulatory Fee column for UHF Commercial Markets 26 thru 50 and inserting ''$13,000'';

(9) striking ''$7,975'' in the Annual Regulatory Fee column for UHF Commercial Markets 51 thru 100 and inserting ''$7,000''; and

(10) striking ''$4,975'' in the Annual Regulatory Fee column for UHF Commercial Remaining Markets and inserting ''$2,000''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to fees assessed after the date of enactment of this Act.

Subtitle B—Oceans and Fisheries

SEC. 4021. LIMITS ON COAST GUARD USER FEES.

Section 10401(g) of the Omnibus Budget Reconciliation Act of 1990 (46 U.S.C. 2110(a)(2)) is amended by adding after ''annually.'' the following: ''The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination of a small passenger vessel under this title that is more than $300 annually for such vessels under 65 feet in length, or more than $600 annually for such vessels 65 feet in length and greater. The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination under this title for any publicly-owned ferry.''.

SEC. 4022. OIL SPILL RECOVERY INSTITUTE.

(a) FUNDING.—Section 5006 of the Oil Pollution Act of 1990 (33 U.S.C. 2736) is amended by—

(1) striking subsection (a), redesignating subsection (b) as subsection ''(a)'';

(2) striking ''5003'' in the caption of subsection (a), as redesignated, and inserting ''5001, 5003,'';

(3) inserting ''to carry out section 5001 in the amount as determined in section 5006(b), and'' after ''limitation,'' in the text of subsection (a), as redesignated; and

(4) adding at the end thereof the following:

''(b) USE OF INTEREST ONLY.—The amount of funding to be made available annually to carry out section 5001 shall be the interest produced by the Fund's investment of the $22,500,000 remaining funding authorized for the Prince William Sound Oil Spill Recovery Institute and currently deposited in the Fund and invested by the Secretary of the Treasury in income producing securities along with other funds comprising the Fund.

''(c) USE FOR SECTION 1012.—Beginning with the eleventh year following the date of enactment of the Coast Guard Authorization Act of 1995, the funding authorized for the Prince William Sound Oil Spill Recovery Institute and deposited in the Fund shall thereafter be made available for purposes of section 1012 in Alaska.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended by striking ''5006(b)'' and inserting ''5006''.

(2) Section 7001(c)(9) the Oil Pollution Act of 1990 (33 U.S.C. 2761(c)(9)) is amended by striking the period at the end thereof and inserting "until the authorization for funding under section 5006(b) expires".

Subtitle C—Rail Infrastructure

SEC. 4031. RAILROAD REHABILITATION AND IMPROVEMENT PROGRAM.

(a) ISSUANCE OF OBLIGATIONS.—The Secretary of Transportation shall issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 832) in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of that Act (45 U.S.C. 831 through 833) as long as any such guaranteed obligation is outstanding.

(b) LIMITATION.—Notwithstanding any other provision of law, the Secretary of Transportation may not make loan guarantee commitments under section 511 of that Act (45 U.S.C. 831) in excess of $100,000,000 during each fiscal year from 1996 through 2002, and $10,000,000 is hereby made available for loan guarantee commitments made during each of those fiscal years.

SEC. 4032. LOCAL RAIL FREIGHT ASSISTANCE.

Section 22108(a) of title 49, United States Code, is amended—

(1) by adding at the end of paragraph (1) the following:

"(C) $25,000,000 for each of the fiscal years ending September 30, 1995, 1996, and 1997, which is authorized and hereby made available."; and

(2) by striking "1994," in paragraph (3) and inserting "1997,".

SEC. 4033. DISASTER FUNDING FOR RAILROADS.

Section 22101 of title 49, United States Code, is amended by redesignating subsection (d) as (e), and by inserting after subsection (c) the following:

"(d) DISASTER FUNDING FOR RAILROADS.—

"(1) The Secretary may declare that a disaster has occurred and that it is necessary to repair and rebuild rail lines damaged as a result of such disaster. If the Secretary makes a declaration under this paragraph, the Secretary may—

"(A) waive the requirements of this section;

"(B) consider the extent to which the State has available unexpended local rail freight assistance funds or available repaid loans; and

"(C) prescribe the form and time for applications for assistance made available herein.

"(2) The Secretary may not provide assistance under this subsection unless emergency disaster relief funds are appropriated for that purpose.

"(3) Funds provided under this subsection shall remain available until expended.".

SEC. 4034. GRADE-CROSSING ELIGIBILITY.

Section 22101(a) of title 49, United States Code, is amended—

(1) by striking "and" after the semicolon in paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(4) closing or improving a railroad grade crossing or series of railroad grade crossings; and

"(5) creating a State supervised grain car pool.".

TITLE V—COMMITTEE ON ENERGY AND NATURAL RESOURCES

Subtitle A—United States Enrichment Corporation

SEC. 5001. SHORT TITLE.

This subtitle may be cited as the ''USEC Privatization Act''.

SEC. 5002. PURPOSE.

The purpose of this subtitle is to transfer the interest of the United States in the United States Enrichment Corporation to the private sector in a manner that provides for the long-term viability of the Corporation, provides for the continuation by the Corporation of the operation of the Department of Energy's gaseous diffusion plants, provides for the protection of the public interest in maintaining a reliable and economical domestic source of uranium mining and enrichment services, and, to the extent not inconsistent with such purposes, secures the maximum proceeds to the United States.

SEC. 5003. DEFINITIONS.

For purposes of this subtitle:

(1) The term ''AVLIS'' means atomic vapor laser isotope separation technology.

(2) The term ''Corporation'' means the United States Enrichment Corporation and, unless the context otherwise requires, includes the private corporation and any successor thereto following privatization.

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

(4) The term ''highly enriched uranium'' means uranium enriched to 20 percent or more of the uranium-235 isotope.

(5) The term ''low-enriched uranium'' means uranium enriched to less than 20 percent of the uranium-235 isotope, including that which is derived from highly enriched uranium.

(6) The term ''low-level radioactive waste'' has the meaning given such term in section 2(9) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b(9)).

(7) The term ''private corporation'' means the corporation established under section 5005.

(8) The term ''privatization'' means the transfer of ownership of the Corporation to private investors.

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

(10) The term ''public offering'' means an underwritten offering to the public of the common stock of the private corporation pursuant to section 5004.

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

(12) The term ''Secretary'' means the Secretary of Energy.

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

(14) The term ''uranium enrichment'' means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

SEC. 5004. SALE OF THE CORPORATION.

(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer ownership of the assets and obligations of the Corporation to the private corporation established under section 5005 (which may be consummated through a merger or consolidation effected in accordance with, and having the effects provided under, the laws of the state of incorporation of the private corporation, as if the Corporation were incorporated thereunder).

(b) BOARD DETERMINATION.—The Board, with the approval of the Secretary of the Treasury, shall select the method of transfer and establish terms and conditions for the transfer that will provide the maximum proceeds to the Treasury of the United States and will provide for the long-term viability of the private corporation, the continued operation of the gaseous diffusion plants, and the public interest in maintaining a reliable and economical domestic uranium mining and enrichment industries.

(c) APPLICATION OF SECURITIES LAWS.—Any offering or sale of securities by the private corporation shall be subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.

(d) PROCEEDS.—Proceeds from the sale of the United States' interest in the Corporation shall be—

(1) deposited in the general fund of the Treasury;

(2) included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985; and

(3) counted as an offset to direct spending for purposes of section 252 of such Act, notwithstanding section 257(e) of such Act.

(e) EXPENSES.—Expenses of privatization shall be paid from Corporation revenue accounts in the United States Treasury.

SEC. 5005. ESTABLISHMENT OF PRIVATE CORPORATION.

(a) INCORPORATION.—(1) The directors of the Corporation shall establish a private for-profit corporation under the laws of a State for the purpose of receiving the assets and obligations of the Corporation at privatization and continuing the business operations of the Corporation following privatization.

(2) The directors of the Corporation may serve as incorporators of the private corporation and shall take all steps necessary to establish the private corporation, including the filing of articles of incorporation consistent with the provisions of this subtitle.

(3) Employees and officers of the Corporation (including members of the Board of Directors) acting in accordance with this section on behalf of the private corporation shall be deemed to be acting in their official capacities as employees or officers of the Corporation for purposes of 18 U.S.C. 205.

(b) STATUS OF THE PRIVATE CORPORATION.—(1) The private corporation shall not be an agency, instrumentality, or establishment of the United States, a Government corporation, or a Government-controlled corporation.

(2) Except as otherwise provided by this Subtitle, financial obligations of the private corporation shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

(3) No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on actions of the private corporation.

(c) APPLICATION OF POST-GOVERNMENT EMPLOYMENT RESTRICTIONS.—Beginning on the privatization date, the restrictions of 18 U.S.C. 207(a), (b), (c), and (d) shall not apply to the acts of an individual done in carrying out official duties as a director, officer, or employee of the private corporation, if the individual was an officer or employee of the Corporation (including a direc-

tor) continuously during the 45 days prior to the privatization date.

(d) DISSOLUTION.—In the event that the privatization does not occur, the Corporation will provide for the dissolution of the private corporation within 1 year of the private corporation's incorporation unless the Secretary of the Treasury or his delegate, upon the Corporation's request, agrees to delay any such dissolution for an additional year.

SEC. 5006. TRANSFERS TO THE PRIVATE CORPORATION.

Concurrent with privatization, the Corporation shall transfer to the private corporation—

(1) the lease of the gaseous diffusion plants in accordance with section 5007,

(2) all personal property and inventories of the Corporation,

(3) all contracts, agreements, and leases under section 5008(a),

(4) the Corporation's right to purchase power from the Secretary under section 5008(b),

(5) such funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution as approved by the Secretary of the Treasury, and

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

SEC. 5007. LEASING OF GASEOUS DIFFUSION FACILITIES.

(a) TRANSFER OF LEASE.—Concurrent with privatization, the Corporation shall transfer to the private corporation the lease of the gaseous diffusion plants and related property for the remainder of the term of such lease in accordance with the terms of such lease.

(b) RENEWAL.—The private corporation shall have the exclusive option to lease the gaseous diffusion plants and related property for additional periods following the expiration of the initial term of the lease.

(c) EXCLUSION OF FACILITIES FOR PRODUCTION OF HIGHLY ENRICHED URANIUM.—The Secretary shall not lease to the private corporation any facilities necessary for the production of highly enriched uranium but may, subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), grant the Corporation access to such facilities for purposes other than the production of highly enriched uranium.

(d) DOE RESPONSIBILITY FOR PREEXISTING CONDITIONS.—The payment of any costs of decontamination and decommissioning, response actions, or corrective ac-

tions with respect to conditions existing before July 1, 1993, at the gaseous diffusion plants shall remain the sole responsibility of the Secretary.

(e) ENVIRONMENTAL AUDIT.—For purposes of subsection (d), the conditions existing before July 1, 1993, at the gaseous diffusion plants shall be determined from the environmental audit conducted pursuant to section 1403(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c–2(e)).

(f) TREATMENT UNDER PRICE-ANDERSON PROVISIONS.—Any lease executed between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, under this section shall be deemed to be a contract for purposes of section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)).

(g) WAIVER OF EIS REQUIREMENT.—The execution or transfer of the lease between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, shall not be considered a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

SEC. 5008. TRANSFER OF CONTRACTS.

(a) TRANSFER OF CONTRACTS.—Concurrent with privatization, the Corporation shall transfer to the private

corporation all contracts, agreements, and leases, including all uranium enrichment contracts, that were—

(1) transferred by the Secretary to the Corporation pursuant to section 1401(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c(b)), or

(2) entered into by the Corporation before the privatization date.

(b) NONTRANSFERABLE POWER CONTRACTS.—The Corporation shall transfer to the private corporation the right to purchase power from the Secretary under the power purchase contracts for the gaseous diffusion plants executed by the Secretary before July 1, 1993. The Secretary shall continue to receive power for the gaseous diffusion plants under such contracts and shall continue to resell such power to the private corporation at cost during the term of such contracts.

(c) EFFECT OF TRANSFER.—(1) Notwithstanding subsection (a), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred under subsection (a) for the performance of its obligations under such contracts, agreements, or leases during their terms. Performance of such obligations by the private corporation shall be considered performance by the United States.

(2) If a contract, agreement, or lease transferred under subsection (a) is terminated, extended, or materially amended after the privatization date—

(A) the private corporation shall be responsible for any obligation arising under such contract, agreement, or lease after any extension or material amendment, and

(B) the United States shall be responsible for any obligation arising under the contract, agreement, or lease before the termination, extension, or material amendment.

(3) The private corporation shall reimburse the United States for any amount paid by the United States under a settlement agreement entered into with the consent of the private corporation or under a judgment, if the settlement or judgment—

(A) arises out of an obligation under a contract, agreement, or lease transferred under subsection (a), and

(B) arises out of actions of the private corporation between the privatization date and the date of a termination, extension, or material amendment of such contract, agreement, or lease.

(d) PRICING.—The Corporation may establish prices for its products, materials, and services provided to cus-

tomers on a basis that will allow it to attain the normal business objectives of a profit making corporation.

SEC. 5009. LIABILITIES.

(a) LIABILITY OF THE UNITED STATES.—(1) Except as otherwise provided in this Subtitle, all liabilities arising out of the operation of the uranium enrichment enterprise before July 1, 1993, shall remain the direct liabilities of the Secretary.

(2) Except as provided in subsection (a)(3) or otherwise provided in a memorandum of agreement entered into by the Corporation and the Office of Management and Budget prior to the privatization date, all liabilities arising out of the operation of the Corporation between July 1, 1993, and the privatization date shall remain the direct liabilities of the United States.

(3) All liabilities arising out of the disposal of depleted uranium generated by the Corporation between July 1, 1993, and the privatization date shall become the direct liabilities of the Secretary.

(4) Any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, the privatization of the Corporation is hereby withdrawn.

(5) To the extent that any claim against the United States under this section is of the type otherwise required by Federal statute or regulation to be presented to a Federal agency or official for adjudication or review, such claim shall be presented to the Department of Energy in accordance with procedures to be established by the Secretary. Nothing in this paragraph shall be construed to impose on the Department of Energy liability to pay any claim presented pursuant to this paragraph.

(6) The Attorney General shall represent the United States in any action seeking to impose liability under this subsection.

(b) LIABILITY OF THE CORPORATION.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered in breach, default, or violation of any agreement because of the transfer of such agreement to the private corporation under section 5008 or any other action the Corporation is required to take under this subtitle.

(c) LIABILITY OF THE PRIVATE CORPORATION.—Except as provided in this subtitle, the private corporation shall be liable for any liabilities arising out of its operations after the privatization date.

(d) LIABILITY OF OFFICERS AND DIRECTORS.—(1) No officer, director, employee, or agent of the Corporation

shall be liable in any civil proceeding to any party in connection with any action taken in connection with the privatization if, with respect to the subject matter of the action, suit, or proceeding, such person was acting within the scope of his employment.

(2) This subsection shall not apply to claims arising under the Securities Act of 1933 (15 U.S.C. 77a. et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a. et seq.), or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities.

SEC. 5010. EMPLOYEE PROTECTIONS.

(a) CONTRACTOR EMPLOYEES.—(1) Privatization shall not diminish the accrued, vested pension benefits of employees of the Corporation's operating contractor at the two gaseous diffusion plants.

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

contractor or the private corporation or a joint labor-management plan, as the case may be.

(3) In addition to any obligations arising under the National Labor Relations Act, any employer (including the private corporation if it operates a gaseous diffusion plant without a contractor or any contractor of the private corporation) at a gaseous diffusion plant shall—

(A) abide by the terms of any unexpired collective bargaining agreement covering employees in bargaining units at the plant and in effect on the privatization date until the stated expiration or termination date of the agreement; or

(B) in the event a collective bargaining agreement is not in effect upon the privatization date, have the same bargaining obligations under section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) as it had immediately before the privatization date.

(4) If the private corporation replaces its operating contractor at a gaseous diffusion plant, the new employer (including the new contractor or the private corporation if it operates a gaseous diffusion plant without a contractor) shall—

(A) offer employment to non-management employees of the predecessor contractor to the extent

that their jobs still exist or they are qualified for new jobs, and

(B) abide by the terms of the predecessor contractor's collective bargaining agreement until the agreement expires or a new agreement is signed.

(5) In the event of a plant closing or mass layoff (as such terms are defined in section 2101(a) (2) and (3) of title 29, United States Code) at either of the gaseous diffusion plants, the Secretary of Energy shall treat any adversely affected employee of an operating contractor at either plant who was an employee at such plant on July 1, 1993, as a Department of Energy employee for purposes of sections 3161 and 3162 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h–7274i).

(6)(A) The Secretary and the private corporation shall cause the post-retirement health benefits plan provider (or its successor) to continue to provide benefits for persons employed by an operating contractor at either of the gaseous diffusion plants in an economically efficient manner and at substantially the same level of coverage as eligible retirees are entitled to receive on the privatization date.

(B) Persons eligible for coverage under subparagraph (A) shall be limited to:

(i) Persons who retired from active employment at one of the gaseous diffusion plants on or before the privatization date as vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant.

(ii) Persons who are employed by the Corporation's operating contractor on or before the privatization date and are vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant.

(C) The Secretary shall fund the entire cost of post-retirement health benefits for persons who retired from employment with an operating contractor prior to July 1, 1993.

(D) The Secretary and the Corporation shall fund the cost of post-retirement health benefits for persons who retire from employment with an operating contractor after July 1, 1993, in proportion to the retired person's years and months of service at a gaseous diffusion plant under their respective management.

(7)(A) Any suit under this subsection alleging a violation of an agreement between an employer and a labor organization shall be brought in accordance with section 301 of the Labor Management Relations Act (29 U.S.C. 185).

(B) Any charge under this subsection alleging an unfair labor practice violative of section 8 of the National Labor Relations Act (29 U.S.C. 158) shall be pursued in accordance with section 10 of the National Labor Relations Act (29 U.S.C. 160).

(C) Any suit alleging a violation of any provision of this subsection, to the extent it does not allege a violation of the National Labor Relations Act, may be brought in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy or the citizenship of the parties.

(b) FORMER FEDERAL EMPLOYEES.—(1)(A) Employees of the Corporation who were subject to either the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS) on the day immediately preceding the privatization date shall elect—

(i) to retain their coverage under either CSRS or FERS, as applicable, in lieu of coverage by the Corporation's retirement system, or

(ii) to receive a deferred annuity or lump-sum benefit payable to a terminated employee under CSRS or FERS, as applicable.

(B) Those employees electing subparagraph (A)(ii) shall have the option to transfer the balance in their Thrift Savings Plan account to a defined contribution plan under the Corporation's retirement system, consistent with applicable law and the terms of the Corporation's defined contribution plan.

(2) The Corporation shall pay to the Civil Service Retirement and Disability Fund—

(A) such employee deductions and agency contributions as are required by sections 8334, 8422, and 8423 of title 5, United States Code, for those employees who elect to retain their coverage under either CSRS or FERS pursuant to paragraph (1);

(B) such additional agency contributions as are determined necessary by the Office of Personnel Management to pay, in combination with the sums under subparagraph (A), the ''normal cost'' (determined using dynamic assumptions) of retirement benefits for those employees who elect to retain their coverage under CSRS pursuant to paragraph (1), with the concept of ''normal cost'' being used con-

sistent with generally accepted actuarial standards and principles; and

(C) such additional amounts, not to exceed two percent of the amounts under subparagraphs (A) and (B), as are determined necessary by the Office of Personnel Management to pay the cost of administering retirement benefits for employees who retire from the Corporation after the privatization date under either CSRS or FERS, for their survivors, and for survivors of employees of the Corporation who die after the privatization date (which amounts shall be available to the Office of Personnel Management as provided in section 8348(a)(1)(B) of title 5, United States Code).

(3) The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required by section 8432 of title 5, United States Code, for those employees who elect to retain their coverage under FERS pursuant to paragraph (1).

(4) Any employee of the Corporation who was subject to the Federal Employee Health Benefits Program (FEHBP) on the day immediately preceding the privatization date and who elects to retain coverage under either CSRS or FERS pursuant to paragraph (1) shall have the option to receive health benefits from a health benefit plan

established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(5) The Corporation shall pay to the Employees Health Benefits Fund—

(A) such employee deductions and agency contributions as are required by section 8906(a)–(f) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4); and

(B) such amounts as are determined necessary by the Office of Personnel Management under paragraph (6) to reimburse the Office of Personnel Management for contributions under section 8906(g)(1) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4).

(6) The amounts required under paragraph (5)(B) shall pay the Government contributions for retired employees who retire from the Corporation after the privatization date under either CSRS or FERS, for survivors of such retired employees, and for survivors of employees of the Corporation who die after the privatization date, with said amounts prorated to reflect only that portion of the total

service of such employees and retired persons that was performed for the Corporation after the privatization date.

SEC. 5011. OWNERSHIP LIMITATIONS.

No director, officer, or employee of the Corporation may acquire any securities, or any rights to acquire any securities of the private corporation on terms more favorable than those offered to the general public—

(1) in a public offering designed to transfer ownership of the Corporation to private investors,

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

(3) before the election of the directors of the private corporation.

SEC. 5012. URANIUM TRANSFERS AND SALES.

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

(b) RUSSIAN HEU.—(1) On or before December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge title to an amount of uranium hexafluoride

equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Secretary shall be based on a tails assay of 0.30 U235. Uranium hexafluoride transferred to the Secretary pursuant to this paragraph shall be deemed under U.S. law for all purposes to be of Russian origin.

(2) Within 7 years of the date of enactment of this subtitle, the Secretary shall sell, and receive payment for, the uranium hexafluoride transferred to the Secretary pursuant to paragraph (1). Such uranium hexafluoride shall be sold—

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

(B) at any time for end use outside the United States; or

(C) in calendar year 2001 for consumption by end users in the United States not prior to January 1, 2002, in volumes not to exceed 3 million pounds U3O8 equivalent per year.

(3) With respect to all enriched uranium delivered to the United States Executive Agent under the Russian HEU Agreement on or after January 1, 1997, the United

States Executive Agent shall, upon request of the Russian Executive Agent, enter into an agreement to deliver concurrently to the Russian Executive Agent an amount of uranium hexafluoride equivalent to the natural uranium component of such uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Russian Executive Agent shall be based on a tails assay of 0.30 U235. Title to uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall transfer to the Russian Executive Agent upon delivery of such material to the Russian Executive Agent, with such delivery to take place at a North American facility designated by the Russian Executive Agent. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed under U.S. law for all purposes to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity for delivery and use in the United States only as permitted in subsections (b)(5), (b)(6), and (b)(7) of this section.

(4) In the event that the Russian Executive Agent does not exercise its right to enter into an agreement to take delivery of the natural uranium component of any

low-enriched uranium, as contemplated in paragraph (3), within 90 days of the date such low-enriched uranium is delivered to the United States Executive Agent, then the United States Executive Agent shall engage an independent entity through a competitive selection process to auction an amount of uranium hexafluoride or U3O8 (in the event that the conversion component of such hexafluoride has previously been sold) equivalent to the natural uranium component of such low-enriched uranium. Such independent entity shall sell such uranium hexafluoride in one or more lots to any person or entity to maximize the proceeds from such sales, for disposition consistent with the limitations set forth in this subsection. The independent entity shall pay to the Russian Executive Agent the proceeds of any such auction less all reasonable transaction and other administrative costs. The quantity of such uranium hexafluoride auctioned shall be based on a tails assay of 0.30 U235. Title to uranium hexafluoride auctioned pursuant to this paragraph shall transfer to the buyer of such material upon delivery of such material to the buyer. Uranium hexafluoride auctioned pursuant to this paragraph shall be deemed under U.S. law for all purposes to be of Russian origin.

(5) Except as provided in paragraphs (6) and (7), uranium hexafluoride delivered to the Russian Executive

Agent under paragraph (3) or auctioned pursuant to paragraph (4), may not be delivered for consumption by end users in the United States either directly or indirectly prior to January 1, 1998, and thereafter only in accordance with the following schedule:

Year:	**Annual maximum deliveries to end users (millions lbs. U3O8 equivalent)**
1998	2
1999	4
2000	6
2001	8
2002	10
2003	12
2004	14
2005	16
2006	17
2007	18
2008	19
2009 and each year thereafter	20.

(6) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time as Russian-origin natural uranium in a matched sale pursuant to the Suspension Agreement, and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).

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

(8) Nothing in this subsection (b) shall restrict the sale of the conversion component of such uranium hexafluroide. Material sold pursuant to paragraph 5 shall not be swapped, exchanged or loaned.

(9) The Secretary of Commerce shall have responsibility for the administration and enforcement of the limitations set forth in this subsection. The Secretary of Commerce may require any person to provide any certifications, information, or take any action that may be necessary to enforce these limitations. The U.S. Customs Service shall maintain and provide any information required by the Secretary of Commerce and shall take any action requested by the Secretary of Commerce which is necessary for the administration and enforcement of the uranium delivery limitations set forth in this section.

(10) The President shall monitor the actions of the United States Executive Agent under the Russian HEU Agreement and shall report to the Congress not later than December 31 of each year on the effect the low-enriched uranium delivered under the Russian HEU Agreement is having on the domestic uranium mining, conversion, and enrichment industries, and the operation of the gaseous diffusion plants. Such report shall include a description of actions taken or proposed to be taken by the President to prevent or mitigate any material adverse impact on

such industries or any loss of employment at the gaseous diffusion plants as a result of the Russian HEU Agreement.

(c) TRANSFERS TO THE CORPORATION.—(1) The Secretary shall transfer to the Corporation without charge up to 50 metric tons of enriched uranium and up to 7,000 metric tons of natural uranium from the Department of Energy's stockpile, subject to the restrictions in subsection (c)(2).

(2) The Corporation shall not deliver for commercial end use in the United States—

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

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

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

(d) INVENTORY SALES.—(1) In addition to the transfers authorized under subsections (c) and (e), the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived

from highly enriched uranium) from the Department of Energy's stockpile.

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

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

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

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

(e) GOVERNMENT TRANSFERS.—Notwithstanding subsection (d)(2), the Secretary may transfer or sell enriched uranium—

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

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

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

(f) SAVINGS PROVISION.—Nothing in this subtitle shall be read to modify the terms of the Russian HEU Agreement.

SEC. 5013. LOW-LEVEL WASTE.

(a) RESPONSIBILITY OF DOE.—(1) The Secretary, at the request of the generator, shall accept for disposal low-level radioactive waste, including depleted uranium if it were ultimately determined to be low-level radioactive waste, generated by—

(A) the Corporation as a result of the operations of the gaseous diffusion plants or as a result of the treatment of such wastes at a location other than the gaseous diffusion plants, or

(B) any person licensed by the Nuclear Regulatory Commission to operate a uranium enrichment facility under sections 53, 63, and 193 of the Atomic Energy Act of 1954 (42 U.S.C. 2073, 2093, and 2243).

(2) Except as provided in paragraph (3), the generator shall reimburse the Secretary for the disposal of low-level radioactive waste pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata

share of any capital costs, but in no event more than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for disposal of such waste.

(3) In the event depleted uranium were ultimately determined to be low-level radioactive waste, the generator shall reimburse the Secretary for the disposal of depleted uranium pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs.

(b) AGREEMENTS WITH OTHER PERSONS.—The generator may also enter into agreements for the disposal of low-level radioactive waste subject to subsection (a) with any person other than the Secretary that is authorized by applicable laws and regulations to dispose of such wastes.

(c) STATE OR INTERSTATE COMPACTS.—Notwithstanding any other provision of law, no State or interstate compact shall be liable for the treatment, storage, or disposal of any low-level radioactive waste (including mixed waste) attributable to the operation, decontamination, and decommissioning of any uranium enrichment facility.

SEC. 5014. AVLIS.

(a) EXCLUSIVE RIGHT TO COMMERCIALIZE.—The Corporation shall have the exclusive commercial right to

deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Secretary.

(b) TRANSFER OF RELATED PROPERTY TO CORPORATION.—

(1) IN GENERAL.—To the extent requested by the Corporation and subject to the requirements of the Atomic Energy Act of 1954, the President shall transfer without charge to the Corporation all of the right, title, or interest in and to property owned by the United States under control or custody of the Secretary that is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS and alternative technologies for uranium enrichment, including—

(A) facilities, equipment, and materials for research, development, and demonstration activities; and

(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.

(2) EXCEPTION.—Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment

programs of the Secretary shall not transfer under paragraph (1)(B).

(3) EXPIRATION OF TRANSFER AUTHORITY.—The President's authority to transfer property under this subsection shall expire upon the privatization date.

(c) LIABILITY FOR PATENT AND RELATED CLAIMS.—With respect to any right, title, or interest provided to the Corporation under subsection (a) or (b), the Corporation shall have sole liability for any payments made or awards under section 157 b. (3) of the Atomic Energy Act of 1954 (42 U.S.C. 2187(b)(3)), or any settlements or judgments involving claims for alleged patent infringement. Any royalty agreement under subsection (a) of this section shall provide for a reduction of royalty payments to the Secretary to offset any payments, awards, settlements, or judgments under this subsection.

SEC. 5015. GASEOUS DIFFUSION TECHNOLOGY.

(a) TRANSFER OF RIGHTS.—The Corporation shall have the exclusive commercial rights for both uranium enrichment and non-uranium enrichment uses of any patents, patent applications, trade secrets, and other technical information related to the gaseous diffusion technology owned or controlled by the Department of Energy, or by the United States but under control or custody of

the Department of Energy. The Corporation shall enter into an exclusive licensing agreement with the Department of Energy providing for—

(1) the payment of royalties of 3 percent of the gross, pre-tax revenues realized by the Corporation from its non-uranium enrichment commercial uses of such patents, patent applications, trade secrets, and other technical information,

(2) the reduction of such royalties to offset any payments, awards, settlements, or judgments rendered against the Corporation in its deployment or licensing of the exclusive commercial rights under this section, and

(3) the reservation of a non-exclusive, royalty-free right to the United States Government to use such patents, patent applications, trade secrets, and other technical information solely for Governmental purposes.

(b) IMPROVEMENTS.—New patents, trade secrets, and other technical information developed for commercial applications that derive from the gaseous diffusion technology initially licensed by the Corporation shall be at the Corporation's expense and shall be free from royalties to the Department of Energy.

SEC. 5016. APPLICATION OF CERTAIN LAWS.

(a) OSHA.—(1) As of the privatization date, the private corporation shall be subject to and comply with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(2) The Nuclear Regulatory Commission and the Occupational Safety and Health Administration shall, within 90 days after the enactment of this subtitle, enter into a memorandum of agreement to govern the exercise of their authority over occupational safety and health hazards at the gaseous diffusion plants, including inspection, investigation, enforcement, and rulemaking relating to such hazards.

(b) ANTITRUST LAWS.—For purposes of the antitrust laws, the performance by the private corporation of a ''matched import'' contract under the Suspension Agreement shall be considered to have occurred prior to the privatization date, if at the time of privatization, such contract had been agreed to by the parties in all material terms and confirmed by the Secretary of Commerce under the Suspension Agreement.

(c) ENERGY REORGANIZATION ACT REQUIREMENTS.—(1) The private corporation and its contractors shall be subject to the provisions of section 211 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) to the same extent as an employer subject to such section.

(2) With respect to the operation of the facilities leased by the private corporation, section 206 of the Energy Reorganization Act of 1974 (42 U.S.C. 5846) shall apply to the directors and officers of the private corporation.

SEC. 5017. AMENDMENTS TO THE ATOMIC ENERGY ACT.

(a) REPEAL.—(1) Chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 1201–1608) are repealed as of the privatization date.

(2) The table of contents of such Act is amended as of the privatization date by striking the items referring to sections repealed by paragraph (1).

(b) NRC LICENSING.—(1) Section 11v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014v.) is amended by striking ''or the construction and operation of a uranium enrichment facility using Atomic Vapor Laser Isotope Separation technology''.

(2) Section 193 of the Atomic Energy Act of 1954 (42 U.S.C. 2243) is amended by adding at the end the following:

''(f) LIMITATION.—No license or certificate of compliance may be issued to the United States Enrichment Corporation or its successor under section 53, 63, 193, or 1701, if in the opinion of the Commission, the issuance of such a license or certificate of compliance—

"(1) would be inimical to the common defense and security of the United States; or

"(2) would be inimical to the maintenance of a reliable and economical domestic source of enrichment services because of the nature and extent of the ownership, control, or domination of the Corporation by a foreign corporation or a foreign government or any other relevant factors or circumstances.".

(3) Section 1701(c)(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f(c)(2)) is amended to read as follows:

"(2) PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Commission, but not less than every 5 years. The Commission shall review any such application and any determination made under subsection (b)(2) shall be based on the results of any such review.".

(4) Section 1702(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f–1(a)) is amended—

(1) by striking "other than" and inserting "including", and

(2) by striking ''sections 53 and 63'' and inserting ''sections 53, 63, and 193''.

(c) JUDICIAL REVIEW OF NRC ACTIONS.—Section 189b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended to read as follows:

''b. The following Commission actions shall be subject to judicial review in the manner prescribed in chapter 158 of title 28, United States Code and chapter 7 of title 5, United States Code:

''(1) Any final order entered in any proceeding of the kind specified in subsection (a).

''(2) Any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license.

''(3) Any final order establishing by regulation standards to govern the Department of Energy's gaseous diffusion uranium enrichment plants, including any such facilities leased to a corporation established under the USEC Privatization Act.

''(4) Any final determination relating to whether the gaseous diffusion plants, including any such facilities leased to a corporation established under the USEC Privatization Act, are in compliance with the Commission's standards governing the gaseous diffusion plants and all applicable laws.''.

(d) CIVIL PENALTIES.—Section 234 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2282(a)) is amended by—

(1) striking ''any licensing provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109'' and inserting: ''any licensing or certification provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, 109, or 1701''; and

(2) by striking ''any license issued thereunder'' and inserting: ''any license or certification issued thereunder''.

(e) REFERENCES TO THE CORPORATION.—Following the privatization date, all references in the Atomic Energy Act of 1954 to the United States Enrichment Corporation shall be deemed to be references to the private corporation.

SEC. 5018. AMENDMENTS TO OTHER LAWS.

(a) DEFINITION OF GOVERNMENT CORPORATION.—As of the privatization date, section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N).

(b) DEFINITION OF THE CORPORATION.—Section 1018 (1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(1)) is amended by adding at the end ''or its successor.''.

Subtitle B—Department of the Interior Conveyances

PART I—CALIFORNIA LAND DIRECTED SALE

SEC. 5100. DIRECTED LAND SALE.

(a) CONVEYANCE.—All right, title and interest of the United States in and to the lands described in subsection (b), any improvements thereon, all necessary easements for utilities and ingress and egress through the right of way described in subsection (c), and the right to improve those easements, are hereby conveyed to the Department of Health Services of the State of California upon payment of $500,100 by the State of California and the release of the United States by the State of California from any liability for claims related to the property.

(b) LEGAL DESCRIPTION.—The lands conveyed are:

San Bernardino Meridian, Township 9 North, Range 19 East

Section 26, the southwest quarter of the southwest quarter;

Section 27, the south half of the south half;

Section 34, all;

Section 35, the west half of the west half.

(c) EASEMENT AND RIGHT-OF-WAY DESCRIPTION.—The easement conveyed by subsection (a) shall be along

the right-of-way for a power transmission line and road previously granted to the Metropolitan Water District of Southern California between Interstate 40 and the lands described in subsection (b).

(d) OBLIGATION OF THE SECRETARY.—The Secretary of the Interior shall issue evidence of title pursuant to this subtitle notwithstanding any other provision of law.

(e) DEPOSIT OF FUNDS.—Sums received pursuant to subsection (a) shall be deposited as miscellaneous receipts in the Treasury of the United States.

(f) REVERSION.—The lands conveyed pursuant to this section shall revert to the United States if the property is not used as a low-level radioactive waste disposal facility before October 1, 2010.

PART II—HELIUM RESERVES

SEC. 5110. SHORT TITLE.

This part may be cited as the ''Helium Act of 1995''.

SEC. 5111. AMENDMENT OF HELIUM ACT.

Except as otherwise expressly provided, whenever in this part an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Helium Act (50 U.S.C. 167 to 167n).

SEC. 5112. AUTHORITY OF SECRETARY.

Sections 3, 4, and 5 are amended to read as follows:

"SEC. 3. AUTHORITY OF SECRETARY.

"(a) EXTRACTION AND DISPOSAL OF HELIUM ON FEDERAL LANDS.—

"(1) IN GENERAL.—The Secretary may enter into agreements with private parties for the recovery and disposal of helium on Federal lands upon such terms and conditions as the Secretary deems fair, reasonable, and necessary.

"(2) LEASEHOLD RIGHTS.—The Secretary may grant leasehold rights to any such helium.

"(3) LIMITATION.—The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium.

"(4) REGULATIONS.—Agreements under paragraph (1) may be subject to such regulations as may be prescribed by the Secretary.

"(5) EXISTING RIGHTS.—An agreement under paragraph (1) shall be subject to any rights of any affected Federal oil and gas lessee that may be in existence prior to the date of the agreement.

"(6) TERMS AND CONDITIONS.—An agreement under paragraph (1) (and any extension or renewal

of an agreement) shall contain such terms and conditions as the Secretary may consider appropriate.

"(7) PRIOR AGREEMENTS.—This subsection shall not in any manner affect or diminish the rights and obligations of the Secretary and private parties under agreements to dispose of helium produced from Federal lands in existence on the date of enactment of the Helium Act of 1995 except to the extent that such agreements are renewed or extended after that date.

"(b) STORAGE, TRANSPORTATION AND SALE.—The Secretary may store, transport, and sell helium only in accordance with this Act.

"SEC. 4. STORAGE, TRANSPORTATION, AND WITHDRAWAL OF CRUDE HELIUM.

"(a) STORAGE, TRANSPORTATION AND WITHDRAWAL.—The Secretary may store, transport and withdraw crude helium and maintain and operate crude helium storage facilities, in existence on the date of enactment of the Helium Act of 1995 at the Bureau of Mines Cliffside Field, and related helium transportation and withdrawal facilities.

"(b) CESSATION OF PRODUCTION, REFINING, AND MARKETING.—Not later than 18 months after the date of enactment of the Helium Act of 1995, the Secretary

shall cease producing, refining, and marketing refined helium and shall cease carrying out all other activities relating to helium which the Secretary was authorized to carry out under this Act before the date of enactment of the Helium Act of 1995, except activities described in subsection (a).

"(c) DISPOSAL OF FACILITIES.—

"(1) IN GENERAL.—Subject to paragraph (5), not later than 18 months after the cessation of activities referred to in section (b) of this section, the Secretary shall designate as excess property and dispose of all facilities, equipment, and other real and personal property, and all interests therein, held by the United States for the purpose of producing, refining and marketing refined helium.

"(2) APPLICABLE LAW.—The disposal of such property shall be in accordance with the Federal Property and Administrative Services Act of 1949.

"(3) PROCEEDS.—All proceeds accruing to the United States by reason of the sale or other disposal of such property shall be treated as moneys received under this chapter for purposes of section 6(f).

"(4) COSTS.—All costs associated with such sale and disposal (including costs associated with termination of personnel) and with the cessation of

activities under subsection (b) shall be paid from amounts available in the helium production fund established under section 6(f).

"(5) EXCEPTION.—Paragraph (1) shall not apply to any facilities, equipment, or other real or personal property, or any interest therein, necessary for the storage, transportation and withdrawal of crude helium or any equipment, facilities, or other real or personal property, required to maintain the purity, quality control, and quality assurance of crude helium in the Bureau of Mines Cliffside Field.

"(d) EXISTING CONTRACTS.—

"(1) IN GENERAL.—All contracts that were entered into by any person with the Secretary for the purchase by the person from the Secretary of refined helium and that are in effect on the date of the enactment of the Helium Act of 1995 shall remain in force and effect until the date on which the refining operations cease, as described in subsection (b).

"(2) COSTS.—Any costs associated with the termination of contracts described in paragraph (1) shall be paid from the helium production fund established under section 6(f).

"SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITHDRAWAL.

''(a) IN GENERAL.—Whenever the Secretary provides helium storage withdrawal or transportation services to any person, the Secretary shall impose a fee on the person to reimburse the Secretary for the full costs of providing such storage, transportation, and withdrawal.

''(b) TREATMENT.—All fees received by the Secretary under subsection (a) shall be treated as moneys received under this Act for purposes of section 6(f).''.

SEC. 5113. SALE OF CRUDE HELIUM.

(a) Subsection 6(a) is amended by striking ''from the Secretary'' and inserting ''from persons who have entered into enforceable contracts to purchase an equivalent amount of crude helium from the Secretary''.

(b) Subsection 6(b) is amended—

(1) by inserting ''crude'' before ''helium''; and

(2) by adding the following at the end: ''Except as may be required by reason of subsection (a), sales of crude helium under this section shall be in amounts as the Secretary determines, in consultation with the helium industry, necessary to carry out this subsection with minimum market disruption.''.

(c) Subsection 6(c) is amended—

(1) by inserting ''crude'' after ''Sales of''; and

(2) by striking ''together with interest as provided in this subsection'' and all that follows through the end of the subsection and inserting ''all funds required to be repaid to the United States as of October 1, 1994 under this section (referred to in this subsection as 'repayable amounts'). The price at which crude helium is sold by the Secretary shall not be less than the amount determined by the Secretary by—

''(i) dividing the outstanding amount of such repayable amounts by the volume (in million cubic feet) of crude helium owned by the United States and stored in the Bureau of Mines Cliffside Field at the time of the sale concerned, and

''(ii) adjusting the amount determined under paragraph (1) by the Consumer Price Index for years beginning after December 31, 1994.''.

(d) Subsection 6(d) is amended to read as follows:

''(d) EXTRACTION OF HELIUM FROM DEPOSITS ON FEDERAL LANDS.—All moneys received by the Secretary from the sale or disposition of helium on Federal lands shall be paid to the Treasury and credited against the

amounts required to be repaid to the Treasury under subsection (c).''.

(e) Subsection 6(e) is repealed.

(f) Subsection (f) is amended—

(A) by striking ''(f)'' and inserting ''(e)(1)''; and

(B) by adding the following at the end:

''(2)(A) Within 7 days after the commencement of each fiscal year after the disposal of the facilities referred to in section 4(c), all amounts in such fund in excess of $2,000,000 (or such lesser sum as the Secretary deems necessary to carry out this Act during such fiscal year) shall be paid to the Treasury and credited as provided in paragraph (1).

''(B) On repayment of all amounts referred to in subsection (c), the fund established under this section shall be terminated and all moneys received under this Act shall be deposited in the general fund of the Treasury.''.

SEC. 5114. ELIMINATION OF STOCKPILE.

Section 8 is amended to read as follows:

''SEC. 8. ELIMINATION OF STOCKPILE.

''(a) STOCKPILE SALES.—

''(1) COMMENCEMENT.—Not later than January 1, 2005, the Secretary shall commence offering for sale crude helium from helium reserves owned by

the United States in such amounts as may be necessary to dispose of all such helium reserves in excess of 600,000,000 cubic feet by January 1, 2015.

"(2) TIMES OF SALE.—The sales shall be at such times during each year and in such lots as the Secretary determines, in consultation with the helium industry, to be necessary to carry out this subsection with minimum market disruption.

"(3) PRICE.—The price for all sales under paragraph (1), as determined by the Secretary in consultation with the helium industry, shall be such price as will ensure repayment of the amounts required to be repaid to the Treasury under section 6(c).

"(b) DISCOVERY OF ADDITIONAL RESERVES.—The discovery of additional helium reserves shall not affect the duty of the Secretary to make sales of helium under subsection (a).".

SEC. 5115. REPEAL OF AUTHORITY TO BORROW.

Sections 12 and 15 are repealed.

Subtitle C—Arctic Coastal Plain Leasing and Revenue Act

SEC. 5201. SHORT TITLE.

This subtitle may be cited as the "Arctic Coastal Plain Leasing and Revenue Act of 1995".

SEC. 5202. PURPOSE AND POLICY.

The Congress hereby declares that it is the purpose and policy of this subtitle to authorize competitive oil and gas leasing and development to proceed on the Coastal Plain in a manner consistent with protection of the environment, maintenance of fish and wildlife and their habitat, and the interests of the area's subsistence users, and in a manner that will reduce the Federal deficit by an estimated $1.3 billion over the next seven years.

SEC. 5203. DEFINITIONS.

When used in this subtitle the term—

(1) ''Coastal Plain'' means that area identified as such in the map entitled ''Arctic National Wildlife Refuge'', dated August 1980, as referenced in section 1002(b) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142(b)(1)) comprising approximately 1,549,000 ACRES acres; and

(2) ''Secretary'' means the Secretary of the Interior or the Secretary's designee.

SEC. 5204. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) AUTHORIZATION.—The Congress hereby authorizes and directs the Secretary and other appropriate Federal officers and agencies to take such actions as are necessary to establish and implement a competitive oil and

gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain, and no further findings or decisions shall be required to implement this authorization. The Secretary shall administer the provisions of this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment, and shall require the application of the best commercially available technology for oil and gas exploration, development, and production, on all new exploration, development, and production operations, and whenever practicable, on existing operations, and in a manner to ensure the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—The prohibitions and limitations contained in section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) are hereby repealed.

(c) SOLE AUTHORITY.—This subtitle shall be the sole authority for leasing on the Coastal Plain.

(d) FEDERAL LAND.—The Coastal Plain shall be considered ''Federal land'' for the purposes of the Federal Oil and Gas Royalty Management Act of 1982.

SEC. 5205. RULES AND REGULATIONS.

(a) PROMULGATION.—The Secretary shall prescribe such rules and regulations as may be necessary to carry out the purposes and provisions of this subtitle, including rules and regulations relating to protection of the fish and wildlife, their habitat, and the environment of the Coastal Plain. Such rules and regulations shall be promulgated within eighteen months after the date of enactment of this subtitle and shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this subtitle and all operations on the Coastal Plain related to the leasing, exploration, development and production of oil and gas.

(b) REVISION OF REGULATIONS.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) of this section to reflect any significant biological, environmental, or engineering data which come to the Secretary's attention.

SEC. 5206. ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.

The ''Final Legislative Environmental Impact Statement'' (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is hereby found by the Congress to be adequate to satisfy the legal requirements under the National Environmental Policy Act of 1969 with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this subtitle and to conduct the first lease sale authorized by this subtitle.

SEC. 5207. LEASE SALES.

(a) LEASE SALES.—Lands may be leased pursuant to the provisions of this subtitle to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act, as amended (30 U.S.C. 181).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion

in, or exclusion (as provided in subsection (d)) from, a lease sale; and

(2) public notice of and comment on designation of areas to be included in, or excluded per subsection (d) from, a lease sale.

(c) LEASE SALES ON COASTAL PLAIN.—The Secretary shall, by regulation, provide for lease sales of lands on the Coastal Plain. When lease sales are to be held, they shall occur after the nomination process provided for in subsection (b) of this section. For the first lease sale, the Secretary shall offer for lease those acres receiving the greatest number of nominations, but not to exceed a total of three hundred thousand acres. If the total acreage nominated is less than three hundred thousand acres, the Secretary shall include in such sale any other acreage which he believes has the highest resource potential, but in no event shall more than three hundred thousand acres of the Coastal Plain be offered in such sale. Thereafter, no more than three hundred thousand acres of the Coastal Plain may be leased in any one lease sale. The initial lease sale shall be held within twenty-four months of the date of enactment of this subtitle. The second lease sale shall be held twenty-four months after the initial sale, with additional sales conducted every twenty-four months thereafter so long as sufficient interest in development exists

to warrant, in the Secretary's judgment, the conduct of such sales.

(d) SPECIAL AREAS.—The Secretary, after consultation with the State of Alaska, City of Kaktovik, and the North Slope Borough, is authorized to designate up to a total of 60,000 acres of the Coastal Plain as Special Areas and close it to leasing if the Secretary determines that these lands are of such unique character and interest so as to require special management and regulatory protection. The Secretary shall notify the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives ninety days in advance of making such designations. The Secretary may permit leasing of all or portions of any lands within the Coastal Plain designated as Special Areas by setting lease terms that limit or condition surface use and occupancy by lessees of such lands but permit the use of horizontal drilling technology from sites on leases located outside the designated Special Areas.

SEC. 5208. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—The Secretary is authorized to grant to the highest responsible qualified bidder by sealed competitive cash bonus bid any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary and of such royalty

as may be fixed in the lease, which shall be not less than 12½ per centum in amount or value of the production removed or sold from the lease.

(b) ANTITRUST REVIEW.—Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids, the Secretary shall allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to perform an antitrust review of the results of such lease sale on the likely effects the issuance of such leases would have on competition and shall advise the Secretary with respect to such review, including any recommendation for the nonacceptance of any bid or the imposition of terms or conditions on any lease, as may be appropriate to prevent any situation inconsistent with the antitrust laws.

(c) SUBSEQUENT TRANSFERS.—No lease issued under this subtitle may be sold, exchanged, assigned, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

(d) IMMUNITY.—Nothing in this subtitle shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or

criminal liability, or to create defenses to actions, under any antitrust law.

(e) DEFINITIONS.—As used in this section, the term—

(1) ''antitrust review'' shall be deemed an ''antitrust investigation'' for the purposes of the Antitrust Civil Process Act (15 U.S.C. 1311); and

(2) ''antitrust laws'' means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12) as amended.

SEC. 5209. LEASE TERMS AND CONDITIONS.

An oil or gas lease issued pursuant to this subtitle shall—

(1) be for a tract consisting of a compact area not to exceed five thousand seven hundred sixty acres, or nine surveyed or protracted sections which shall be as compact in form as possible;

(2) be for an initial period of ten years and shall be extended for so long thereafter as oil or gas is produced in paying quantities from the lease or unit area to which the lease is committed or for so long as drilling or reworking operations, as approved by the Secretary, are conducted on the lease or unit area;

(3) require the payment of royalty as provided for in section 5208 of this subtitle;

(4) require that exploration activities pursuant to any lease issued or maintained under this subtitle shall be conducted in accordance with an exploration plan or a revision of such plan approved by the Secretary;

(5) require that all development and production pursuant to a lease issued or maintained pursuant to this subtitle shall be conducted in accordance with a development and production plan approved by the Secretary;

(6) require posting of bond as required by section 5210 of this subtitle;

(7) forbid the flaring of natural gas from any well unless the Secretary finds that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations;

(8) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease;

(9) provide that the Secretary may direct or assent to the suspension of operations and production under any lease granted under the terms of this subtitle in the interest of conservation of the resource

or where there is no available system to transport the resource. If such a suspension is directed or assented to by the Secretary, any payment of rental prescribed by such lease shall be suspended during such period of suspension of operations and production, and the term of the lease shall be extended by adding any such suspension period thereto;

(10) provide that whenever the owner of a nonproducing lease fails to comply with any of the provisions of this subtitle, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this subtitle, such lease may be canceled by the Secretary if such default continues for more than thirty days after mailing of notice by registered letter to the lease owner at the lease owner's record post office address of record;

(11) provide that whenever the owner of any producing lease fails to comply with any of the provisions of this subtitle, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this subtitle, such lease may be forfeited and canceled by any appropriate proceeding brought by the Secretary in

any United States district court having jurisdiction under the provisions of this subtitle;

(12) provide that cancellation of a lease under this subtitle shall in no way release the owner of the lease from the obligation to provide for reclamation of the lease site;

(13) require that no lease issued under the authority of this subtitle shall be assigned or sublet, except with the consent of the Secretary;

(14) allow the lessee, at the discretion of the Secretary, to make written relinquishment of all rights under any lease issued pursuant to this subtitle, and the Secretary shall accept the relinquishment by the lessee of any lease issued under this subtitle where there has not been surface disturbance on the lands covered by the lease;

(15) provide that for the purpose of conserving the natural resources of any oil or gas pool, field, or like area, or any part thereof, and in order to avoid the unnecessary duplication of facilities, to protect the environment of the Coastal Plain, and to protect correlative rights, the Secretary shall require that, to the greatest extent practicable, lessees unite with each other in collectively adopting and operating under a cooperative or unit plan of development for

operation of such pool, field, or like area, or any part thereof, and the Secretary is also authorized and directed to enter into such agreements as are necessary or appropriate for the protection of the United States against drainage;

(16) require that the holder of a lease or leases on lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands adversely affected in connection with exploration, development, production or transportation activities on a lease within the Coastal Plain by the holder of a lease or as a result of activities conducted on the lease by any of the leaseholder's subcontractors or agents;

(17) provide that the holder of a lease may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another party without the express written approval of the Secretary;

(18) provide that the standard of reclamation for lands required to be reclaimed under this subtitle be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or

production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;

(19) contain the terms and conditions relating to protection of fish and wildlife, their habitat, and the environment, as required by section 5204 (a) of this subtitle; and

(20) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this subtitle and the regulations issued thereunder.

SEC. 5210. BONDING REQUIREMENTS TO ENSURE FINANCIAL RESPONSIBILITY OF LESSEE AND AVOID FEDERAL LIABILITY.

(a) REQUIREMENT.—The Secretary shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. Such bond, surety, or financial arrangement is in addition to, and not in lieu, of any bond, surety, or financial ar-

rangement required by any other regulatory authority or required by any other provision of law.

(b) AMOUNT.—The bond, surety, or financial arrangement shall be in an amount—

(1) to be determined by the Secretary to provide for reclamation of the lease site in accordance with an approved or revised exploration or development and production plan; plus

(2) an amount set by the Secretary consistent with the type of operations proposed, to provide the means for rapid and effective cleanup, and to minimize damages resulting from an oil spill, the escape of gas, refuse, domestic wastewater, hazardous or toxic substances, or fire caused by oil and gas activities.

(c) ADJUSTMENT.—In the event that an approved exploration or development and production plan is revised, the Secretary may adjust the amount of the bond, surety, or other financial arrangement to conform to such modified plan.

(d) DURATION.—The responsibility and liability of the lessee and its surety under the bond, surety, or other financial arrangement shall continue until such time as the Secretary determines that there has been compliance

with the terms and conditions of the lease and all applicable law.

(e) TERMINATION.—Within sixty days after determining that there has been compliance with the terms and conditions of the lease and all applicable laws, the Secretary, after consultation with affected Federal and State agencies, shall notify the lessee that the period of liability under the bond, surety, or other financial arrangement has been terminated.

SEC. 5211. OIL AND GAS INFORMATION.

(a) IN GENERAL.—(1) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this subtitle shall provide the Secretary access to all data and information from any lease granted pursuant to this subtitle (including processed and analyzed) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be provided in accordance with regulations which the Secretary shall prescribe.

(2) If processed and analyzed information provided pursuant to paragraph (1) of this subsection is provided in good faith by the lessee or permittee, such lessee or permittee shall not be responsible for any consequence of

the use or of reliance upon such processed and analyzed information.

(3) Whenever any data or information is provided to the Secretary, pursuant to paragraph (1) of this subsection—

(A) by a lessee or permittee, in the form and manner of processing which is utilized by such lessee or permittee in the normal conduct of business, the Secretary shall pay the reasonable cost of reproducing such data and information; or

(B) by a lessee or permittee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay the reasonable cost of processing and reproducing such data and information.

(b) REGULATIONS.—The Secretary shall prescribe regulations to:

(1) assure that the confidentiality of privileged or proprietary information received by the Secretary under this section will be maintained; and

(2) set forth the time periods and conditions which shall be applicable to the release of such information.

SEC. 5212. EXPEDITED JUDICIAL REVIEW.

Any complaint seeking judicial review of an action of the Secretary in promulgating any regulation under this subtitle may be filed only in the United States Court of Appeals for the District of Columbia, and such complaint shall be filed within ninety days from the date of such promulgation, or after such date if such complaint is based solely on grounds arising after such ninetieth day, in which case the complaint must be filed within ninety days after the complainant knew or reasonably should have known of the grounds for the complaint. Any complaint seeking judicial review of any other actions of the Secretary under this subtitle may be filed in any appropriate district court of the United States, and such complaint must be filed within ninety days from the date of the action being challenged, or after such date if such complaint is based solely on grounds arising after such ninetieth day, in which case the complaint must be filed within ninety days after the complainant knew or reasonably should have known of the grounds for the complaint. Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. 5213. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.

Notwithstanding title XI of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3161

et seq.), the Secretary is authorized and directed to grant, in accordance with the provisions of section 28 (c) through (t) and (v) through (y) of the Mineral Leasing Act of 1920 (30 U.S.C. 185), rights-of-way and easements across the Coastal Plain for the transportation of oil and gas under such terms and conditions as may be necessary so as not to result in a significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain. Such terms and conditions shall include requirements that facilities be sited or modified so as to avoid unnecessary duplication of roads and pipelines. The regulations issued pursuant to this subtitle shall include provisions granting of rights-of-way across the Coastal Plain.

SEC. 5214. ENFORCEMENT OF SAFETY AND ENVIRONMENTAL REGULATIONS TO ENSURE COMPLIANCE WITH TERMS AND CONDITIONS OF LEASE.

(a) RESPONSIBILITY OF THE SECRETARY.—The Secretary shall diligently enforce all regulations, lease terms, conditions, restrictions, prohibitions, and stipulations promulgated pursuant to this subtitle.

(b) RESPONSIBILITY OF HOLDERS OF LEASE.—It shall be the responsibility of any holder of a lease under this subtitle to—

(1) maintain all operations within such lease area in compliance with regulations intended to protect persons and property on, and fish and wildlife, their habitat, and the environment of, the Coastal Plain; and

(2) allow prompt access at the site of any operations subject to regulation under this subtitle to any appropriate Federal or State inspector, and to provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.

(c) ON-SITE INSPECTION.—The Secretary shall promulgate regulations to provide for—

(1) scheduled onsite inspection by the Secretary, at least twice a year, of each facility on the Coastal Plain which is subject to any environmental or safety regulation promulgated pursuant to this subtitle or conditions contained in any lease issued pursuant to this subtitle to assure compliance with such environmental or safety regulations or conditions; and

(2) periodic onsite inspection by the Secretary at least once a year without advance notice to the operator of such facility to assure compliance with all environmental or safety regulations.

SEC. 5215. NEW REVENUES.

(a) DISTRIBUTION OF REVENUES.—Notwithstanding any other provision of law, all revenues received by the Federal Government from competitive bids, sales, bonuses, royalties, rents, fees, interest or other income derived from the leasing of oil and gas resources within the Coastal Plain shall be deposited into the Treasury of the United States: *Provided,* That 50 per centum of all such revenues shall be paid by the Secretary of the Treasury semiannually, on March 30th and on September 30th of each year, to the State of Alaska: *Provided further,* That the Secretary of the Treasury shall monitor the total amount of bonus bid revenue deposited into the Treasury from oil and gas leases issued under the authority of this subtitle. All bonus bid revenue deposited in the Treasury in excess of $2,600,000,000 shall be distributed as follows: 50 per centum to the State of Alaska in the manner provided in this subsection and 50 per centum into a special fund established in the Treasury of the United States known as the ''National Park and Wildlife Refuge Renewal Fund'' (Renewal Fund).

(b) USE OF RENEWAL FUND.—Funds from the Renewal Fund shall be made available to the Secretary of the Interior, without further appropriation, at the beginning of each fiscal year in which funds are available, and may be expended by the Secretary for infrastructure needs

at units of the National Park and Wildlife Refuge Systems, including but not limited to facility refurbishment, repair and replacement, interpretive media and exhibit repair and replacement and infrastructure projects associated with park and wildlife refuge resource protection: *Provided,* That such amounts shall remain available until expended, and that the Secretary shall develop procedures for the use of the Renewal Fund that ensure accountability and demonstrated results. Such procedures shall not take effect until 90 days after transmittal to the Committees on Energy and Natural Resources and Environment and Public Works of the Senate and the appropriate Committees of the House of Representatives: *Provided further,* That beginning the first full fiscal year after funds are deposited in the Renewal Fund, the Secretary shall submit an annual report to the Congress, on a unit-by-unit basis, detailing the expenditures of such receipts, and that any revenues made available pursuant to this section shall be in addition to funds appropriated in the preceding fiscal year for the Park Service and Fish and Wildlife Service and shall not result in a reduction or offset of such appropriated funds.

Subtitle D—Park Entrance Fees

SEC. 5300. FEES.

(a) ADMISSION FEES.—Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(a)) is amended:

(1) By deleting ''fee-free travel areas'' and ''lifetime admission permit'' from the subsection.

(2) By striking ''$25'' in the first sentence of paragraph (1)(a)(i), and inserting ''$50''.

(3) By adding at the end of clause (ii) of paragraph (1)(A) the following: ''Such receipts shall be made available, subject to appropriation, for authorized resource protection, rehabilitation and conservation projects as provided for by subsection (I), including projects to be carried out by the Public Land Corps or any other conservation corps pursuant to the Youth Conservation Corps Act of 1970 (16 U.S.C. 1701 and following), or other related programs or authorities, on lands administered by the Secretary of the Interior and the Secretary of Agriculture.''.

(4) By striking ''$15'' in paragraph (a)(1)(B), and inserting ''$25''.

(5) By striking the fifth and sixth sentences in paragraph (a)(2), and by amending the fourth sen-

tence to read as follows: ''The fee for a single-visit permit at any designated area shall be collected on a per person basis, not to exceed $6 per person, including for those entering by private, noncommercial vehicle.''.

(6) By inserting the word ''Great'' before ''Smoky'' in the third sentence of paragraph (a)(3), and by striking the last sentence.

(7) By striking the second sentence in paragraph (a)(4), in its entirety and inserting: ''Such permit shall be nontransferable, shall be issued for a one-time charge of $10, and shall entitle the permittee to free admission into any area designated pursuant to this subsection.''.

(8) By amending the third sentence in paragraph (a)(4), to read as follows: ''No fees of any kind shall be collected from any persons who have a right of access for hunting or fishing privileges under a specific provision of law or treaty or who are engaged in the conduct of official Federal, State, or local government business.''.

(9) By striking paragraph (a)(5), in its entirety and inserting: ''The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admis-

sion permit to any citizen of, or person legally domiciled in, the United States, if such citizen or person applies for such permit and is permanently disabled. Such procedures shall assure that such permit shall be issued only to persons who have been medically determined to be permanently disabled. Such permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and one accompanying individual to general admission into any area designated pursuant to this subsection, notwithstanding the method of travel.''.

(10) By striking subparagraph (a)(6)(A), in its entirety and inserting: ''No later than 30 days after the enactment date of this sentence, the Secretary of the Interior shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a report on the admission fees proposed to be charged at units of the National Park System. The report shall include a list of units of the National Park System and the admission fee proposed to be charged at each unit. The Secretary of the Interior shall also identify areas where such fees are authorized but not collected, including an

explanation of the reasons that such fees are not collected.''.

(11) By striking paragraph (a)(9) in its entirety and by renumbering current paragraph (10) as ''(9)''.

(12) By striking all but the last sentence in paragraph (a)(11), and renumbering the remaining sentence as ''(a)(10)''.

(13) By renumbering paragraph (a)(12) as ''(a)(11)''.

(b) RECREATION FEES.—Section 4(b) of the Land and Water Conservation Fund Act of 1965; 16 U.S.C. 460l–6a(b)), is amended:

(1) By striking ''fees for Golden Age Passport permittees'' from the heading.

(2) By striking ''personal collection of the fee by an employee or agent of the Federal agency operating the facility,''.

(3) By striking ''Any Golden Age Passport permittee, or'' and inserting ''Any''.

(c) CRITERIA, POSTING AND UNIFORMITY OF FEES.—Section 4(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(d)) is amended by striking from the first sentence, ''recreation fees charged

by non-Federal public agencies,'' and inserting: ''fees charged by other public and private entities,''.

(d) PENALTY.—Section 4(e) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(e)) is amended by deleting ''of not more than $100.'' and inserting: ''as provided by law.''.

(e) TECHNICAL AMENDMENTS.—Section 4(h) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(h)), is amended—

(1) by striking ''Bureau of Outdoor Recreation'' and inserting: ''National Park Service'';

(2) by striking ''Natural'' in the phrase ''Committee on Natural Resources of the House of Representatives''; and

(3) by striking ''Bureau'' and inserting: ''National Park Service'';

(f) USE OF FEES.—Section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)) is amended:

(1) By amending the subsection heading to read as follows: ''USE OF FEES.—''.

(2) By striking ''fee collection costs for that fiscal year'' in the first sentence of subparagraph (B) and inserting: ''fee collection costs for the immediately preceding fiscal year'' and by striking ''sec-

tion in that fiscal year'' and inserting in lieu thereof, ''section in such immediately preceding fiscal year.''.

(3) By striking ''in that fiscal year'' in the second sentence of subparagraph (B).

(4) By striking paragraph (4), and subparagraphs (A) and (B) in their entirety and inserting: ''Amounts covered into the special account for the National Park Service shall be allocated among park system units in accordance with subsection (j) of this section for obligation or expenditure by the Director of the National Park Service for park operations.''.

(g) TIME OF REIMBURSEMENT.—Section 4(k) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(k)) is amended by striking the last sentence in its entirety.

(h) CHARGES FOR TRANSPORTATION PROVIDED BY THE NATIONAL PARK SERVICE.—Section 4(l)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(1)) is amended—

(1) by striking the word ''viewing'' from the section heading and inserting ''visiting'', and

(2) by striking the word ''view'' from the first sentence of subparagraph (1) and inserting ''visit''.

(i) COMMERCIAL TOUR USE FEES.—Section 4(n) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(n)) is further amended—

(1) By striking the first sentence of subsection (n)(1) and inserting: ''In the case of each unit of the National Park System for which an admission fee is charged under this section, the Secretary of the Interior shall establish, by October 1, 1995, a commercial tour use fee in lieu of a per person admission fee to be imposed on each vehicle entering the unit for the purpose of providing commercial tour services within the unit.''.

(2) By striking the period at the end of subsection (n)(3) and inserting: ''with written notification of such adjustments provided to commercial tour operators twelve months in advance of implementation.''.

(j) FEES FOR SPECIAL USES.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a)), is further amended by adding at the end the following:

''(o) FEES FOR COMMERCIAL/NON-RECREATIONAL USES.—The Secretary of the Interior shall establish reasonable fees for uses of National Park System units that require special arrangements, including permits. Such fees

shall be set at a level as the Secretary deems necessary to ensure that the United States will receive fair market value for such use, and shall, at a minimum, cover all costs of providing necessary services associated with such use, except that at the Secretary's discretion, the Secretary may waive or reduce such fees in the case of any nonprofit organization or any organization using an area within the National Park System for educational purposes. That portion of such fee which exceeds the cost of providing necessary services associated with such use shall be deposited into the Park Renewal Fund.''.

(k) CONFORMING AMENDMENTS.—

(1) Section 3 of Public Law 70–805 (45 Stat. 1300), is amended by striking the last sentence.

(2) Section 5(e) of Public Law 87–657 (76 Stat. 540; 16 U.S.C. 459c–5), is repealed.

(3) Section 3(b) of Public Law 87–750 (76 Stat. 747; 16 U.S.C. 398e(b)) is repealed.

(4) Section 4(e) of Public Law 92–589 (86 Stat. 1299; 16 U.S.C. 460bb–3), is amended by striking the first sentence.

(5) Section 6(j) of Public Law 95–348 (92 Stat. 487; 16 U.S.C. 410dd(j)) is repealed.

(6) Section 207 of Public Law 96–199 (94 Stat. 77; 16 U.S.C. 410ff–6) is repealed.

(7) Section 106 of Public Law 96–287 (94 Stat. 600; 16 U.S.C. 410gg–5) is amended by striking the last sentence.

(8) Section 204 of Public Law 96–287 (94 Stat. 601) is amended by striking the last sentence.

(9) Section 5 of Public Law 96–428 (94 Stat. 1843; 16 U.S.C. 461 note) is repealed.

(10) Public Law 100–55 (101 Stat. 371; U.S.C. 460l–6a note) is repealed.

SEC. 5301. CHALLENGE COST-SHARE AGREEMENTS.

The Secretary of the Interior is authorized to negotiate and enter into challenge cost-share agreements with any State or local government, public or private agency, organization, institution, corporation, individual, or other entity for the purpose of sharing costs or services in carrying out any authorized functions and responsibilities of the Secretary with respect to any unit of the National Park System (as defined in section 2(a) of the Act of August 8, 1953 (16 U.S.C. 1c(a)), any affiliated area, or designated National Scenic or Historic Trail.

SEC. 5302. COST RECOVERY FOR DAMAGE TO NATIONAL PARK RESOURCES.

(a) DEFINITION OF PARK SYSTEM RESOURCE.—Section 1 (d) of the National Park System Visitor Facilities

Fund Act (16 U.S.C. 19jj(d)) is amended to read as follows:

''(d) 'Park system resource' means any living or nonliving resource that is located within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.''.

(b) DEFINITION OF MARINE OR AQUATIC PARK SYSTEM RESOURCE.—Section 1 of the National Park System Visitor Facilities Fund Act (16 U.S.C. 19jj) is amended by adding at the end the following:

''(g) 'Marine or aquatic park system resource' means any living or non-living resource that is located within or is a living part of a marine or aquatic regimen within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.''.

(c) LIABILITY IN REM.—Section 2(b) of the National Park System Visitor Facilities Fund Act (16 U.S.C. 19jj–1(b)) is amended by striking ''any park'' and inserting ''any marine or aquatic park''.

SEC. 5303. SPECIAL ACCOUNT.

A special account is hereby established in the Treasury of the United States that shall be called the Park Renewal Fund (hereinafter referred to in this subtitle as ''the fund'').

SEC. 5304. COVERING OF FEES INTO PARK RENEWAL FUND.

Notwithstanding section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)), beginning in fiscal year 1996, there shall be deposited into the fund eighty percent of all revenues received from admission, recreation use, commercial tour use, and commercial/non-recreational use fees collected by units of the National Park System in excess of:

(1) $82,000,000 for fiscal year 1996;

(2) $85,000,000 for fiscal year 1997;

(3) $88,000,000 for fiscal year 1998;

(4) $91,000,000 for fiscal year 1999;

(5) $94,000,000 for fiscal year 2000;

(6) $97,000,000 for fiscal year 2001; and

(7) $100,000,000 for fiscal year 2002.

SEC. 5305. ALLOCATION AND USE OF FEES.

(a) ALLOCATION.—Beginning in fiscal year 1997, receipts in the fund from the previous fiscal year shall be available to the Secretary without further appropriation and shall be allocated as follows:

(1) Seventy-five percent shall be allocated among the units of the National Park System in the same proportion as admission, recreation use, commercial tour use and commercial/non-recreational use fees collected from a specific unit bears to the

total amount of such fees collected from all units of the National Park System for each fiscal year.

(2) Twenty-five percent shall be allocated among the units of the National Park System on the basis of need, as determined by the Secretary.

(b) USE.—Expenditures from the fund shall be used solely for infrastructure and operational needs by units of the National Park System. By January 1 of each year, the Secretary shall provide to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a list of proposed expenditures from the fund for each unit for that fiscal year and a report detailing expenditures, by unit, for the previous fiscal year.

Subtitle E—Water Projects

SEC. 5400. AUTHORIZATION FOR PREPAYMENT OF CONSTRUCTION CHARGES.

Subsection 213(a) of the Reclamation Reform Act of 1982 (96 Stat.1269, 43 U.S.C. 390mm(a)) is amended:

(a) By adding at the beginning:

''Notwithstanding any provision of Reclamation law or limitation contained in any repayment or water service contract, any person or district holding such a contract or receiving water under such a contract with the United States may prepay the construction costs referred to in

this section either through accelerated or lump sum payments. For the purposes of such prepayment only, the project to which such contract applies is declared to be complete and the Secretary shall determine the repayment obligations associated with the construction costs of the project facilities so that accelerated payments or a lump sum payment may be made. The amount of any prepayment shall be calculated by discounting the remaining payments due under a contract in accordance with the guidelines set forth in Circular A–129 issued by the Office of Management and Budget: *Provided,* That the discount shall be adjusted by any amounts necessary to compensate the Federal Government for the direct or indirect loss of future tax revenues if the individual or district plans to use federally tax-exempt financing for such prepayment.''.

(b) By deleting ''lands in a district'' and inserting: ''lands in a district, or lands owned or leased by a person''.

(c) By deleting ''obligation of a district'' and inserting: ''obligation of a district or a person''.

(d) By deleting ''enactment of this Act.'' and inserting: ''enactment of this Act or as otherwise provided for in this section. Any additional capital costs incurred after the date of such prepayment shall be recoverable as a separate obligation and shall not be considered to be a new or supplemental benefit for the purposes of this act nor

cause the full cost pricing limitation of this act or the ownership limitations contained in any provision of Federal reclamation law to apply to the lands to which such capital costs apply.''.

SEC. 5401. CONFORMING AMENDMENT.

Subsection 213(c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm(c)) is repealed.

SEC. 5410. HETCH HETCHY DAM.

Section 7 of the Act of December 13, 1913 (38 Stat. 242), is amended—

(1) By striking ''pay the sum of $30,000'' and all that follows in the first sentence and inserting ''pay an amount determined annually by the Secretary in accordance with the formula used by the Federal Energy Regulatory Commission for application to licenses of hydroelectric projects under the Federal Power Act (16 U.S.C. 791 et seq.), provided that, in no event shall such amount be less than $597,000.00. Said amount to be paid on the first day of July of each year.''.

(2) By amending the second and third sentences to read as follows: ''These funds shall be placed in a separate fund by the United States and, notwithstanding any other provision of law, shall not be available for obligation or expenditure until ap-

propriated by Congress. The highest priority use of the funds shall be for annual operation of Yosemite National Park, with the remainder of any funds to be used to fund operations of other national parks in the State of California.''.

SEC. 5420. COLLBRAN PROJECT.

(a) SHORT TITLE.—This section may be cited as the ''Collbran Project Unit Conveyance Act''.

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

(1) DISTRICTS.—The term ''Districts'' means the Ute Water Conservancy District and the Collbran Conservancy District (including their successors and assigns).

(2) FEDERAL RECLAMATION LAWS.—The term ''Federal reclamation laws'' means the Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto (32 Stat. 388, chapter 1093; 43 U.S.C. 371 et seq.) (including regulations adopted pursuant to those Acts).

(3) PROJECT.—The term ''Project'' means the Collbran Reclamation Project, as constructed and operated under the Act of July 3, 1952 (66 Stat. 325, chapter 565), including all property, equipment, and assets of or relating to the Project that are owned by the United States, including—

(A) Vega Dam and Reservoir (but not including recreation facilities owned by the United States or the State of Colorado);

(B) Leon-Park Dams and Feeder Canal;

(C) Southside Canal;

(D) East Fork Diversion Dam and Feeder Canal;

(E) Bonham-Cottonwood Pipeline;

(F) Snowcat Shed and Diesel Storage;

(G) Upper Molina Penstock and Power Plant;

(H) Lower Molina Penstock and Power Plant;

(I) the diversion structure in the tailrace of the Lower Molina Power Plant;

(J) all substations and switchyards;

(K) a perpetual, non-exclusive easement for the use of easements or rights-of-way owned by the United States on or across non-Federal lands which are necessary for access to Project facilities;

(L) a perpetual, non-exclusive easement on and across National Forest lands for access to existing Project facilities and access to and the operation, use repair, and replacement of the

existing storage reservoirs on the Grand Mesa which are operated as a part of the Project;

(M) title to lands reasonably necessary for all Project facilities except for those described in subparagraphs (3)(K) and (3)(L);

(N) all permits and contract rights;

(O) all equipment, parts inventories, and tools;

(P) all additions, replacements, betterments, and appurtenances to any of the above; and

(Q) a copy of all data, plans designs, reports, records, or other materials, whether in writing or in any form of electronic storage relating specifically to the Project.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(c) CONVEYANCE OF THE COLLBRAN PROJECT.—

(1) IN GENERAL.—The Secretary shall convey to the Districts all right, title, and interest of the United States in and to the Project, as described in this section, by quitclaim deed and bill of sale, without warranties, during the last quarter of fiscal year 2000, subject only to the requirements of this section: *Provided*, That such conveyance shall reserve to

the United States all minerals, including hydrocarbons, and a perpetual right of public access over, across, under, and to the portions of the Project which on the date of enactment of this Act were open to public use for purposes such as grazing, mineral development and logging: *And provided further,* That the United States may allow for the continued public use and enjoyment of such portions of the Project for recreational activities and other public uses conducted as of the date of enactment of this Act.

(2) PAYMENT.—

(A) IN GENERAL.—At the time of transfer, the Districts shall pay to the United States $12,900,000 ($12,300,000 of which represents the net present value of the outstanding repayment obligations of the Districts), of which—

(i) $12,300,000 shall be deposited in the general fund of the United States Treasury; and

(ii) $600,000 shall be deposited in a special account in the United States Treasury and shall be available to the United States Fish and Wildlife Service, region 6, without further appropriation, for use in

funding Colorado operations and capital expenditures associated with the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin.

(B) SOURCE OF FUNDS.—Funds for the payment to the extent of the amount specified in the paragraph (1)(A) shall not be derived from the issuance or sale, prior to the conveyance, of State or local bonds the interest on which is exempt from taxation under section 103 of the Internal Revenue Code of 1986 (26 U.S.C. 103).

(3) OPERATION OF PROJECT.—

(A) IN GENERAL.—The Project shall be operated and used by the Districts for a period of 40 years after the date of enactment of this section for the purposes for which the Project was authorized under the Act of July 3, 1952 (66 Stat. 325, chapter 565).

(B) REQUIREMENTS.—During the 40-year period described in paragraph (1)—

(i) the Districts shall annually submit to the Secretary a plan for operation of the Project, which plan shall—

(I) report on Project operations for the previous year;

(II) provide a description of the manner of Project operations anticipated for the forthcoming year; and

(III) certify that the Districts have operated and will operate and maintain the Project facilities in accordance with sound engineering practices; and

(ii) provide that, subject to subsection (d), all electric power generated by operation of the Project shall be made available to and be marketed by the Western Area Power Administration (including its successors and assigns).

(4) AGREEMENTS.—Conveyance of the Project shall be subject to the agreements between the United States and the State of Colorado dated August 22, 1994, and September 23, 1994, relating to the construction and operation of recreational facilities at Vega Reservoir, which agreements shall continue to be performed by the parties thereto according to the terms of the agreements.

(d) OPERATION.—

(1) CONFORMITY TO HISTORIC OPERATIONS.—The power component and facilities of the Project shall be operated in substantial conformity with the historic operations of the power component and facilities (including recent operations in a peaking mode).

(2) POWER MARKETING.—

(A) UNDER EXISTING AGREEMENTS.—The Districts shall be bound by the agreements between the Bureau of Reclamation and the Western Area Power Administration in existence on the date of enactment of this section, which provide for the marketing of power generated by the power component of the Project as part of the output of the Salt Lake City Area Integrated Projects under the Post 1989 Operating Criteria, until those agreements expire or are terminated.

(B) AFTER EXPIRATION OF EXISTING AGREEMENT.—

(i) After the agreements described in paragraph (1) expire or are terminated, the Districts shall offer all power produced by the power component of the Project to the Western Area Power Administration or

its successors or assigns (''Western''), which, in consultation with its affected preference customers, shall have the first right to purchase such power at the rates established in accordance with Subparagraph (ii) of this paragraph. If Western declines to purchase the power after consultation with its affected preference customers, such power shall then be offered at the same rates first to Western's preference customers located in the Salt Lake City Area Integrated Projects marketing area (''SLCAIP preference customers''). Thereafter, such power may be sold to any other party: *Provided, however,* That no such sale may occur at rates less than established in accordance with subparagraph (ii) of this paragraph unless such power is first offered at such lesser rate first to Western and then to its SLCAIP preference customers.

(ii) The rate for power initially offered to Western and its SLCAIP preference customers under this paragraph shall not

exceed that required to produce revenues sufficient to provide for

(I) annual debt service and/or recoupment of the cost of capital for the amount specified in subsection (c)(2) of this section, less the sum of $220,000 (which is the net present value of the outstanding repayment obligation of the Collbran Conservancy District), and

(II) the cost of operation, maintenance and replacement of the power component of the Project.

(iii) Such costs and rate shall be determined in a manner consistent with the current principles followed by the Secretary of the Interior and by Western in its annual power and repayment study.

(3) LICENSE.—The Districts are by this section granted a license under the Federal Power Act (16 U.S.C. 791a et seq.) for the operation of the Project in accordance with the requirement of subsection (c)(3) of this section, for a period of 40 years after the date of conveyance of the Project, after which

period the license may be renewed in accordance with applicable law.

(e) INAPPLICABILITY OF NEPA.—The conveyance of the Project does not constitute a major Federal action within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including any regulations issued under such Act.

(f) INAPPLICABILITY OF PRIOR AGREEMENTS AND OF FEDERAL RECLAMATION LAWS.—On conveyance of the Project to the Districts—

(1) the Repayment Contract dated May 27, 1957, as amended April 12, 1962, between the Collbran Conservancy District and the United States, and the Contract for use of Project facilities for Diversion of Water dated January 11, 1962, as amended November 10, 1977, between the Ute Water Conservancy District and the United States, shall be terminated and of no further force or effect; and

(2) the Project shall no longer be subject to or governed by the Federal reclamation laws.

(g) DISTRICTS' LIABILITY.—The Districts shall be liable for all acts or omissions relating to the operation and use of the Project that occur subsequent to the conveyance.

Subtitle F—Federal Oil and Gas Royalties

SEC. 5500. SHORT TITLE.

This subtitle may be cited as the ''Federal Oil and Gas Royalty Simplification and Fairness Act of 1995''.

SEC. 5501. DEFINITIONS.

Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by striking ''and'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting a semicolon, and by adding at the end the following:

''(17) 'adjustment' means an amendment to a previously filed report on an obligation, and any additional payment or credit, if any, applicable thereto, to rectify an underpayment or overpayment on a lease;

''(18) 'administrative proceeding' means any agency process in which a demand, decision or order issued by the Secretary is subject to appeal or has been appealed;

''(19) 'assessment' means any fee or charge levied or imposed by the Secretary or the United States other than—

"(A) the principal amount of any royalty, minimum royalty, rental, bonus, Net profit share or proceed of sale;

"(B) any interest; or

"(C) any civil or criminal penalty;

"(20) 'commence' means—

"(A) with respect to a judicial proceeding, the service of a complaint, petition, counterclaim, crossclaim, or other pleading seeking affirmative relief or seeking credit or recoupment; or

"(B) with respect to a demand, the receipt by the Secretary or a lessee of the demand;

"(21) 'credit' means the application of an overpayment (in whole or in part) against an obligation which has become due to discharge, cancel or reduce the obligation;

"(22) 'demand' means—

"(A) an order to pay issued by the Secretary; or

"(B) a separate written request by a lessee which asserts an obligation due the lessee, but does not mean any royalty or production report, or any information contained therein, required by the Secretary;

"(23) 'obligation' means—

"(A) any duty of the Secretary or the United States—

"(i) to take oil or gas royalty in kind; or

"(ii) to pay, refund, offset, or credit monies including but not limited to—

"(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale; or

"(II) any interest;

"(B) any duty of a lessee—

"(i) to deliver oil or gas royalty in kind; or

"(ii) to pay, offset or credit monies including but not limited to—

"(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

"(II) any interest;

"(III) any penalty; or

"(IV) any assessment,

which arises from or relates to any lease administered by the Secretary for, or any mineral leasing law related to, the exploration, production and development of oil or gas on Federal lands or the Outer Continental Shelf;

"(24) 'order to pay' means a written order issued by the Secretary or the United States which—

"(A) asserts a definite and quantified obligation due the Secretary or the United States; and

"(B) specifically identifies the obligation by lease, production month and amount of such obligation ordered to be paid, as well as the reason or reasons such obligation is claimed to be due, but such term does not include any other communication or action by or on behalf of the Secretary or the United States;

"(25) 'order to perform a restructured accounting' means a written order issued by the Secretary during a full and complete audit of a lessee to recalculate royalty due on an obligation based upon the Secretary's finding that the lessee has made identified underpayments or overpayments which are demonstrated by the Secretary to be based upon repeated, systemic reporting errors for a significant

number of leases for a significant number of reporting months with the same type of error which constitutes a pattern of violations and which are likely to result in either a significant underpayment or overpayment. The term 'order to perform a restructured accounting' shall not include any other communication or action by or on behalf of the Secretary or the United States;

''(26) 'overpayment' means any payment by a lessee in excess of an amount legally required to be paid on an obligation and includes the portion of any estimated payment for a production month that is in excess of the royalties due for that month;

''(27) 'payment' means satisfaction, in whole or in part, of an obligation due the Secretary or the United States;

''(28) 'penalty' means a statutorily authorized civil fine levied or imposed by the Secretary or the United States for a violation of this Act, any mineral leasing law, or a term or provision of a lease administered by the Secretary;

''(29) 'refund' means the return of an overpayment by the Secretary or the United States by the drawing of funds from the United States Treasury;

"(30) 'State concerned' means, with respect to a lease, a State which receives a portion of royalties under this Act from such lease;

"(31) 'underpayment' means any payment or nonpayment by a lessee that is less than the amount legally required to be paid on an obligation; and

"(32) 'United States' means the United States Government and any department, agency, or instrumentality thereof, and the several States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.".

SEC. 5502. LIMITATION PERIODS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 114 the following new section:

"SEC. 115. LIMITATION PERIODS AND AGENCY ACTIONS.

"(a) IN GENERAL.—A judicial proceeding or demand which arises from, or relates to an obligation, shall be commenced within six years from the date on which the obligation becomes due and if not so commenced shall be barred, except as otherwise provided by this section.

"(b) OBLIGATION BECOMES DUE.—

"(1) IN GENERAL.—For purposes of this Act, an obligation becomes due when the right to enforce the obligation is fixed.

"(2) ROYALTY OBLIGATIONS.—The right to enforce the royalty obligation for a production month for a lease is fixed for purposes of this Act on the last day of the calendar month following the month in which oil or gas is produced.

"(c) TOLLING LIMITATIONS PERIOD.—The running of the limitation period under subsection (a) shall not be suspended, tolled, extended, or enlarged for any obligation for any reason by any action, including an action by the Secretary or the United States, other than the following:

"(1) TOLLING AGREEMENT.—A written agreement executed during the limitation period between the Secretary and a lessee which tolls the limitation period for the amount of time during which the agreement is in effect.

"(2) SUBPOENA.—(A) The issuance of a subpoena in accordance with the provisions of section 107(c) shall toll the limitation period with respect to the obligation which is the subject of a subpoena only for the period beginning on the date the lessee receives the subpoena and ending on the date on which—

"(i) the lessee has produced such subpoenaed records for the subject obligation,

"(ii) the Secretary receives written notice that the subpoenaed records for the subject obligation are not in existence or are not in the lessee's possession or control, or

"(iii) a court has determined in a final decision that such records are not required to be produced, whichever occurs first.

"(B) If a State has been delegated authority pursuant to section 205 and pursuant to said delegation executes a cooperative agreement under section 202, the Secretary shall issue a subpoena hereunder upon the request of the highest ranking State official having ultimate authority over the collection of royalties on State owned lands.

"(3) FRAUD OR CONCEALMENT.—Any fraud or concealment by a lessee in an attempt to defeat or evade an obligation in which case the limitation period shall be tolled for the period of such fraud or such concealment.

"(4) TOLLING REQUEST.—A written tolling request from a lessee based upon the lessee's representation that the lessee's entitlement to an overpayment has not been finally determined. The limitation

period shall be tolled pursuant to this paragraph from the date the Secretary receives the tolling request until the earlier of the end of the requested period or 12 months after the date the Secretary receives the tolling request, but is subject to successive 12-month renewals by the lessee made prior to the expiration of the then applicable 12-month period. The tolling request shall be sufficient if it identifies—

"(A) the person who made the potential overpayment;

"(B) the leases and production months involved in the potential overpayment; and

"(C) the reasons the lessee believes that it may later be entitled to a refund of the overpayment.

"(5) ORDER TO PERFORM A RESTRUCTURED ACCOUNTING.—

"(A) The issuance of an order to perform a restructured accounting by the Secretary necessary for an audit. The limitation period under subsection (a) shall be tolled for the obligation which is the subject of the order only for the time period commencing on the date the lessee receives such order until—

"(i) 120 days after the Secretary has received written notice that the accounting (or other requirement) has been performed, or

"(ii) the issuance of a final decision that the lessee is not required to perform the accounting, whichever is earlier.

"(B) The Secretary is not precluded during a full and complete audit from issuing an order to perform a restructured accounting by the Secretary for a single lease upon a finding that the lessee has made identified underpayments or overpayments which are demonstrated to be based upon repeated, systemic reporting errors on that lease for a significant number of reporting months with the same type of error which constitutes a pattern of violations and which are likely to result in either a significant underpayment or overpayment. The power of the Secretary to issue an order to perform a restructured accounting may not be delegated below the most senior career professional position having responsibility for the royalty management program, which position is currently designated as the 'Associate Director for Roy-

alty Management'. An order to perform a restructured accounting shall—

"(i) be issued within a reasonable period of time from when the audit identifies the systemic, reporting errors;

"(ii) specify the reasons and factual bases for such order; and

"(iii) be specifically identified as an 'order to perform a restructured accounting'.

"(d) TERMINATION OF LIMITATIONS PERIOD.—The limitations period shall be terminated in the event—

"(1) the Secretary has notified the lessee in writing that a time period is closed to further audit; or

"(2) the Secretary and a lessee have so agreed in writing.

"(e) FINAL AGENCY ACTION.—

"(1) 3-YEAR PERIOD.—The Secretary shall issue a final decision in any administrative proceeding, including any administrative proceedings pending on the date of enactment of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1995, within three years from the date such proceeding was initiated or three years from the date of

such enactment, whichever is later. The three-year period may be extended by any period of time agreed upon in writing by the Secretary and the lessee.

"(2) EFFECT OF FAILURE TO ISSUE DECISION.—

"(A) IN GENERAL.—If no such decision has been issued by the Secretary within the three-year period referred to in paragraph (1)—

"(i) the Secretary shall be deemed to have issued and granted a decision in favor of the lessee or lessees as to any nonmonetary obligation and any monetary obligation the principal amount of which is less than $2,500; and

"(ii) the Secretary shall be deemed to have issued a final decision in favor of the Secretary, which decision shall be deemed to affirm those issues for which the agency rendered a decision prior to the end of such period, as to any monetary obligation the principal amount of which is $2,500 or more, and the lessee shall have a right to a de novo judicial review of such deemed final decision.

"(B) NO PRECEDENTIAL EFFECT ON OTHER PROCEEDINGS.—Deemed decisions under subparagraph (A) shall have no precedential effect in any judicial or administrative proceeding or for any other purpose.

"(f) ADMINISTRATIVE SETTLEMENT.—During the pendency of any administrative proceeding, the parties shall hold at least one settlement consultation for the purpose of discussing disputed matters between the parties. For purposes of settlement, the Secretary may waive interest required and may allow offsetting of obligations among leases. The Secretary and the State concerned shall seek to resolve disputes with a lessee in as expeditious a manner as possible, through settlement negotiations and other alternative dispute resolution processes methods. If any dispute involving an obligation due is not resolved by the end of the six-year period beginning on the date the obligation became due, the amount of interest otherwise payable with respect to the obligation shall accrue after such six-year period at the rate—

"(1) for purposes of section 111(h), reduced each year thereafter by two additional percentage points from the rate in effect under this subsection for the previous year (but not less than zero); and

"(2) for purposes of section 111(a), reduced each year thereafter by one additional percentage point from the rate in effect under this subsection for the previous year (but not less than zero).

"(g) LIMITATION ON CERTAIN ACTIONS BY THE UNITED STATES.—When an action on or enforcement of an obligation under the mineral leasing laws is barred under this section the United States or an officer or agency thereof may not take any other or further action regarding that obligation, including (but not limited to) the issuance of any order, request, demand or other communication seeking any document, accounting, determination, calculation, recalculation, payment, principal, interest, assessment, or penalty or the initiation, pursuit or completion of an audit with respect to that obligation.

"(h) JUDICIAL REVIEW.—In the event a demand subject to this section is timely commenced, a judicial proceeding challenging the final agency action with respect to such demand shall be deemed timely so long as such judicial proceeding is commenced within 180 days from receipt of notice by the lessee of the final agency action.

"(i) IMPLEMENTATION OF FINAL DECISION.—In the event a judicial proceeding or demand subject to this section is timely commenced and thereafter the limitation period in this section lapses during the pendency of such

proceeding, any party to such proceeding shall not be barred from taking such action as is required or necessary to implement a final unappealable judicial or administrative decision, including any action required or necessary to implement such decision by the recovery or recoupment of an underpayment or overpayment by means of refund or credit.

"(j) STAY OF PAYMENT OBLIGATION PENDING REVIEW.—Any party ordered by the Secretary or the United States to pay any obligation (other than an assessment) shall be entitled to a stay of such payment without bond or other surety instrument pending an administrative or judicial proceeding if the party periodically demonstrates to the satisfaction of the Secretary that such party is financially solvent or otherwise able to pay the obligation. In the event the party is not able to so demonstrate, the Secretary may require a bond or other surety instrument satisfactory to cover the obligation. Any party ordered by the Secretary to pay an assessment shall be entitled to a stay without bond or other surety instrument.

"(k) INAPPLICABILITY OF THE OTHER STATUTES OF LIMITATION.—The limitations set forth in sections 2401, 2415, 2416, and 2462 of title 28, United States Code, and section 42 of the Mineral Leasing Act (30 U.S.C.

226–2) shall not apply to any obligation to which this Act applies.''.

(b) SUBPOENA.—Section 107 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1717) is amended by adding at the end the following:

''(c) RULES REGARDING ISSUANCE OF SUBPOENA RELATING TO REPORTING AND PAYMENT OF AN OBLIGATION DUE.—

''(1) IN GENERAL.—A subpoena which requires a lessee to produce records necessary to determine the proper reporting and payment of an obligation due the Secretary may be issued under this section only by the Solicitor, an Assistant Secretary of the Interior, or an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated.

''(2) PRIOR WRITTEN REQUEST REQUIRED.—A subpoena described in paragraph (1) may only be issued against a lessee during the limitation period provided in section 115 and only after the Secretary has in writing requested the records from the lessee related to the obligation which is the subject of the subpoena and has determined that—

"(A) the lessee has failed to respond within a reasonable period of time to the Secretary's written request for such records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's responsibilities under this Act;

"(B) the lessee has in writing denied the Secretary's written request to produce such records in the lessee's possession or control necessary for an audit, investigation or other inquiry made in accordance with the Secretary's responsibilities under this Act; or

"(C) the lessee has unreasonably delayed in producing records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's responsibilities under this Act after the Secretary's written request.

"(3) REASONABLE PERIOD FOR COMPLIANCE WITH WRITTEN REQUEST.—In seeking records, the Secretary shall afford the lessee a reasonable period of time after a written request by the Secretary in which to provide such records prior to the issuance of any subpoena.".

(c) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by

adding after the item relating to section 114 the following new item:

"Sec. 115. Limitation periods and agency actions.".

SEC. 5503. ADJUSTMENT AND REFUNDS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 111 the following new section:

"SEC. 111A. ADJUSTMENTS AND REFUNDS.

"(a) ADJUSTMENTS.—

"(1) If, during the adjustment period, a lessee determines that an adjustment or refund request is necessary to correct an underpayment or overpayment of an obligation, the lessee shall make such adjustment or request a refund within a reasonable period of time and only during the adjustment period. Any such adjustment shall not require prior notice to or approval of the Secretary.

"(2)(A) For any adjustment, the lessee shall calculate and report the interest due attributable to such adjustment at the same time the lessee adjusts the principal amount of the subject obligation, except as provided by subparagraph (B).

"(B) In the case of a lessee on whom the Secretary determines that subparagraph (A) would impose a hardship, the Secretary shall calculate the in-

terest due and notify the lessee within a reasonable time of the amount of interest due, unless such lessee elects to calculate and report interest in accordance with subparagraph (A).

"(3) An adjustment or a request for a refund for an obligation may be made after the adjustment period only upon written notice to and approval by the Secretary during an audit of the period which includes the production month for which the adjustment is being made. If an overpayment is identified during an audit, then the Secretary shall allow a credit or refund in the amount of the overpayment.

"(4) For purposes of this section, the adjustment period for any obligation shall be the five-year period following the date on which an obligation became due. The adjustment period shall be suspended, tolled, extended, enlarged, or terminated by the same actions as the limitation period in section 115.

"(b) REFUNDS.—

"(1) IN GENERAL.—A request for refund is sufficient if it—

"(A) is made in writing to the Secretary and, for purposes of section 115, is specifically identified as a demand;

"(B) identifies the person entitled to such refund;

"(C) provides the Secretary information that reasonably enables the Secretary to identify the overpayment for which such refund is sought; and

"(D) provides the reasons why the payment was an overpayment.

"(2) PAYMENT BY SECRETARY OF THE TREASURY.—The Secretary shall certify the amount of the refund to be paid under paragraph (1) to the Secretary of the Treasury who shall make such refund. Such refund shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such refund attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any recipient prescribed by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent

disbursements shall be credited to miscellaneous receipts in the Treasury.

"(3) PAYMENT PERIOD.—A refund under this subsection shall be paid or denied (with an explanation of the reasons for the denial) within 120 days of the date on which the request for refund is received by the Secretary. Such refund shall be subject to later audit by the Secretary and subject to the provisions of this Act.

"(4) PROHIBITION AGAINST REDUCTION OF REFUNDS OR CREDITS.—In no event shall the Secretary directly or indirectly claim any amount or amounts against, or reduce any refund or credit (or interest accrued thereon) by the amount of any obligation the enforcement of which is barred by section 115.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of Act (30 U.S.C. 1701) is amended by adding after the item relating to section 111 the following new item:

"Sec. 111A. Adjustments and refunds.".

SEC. 5504. REQUIRED RECORDKEEPING.

Section 103 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1713(b)) is amended by adding at the end the following:

"(c) records required by the Secretary for the purpose of determining compliance with any applicable mineral leasing law, lease provision, regulation or order with respect to oil and gas leases from Federal lands or the Outer Continental Shelf shall be maintained for the same period of time during which a judicial proceeding or demand may be commenced under section 115(a). If a judicial proceeding or demand is timely commenced, the record holder shall maintain such records until the final nonappealable decision in such judicial proceeding is made, or with respect to that demand is rendered, unless the Secretary authorizes in writing an earlier release of the requirement to maintain such records. Notwithstanding anything herein to the contrary, under no circumstance shall a record holder be required to maintain or produce any record relating to an obligation for any time period which is barred by the applicable limitation in section 115.".

SEC. 5505. ROYALTY INTEREST, PENALTIES, AND PAYMENTS.

(a) PERIOD.—Section 111(f) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721(f)) is amended to read as follows:

"(f) The Secretary may waive or forego such interest in whole or in part. Interest shall be charged under this section only for the number of days a payment is late.".

(b) LESSEE INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding after subsection (g) the following:

''(h) Interest shall be allowed and the Secretary shall pay or credit such interest on any overpayment, with such interest to accrue from the date such overpayment was made, at the rate applicable under section 6621(a)(2) of the Internal Revenue Code of 1986. Interest which has accrued on any overpayment may be applied to reduce an underpayment. This subsection applies to overpayments made later than six months after the date of enactment of this subsection or September 1, 1996, whichever is later. Such interest shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act, and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such interest payment attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any other recipient designated by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subse-

quent disbursements shall be credited to miscellaneous receipts in the Treasury.''.

(c) LIMITATION ON INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management Act, as amended by subsection (b) of this Act, is further amended by adding at the end the following:

''(i) Upon a determination by the Secretary that an excessive overpayment (based upon all obligations of a lessee for a given reporting month) was made for the sole purpose of receiving interest, interest shall not be paid on the excessive amount of such overpayment. For purposes of this Act, an 'excessive overpayment' shall be the amount that any overpayment a lessee pays for a given reporting month (excluding payments for demands for obligations as a result of judicial or administrative proceedings for settlement agreements and for other similar payments) for the aggregate of all of its Federal leases exceeds 25 percent of the total royalties paid that month for those leases.''.

(d) ESTIMATED PAYMENT.—Section 111 of the Federal Oil and Gas Royalty Management Act, as amended by subsections (b) and (c) of this Act, is further amended by adding at the end the following:

''(j) A lessee may make a payment for the approximate amount of royalties (hereinafter in this subsection

"estimated payment') that would otherwise be due to the Secretary for such lease to avoid underpayment or nonpayment interest charges. When an estimated payment is made, actual royalties become due at the end of the month following the period covered by the estimated payment. If the lessee makes a payment for such actual royalties, the lessee may apply the estimated payment to future royalties. Any estimated payment may be adjusted, recouped, or reinstated at any time by the lessee.".

(e) VOLUME ALLOCATION OF OIL AND GAS PRODUCTION.—Section 111 of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1721), as amended by subsections (b) through (d) of this Act, is amended by adding at the end the following:

"(k)(1) Except as otherwise provided by this subsection—

"(A) a lessee of a lease in a unit or communitization agreement which contains only Federal leases with the same royalty rate and funds distribution must report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee;

"(B) a lessee of a lease in any other unit or communitization agreement must report and pay

royalties on oil and gas production for each production month based on the volume of oil and gas produced from such agreement and allocated to the lease in accordance with the terms of the agreement; and

"(C) a lessee of a lease that is not contained in a unit or communitization agreement must report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee.

"(2) This subsection applies only to requirements for reporting and paying royalties. Nothing in this subsection is intended to alter a lessee's liability for royalties on oil or gas production based on the share of production allocated to the lease in accordance with the terms of the lease, a unit or communitization agreement, or any other agreement.

"(3) For any unit or communitization agreement, if all lessees contractually agree to an alternative method of royalty reporting and payment, the lessees may submit such alternative method to the Secretary for approval and make payments in accordance with such approved alternative method so long as such alternative method does not reduce the amount of the royalty obligation.

"(4) The Secretary shall grant an exception from the reporting and payment requirements for marginal properties by allowing for any calendar year or portion thereof royalties to be paid each month based on the volume of production sold. Interest shall not accrue on the difference for the entire calendar year or portion thereof between the amount of oil and gas actually sold and the share of production allocated to the lease until the beginning of the month following calendar year or portion thereof. Any additional royalties due or overpaid royalties and associated interest shall be paid, refunded, or credited within six months after the end of each calendar year in which royalties are paid based on volumes of production sold. For the purpose of this subsection, the term "marginal property' means a lease that produces on average the combined equivalent of less than 15 barrels of oil per day or 90 thousand cubic feet of gas per day, or a combination thereof, determined by dividing the average daily production of domestic crude oil and domestic natural gas from producing wells on such lease by the number of such wells, unless the Secretary, together with the State concerned, determines that an amount which is a nonsubstantive variation thereof is more appropriate.

"(5) Not later than two years after the date of the enactment of this subsection, the Secretary shall issue any

appropriate demand for all outstanding royalty payment disputes regarding who is required to report and pay royalties on production from units and communitization agreements outstanding on the date of the enactment of this subsection, and collect royalty amounts owed on such production.''.

(f) PRODUCTION ALLOCATION.—Section 111 of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1721), as amended by subsections (b) through (e) of this Act, is further amended by adding at the end the following:

''(l) The Secretary shall issue all determinations of allocations of production for units and communitization agreements within 120 days of a request for determination. If the Secretary fails to issue a determination within such 120-day period, the Secretary shall waive interest due on obligations subject to the determination until the end of the month following the month in which the determination is made.''.

SEC. 5506. LIMITATION ON ASSESSMENTS.

Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by section 5505 of this Act, is further amended by adding at the end the following:

"(l)(1) After the date of enactment of this subsection, the Secretary shall not impose any assessment for any late payment or underpayment. After the date of enactment of this subsection, the Secretary may impose an assessment only for erroneous reports submitted by lessees subject to the limitations of paragraph (2). Nothing in this section shall prohibit the Secretary from imposing penalties or interest under other sections of this Act for late payments or underpayments.

"(2) No assessment for erroneous reports shall be imposed for 18 months following the date of enactment of this subsection, or until the Secretary issues a final rule which provides for imposition of an assessment only on a lessee who chronically submits erroneous reports and which establishes what constitutes chronic errors for a lessee, whichever is later. However, if the Secretary determines during that 18-month period that the reporting error rate for all reporters for all Federal leases has increased by one-third for three consecutive report months for either production reporting or royalty reporting over the 12 months preceding the date of enactment of this subsection, the Secretary may impose an assessment for erroneous reports only for the increased category of report under regulations in effect on the date of enactment of this subsection.".

SEC. 5507. ALTERNATIVES FOR MARGINAL PROPERTIES.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), as amended by section 5502 of this Act, is further amended by adding at the end the following:

"SEC. 116. ALTERNATIVES FOR MARGINAL PROPERTIES.

"(a) SELLING REVENUE STREAM.—

"(1) IN GENERAL.—Notwithstanding the provisions of any lease to the contrary, upon request of the lessee and a State under section 205(g), the Secretary shall authorize a lessee for a marginal property and for a lease, the administration of which is not cost-effective for the Secretary to administer, to make a prepayment in lieu of royalty payments under the lease for the remainder of the lease term. For the purposes of this section, the term 'marginal property' has the same meaning given such term in section 111(k)(4), unless the Secretary, together with each State in which such marginal production occurs, determines otherwise to better achieve the purpose of this section.

"(2) MARGINAL PROPERTIES.—For marginal properties, prepayments under paragraph (1) shall begin—

"(A) in the case of those properties producing on average $500 or less per month in

total royalties to the United States, two years after the date of the enactment of this section;

"(B) in the case of those properties producing on average more than $500 but $1,000 or less per month in total royalties to the United States, three years after the date of the enactment of this section;

"(C) in the case of those properties producing on average more than $1,000 but $1,500 or less per month in total royalties to the United States, four years after the date of the enactment of this section; and

"(D) in the case of those properties not described in subparagraphs (A) through (C), five years after the date of the enactment of this section.

"(3) ADMINISTRATION NOT COST-EFFECTIVE.—For a lease, the administration of which is not cost-effective for the Secretary to administer, prepayments under paragraph (1) shall begin on the date of the enactment of this section.

"(4) SATISFACTION OF ROYALTY OBLIGATION.—A lessee who makes a prepayment under this section shall have satisfied in full its obligation to pay royalty on production from the lease or a por-

tion of a lease and shall not be required to submit any royalty reports to the Secretary. The prepayment shall be shared by the Secretary with any State or other recipient to the same extent as any royalty payment for such lease.

"(5) VALUATION.—The prepayment authorized under this section shall only occur if the Secretary, the State concerned, and the lessee determine that such prepayment is based on the present value of the projected remaining royalties from the production from the lease, based on appropriate nominal discount rate for a comparable term, as provided in Office of Management and Budget Circular A–94.

"(b) ALTERNATIVE ACCOUNTING AND ALTERNATIVE ACCOUNTING AND AUDITING REQUIREMENTS.—

"(1) IN GENERAL.—Within one year after the date of the enactment of this section, for the marginal properties referenced in subsection (a)(1), the Secretary shall provide accounting, reporting, and auditing relief that will encourage lessees to continue to produce and develop such properties: *Provided,* That such relief will only be available to lessees in a State that concurs.

"(2) PAYMENT DATE.—For leases subject to this section, the Secretary may allow royalties to be paid later than the time specified in the lease.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1701) is amended by adding after the item relating to section 115 the following new item:

"Sec. 116. Alternatives for marginal properties.".

SEC. 5508. NOTICE REQUIREMENT.

Section 23(a)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1349(a)(2)) is amended to read as follows:

"(2) Except as provided in paragraph (3) of this subsection, no action may be commenced under subsection (a)(1) of this section if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States with respect to such matter, but in any such action in a court of the United States any person having a legal interest which is or may be adversely affected may intervene as a matter of right.".

SEC. 5509. ROYALTY IN KIND.

(a) IN GENERAL.—

(1) OCS.—Section 27(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(1)) is amended by adding at the end the following:

"Any royalty or net profit share of oil or gas accruing to the United States under any such lease, at the Secretary's option, may be taken in kind at or near the lease (unless the lease expressly provides for delivery at a different location) upon prior written notice given reasonably in advance by the Secretary to the lessee. Once the United States has commenced taking royalty in kind, it shall continue to do so until a reasonable time after the Secretary has provided written notice reasonably in advance to the lessee that it will resume taking royalty in value. Delivery of royalty in kind by the lessee shall satisfy in full the lessee's royalty obligation. Once the oil or gas is delivered, the lessee shall not be subject to the reporting and recordkeeping requirements under section 103 for its share of oil and gas production other than records necessary to verify the quantity of oil or gas delivered.".

(2) ONSHORE.—Section 36 of the Mineral Leasing Act (30 U.S.C. 192) is amended by adding at the end the following paragraph:

"Notwithstanding the provisions of the previous paragraph, any royalty or net profit share of oil or gas accruing to the United States under any lease issued or maintained by the Secretary for the exploration, production and development of oil and gas on Federal lands, at the Secretary's option, may be

taken in kind at or near the lease (unless the lease expressly provides for delivery at a different location) after prior written notice given reasonably in advance by the Secretary to the lessee. Once the United States has commenced taking royalty in kind, it shall continue to do so until a reasonable time after the Secretary has provided written notice reasonably in advance to the lessee that it will resume taking royalty in value. Delivery of royalty in kind by the lessee shall satisfy in full the lessee's royalty obligation. Once the oil or gas is delivered, the lessee shall not be subject to the reporting and recordkeeping requirements under section 103 for its share of oil and gas production other than records necessary to verify the quantity of oil or gas delivered.''.

(b) SALE.—Sections 27 (b)(1) and (c)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(c)(1)) are each amended by striking ''competitive bidding for not more than its regulated price, or if no regulated price applies, not less than its fair market value'' and inserting ''competitive bidding or private sale''.

SEC. 5510. ROYALTY SIMPLIFICATION AND COST-EFFECTIVE AUDIT AND COLLECTION REQUIREMENTS.

Section 101 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1711) is amended by adding at the end the following:

''(d)(1) For the purpose of reducing costs and increasing net royalties to the United States and the States, the Secretary, in consultation with States concerned, shall, within one year after the date of the enactment of this subsection, streamline and simplify current royalty management requirements and practices, including royalty reporting, instructions, audits and collections. This streamlining and simplification shall specifically include—

''(A) elimination of all unnecessary royalty and production reports;

''(B) modification and simplification of remaining reports and associated instructions to eliminate redundant or unnecessary reports and information that are provided or can be obtained from other required reports, forms, computer databases or government agencies;

''(C) elimination or modifications of accounting, reporting, audit and collection requirements that are not cost-effective, particularly those associated with de minimis monetary amounts;

"(D) implementation of specific recommendations and comments contained in Secretarial sponsored teams, rulemakings, and studies or those participated in by the Secretary to the extent these recommendations simplify and streamline royalty management requirements without adversely affecting the Secretary's ability to meet obligations under this Act or other mineral leasing statutes; and

"(E) recommendations and comments submitted by interested parties to the extent these recommendations and comments simplify and streamline royalty management requirements without adversely affecting the Secretary's ability to meet obligations under this Act or other mineral leasing statutes.

"(2) The Secretary shall submit to the Congress a progress report on the implementation of this section within six months from date of enactment of this Act, and a final report within 12 months from date of enactment of this Act. These reports shall include—

"(A) a description of the extent to which the Secretary has implemented the requirements in paragraph (1), including a list of specific initiatives implemented;

"(B) a list and description of additional initiatives identified by the Secretary to simplify and streamline royalty management requirements and practices; and

"(C) cost savings of implemented initiatives including impact on net-receipts sharing for States.

"(3) If the Secretary and the State concerned determines that the cost of accounting and auditing for and collecting of any obligation due for any oil and gas production exceeds the amount of the obligation to be collected, the Secretary shall waive such obligation.

"(4) The Secretary and the State concerned shall not perform accounting, reporting, or audit activities if the Secretary and the State concerned determines that the cost of conducting the activity exceeds the expected amount to be collected by the activity.

"(5) The Secretary and the State concerned shall develop a lease level reporting and audit strategy which eliminates multiple or redundant reporting of information.".

SEC. 5511. REPEALS.

(a) FOGRMA.—Section 307 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1755), is repealed. Section 1 of such Act (relating to the table

of contents) is amended by striking out the item relating to section 307.

(b) OCSLA.—Effective on the date of the enactment of this Act, section 10 of the Outer Continental Shelf Lands Act (43 U.S.C. 1339) is repealed.

SEC. 5512. DELEGATION TO STATES.

(a) GENERAL AUTHORITY.—Section 205(a) of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1735(a)) is amended to read as follows:

''(a) Upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this Act to conduct inspections, such production and royalty accounting duties and responsibilities as the Secretary determines are legally delegable, all audit coverage, and investigations to any State with respect to all Federal lands within the State.''.

(b) STANDARDIZED REPORTING.—Section 205(b) of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1735(b)) is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the comma at the end of paragraph (3) and inserting ''; and''; and

(3) by inserting after paragraph (3) the following:

''(4) the State agrees to adopt Federal standardized reporting for Federal royalty accounting and collection purposes,''.

(c) COST-EFFECTIVE COLLECTION OF DE MINIMUS ROYALTY AMOUNTS.—Section 205 of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1735) is amended by adding at the end the following:

''(g) Upon written request of any State, the Secretary is authorized to delegate for any year the responsibility to collect royalties from all Federal leases within the State if the average amount per year of mineral revenues received by the State on all such leases under all Federal mineral leasing laws for the previous five years is less than $100,000. The State may also request that the Secretary sell the revenue stream from all or part of the Federal leases within the State in accordance with section 116 of the Federal Oil and Gas Royalty Management Act of 1982, as added by section 5507 of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1995.''.

SEC. 5513. PERFORMANCE STANDARD.

Section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719) is amended in subsections (c) and (d), by striking ''knowingly or willfully''

and inserting ''by willful misconduct or gross negligence'' each place it appears.

SEC. 5514. INDIAN LANDS.

The amendments made by this subtitle shall not apply with respect to Indian lands, and the provisions of the Federal Oil and Gas Royalty Management Act of 1982 as in effect on the day before the date of enactment of this Act shall continue to apply after such date with respect to Indian lands. The provisions of the Federal Oil and Gas Royalty Management Act of 1982, as amended by this subtitle, shall apply as of the date of enactment with respect to Federal lands and the Outer Continental Shelf.

SEC. 5515. PRIVATE LANDS.

This subtitle shall not apply to any privately owned minerals.

SEC. 5516. EFFECTIVE DATE.

Except as provided by section 115(e), section 111(h), section 111(k)(5), and section 116 of the Federal Oil and Gas Royalty Management Act of 1982 (as added by this subtitle), this subtitle, and the amendments made by this subtitle, shall apply with respect to the production of oil and gas after the first day of the month following the date of the enactment of this Act.

Subtitle G—Department of Energy

SEC. 5600. SALE OF DOE ASSETS.

(a) IN GENERAL.—

(1) In order to maximize the use of Department of Energy assets and to reduce overhead and other costs related to asset management at the Department's facilities and laboratories, the Secretary of Energy shall conduct an asset management and disposition program that will result in no less than $225 million in receipts and savings by October 1, 2000.

(2) The program shall include an inventory of assets in the care of the Department and its contractors; the recovery, reuse, and stewardship of assets; and disposition of a minimum of 1,139,000,000 pounds of fuel, 136,000 tons of chemicals and industrial gases, 557,000 tons of scrap metal, 14,000 radiation sources, 17,000 pieces of major equipment, 11,000 pounds of precious metals (not including the Research Materials Collection), and 91,000,000 pounds of base metals.

(b) EXEMPTIONS.—The disposition of assets under this section is not subject to sections 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. secs. 483 and 484) or section 13 of the Surplus

Property Act of 1944 (50 U.S.C. App. sec. 1622). In order to avoid market disruptions, the Secretary shall consult with appropriate executive agencies with respect to dispositions under this section.

(c) DISPOSITION OF PROCEEDS.—After deduction of administrative costs of disposition under this section not to exceed $7 million per year, the remainder of the proceeds from dispositions under this section shall be returned to the Treasury as miscellaneous receipts. There shall be established a new receipt account in the Treasury for proceeds of asset sales under this section.

SEC. 5651. WEEKS ISLAND.

Notwithstanding section 161 of the Energy Policy and Conservation Act, the Secretary of Energy shall draw down and sell 32 million barrels of oil contained in the Weeks Island Strategic Petroleum Reserve Facility.

SEC. 5652. LEASE OF EXCESS SPRO CAPACITY.

The Energy Policy and Conservation Act (42 U.S.C. 6201 to 6422) is amended by adding the following new section after section 167:

"SEC. 168. USE OF UNDERUTILIZED FACILITIES.

''(a) Notwithstanding any other provision of this title, the Secretary, by lease or otherwise, for any term and under such other conditions as the Secretary considers necessary or appropriate, may store in underutilized Stra-

tegic Petroleum Reserve facilities petroleum product owned by a foreign government or its representative.

''(b) Petroleum product stored under this section is not part of the Reserve and may be exported from the United States.''.

''(c) Beginning in fiscal year 2001 and in each fiscal year thereafter, 50 percent of the funds resulting from the leasing of Strategic Petroleum Reserve facilities authorized by subsection (a) shall be available to the Secretary of Energy without further appropriation for the purchase of oil for the Strategic Petroleum Reserve.''.

Subtitle H—Mining

SEC. 5700. SHORT TITLE.

This subtitle may be cited as ''The Mining Law Revenue Act of 1995''.

SEC. 5701. DEFINITIONS.

When used in this subtitle:

(1) ''Assessment year'' means the annual period commencing at 12 o'clock noon on the 1st day of September and ending at 12 o'clock noon on the 1st day of September of the following year.

(2) ''Federal lands'' means lands and interests in lands owned by the United States that are open to mineral location, or that were open to mineral location when a mining claim or site was located and

which have not been patented under the general mining laws.

(3) ''General mining laws'' means those Acts which generally comprise chapters 2, 11, 12, 12A, 15, and 16, and sections 161 and 162, of Title 30 of the United States Code, all Acts heretofore enacted which are amendatory of or supplementary to any of the foregoing Acts, and the judicial and administrative decisions interpreting such Acts.

(4) ''Locatable minerals'' means those minerals owned by the United States and subject to location and disposition under the general mining laws on or after the effective date of this Subtitle, but not including any mineral held in trust by the United States for any Indian or Indian tribe, as defined in section 2 of the Indian Mineral Development Act of 1982 (25 U.S.C. 2101), or any mineral owned by any Indian or Indian tribe, as defined in that section, that is subject to a restriction against alienation imposed by the United States, or any mineral owned by any incorporated Native group, village corporation, or regional corporation and acquired by the group or corporation under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(5) ''Mineral activities'' means any activity on Federal lands related to, or incidental to, exploration for or development, mining, production, beneficiation, or processing of any locatable mineral, or reclamation of the impacts of such activities.

(6) ''Mining claim or site'', except where provided otherwise, means a lode mining claim, placer mining claim, mill site or tunnel site.

(7) ''Operator'' means any person conducting mineral activities subject to this Subtitle.

(8) ''Person'' means an individual, Indian tribe, partnership, association, society, joint venture, joint stock company, firm, company, limited liability company, corporation, cooperative or other organization, and any instrumentality of State or local government, including any publicly owned utility or publicly owned corporation of State or local government.

(9) ''Processing and treatment cost'' means any activity following mining including but not limited to, crushing, milling, leaching, flotation, grinding, solvent extraction, electrolytic deposition, roasting, calcining thermal or electric smelting, refining, treatment effecting a chemical change, or product fabrication. Direct and indirect cost such as maintenance, depreciation, environmental, labor and

consumable cost associated with these activities shall be included in this definition.

(10) ''Secretary'' means the Secretary of the Interior.

SEC. 5702. CLAIM MAINTENANCE REQUIREMENTS.

(a) MAINTENANCE FEE.—After the date of enactment of this Subtitle, the owner of each unpatented mining claim or site located pursuant to the general mining laws, whether located before or after the enactment of this Subtitle, shall pay in advance to the Secretary annually on or before September 1, and until a patent has been issued therefor, a maintenance fee of $100 per mining claim or site. The owner of each unpatented mining claim or site located after the date of enactment of this Subtitle pursuant to the general mining laws shall pay to the Secretary, at the time the copy of the notice or certificate of location is filed with the Bureau of Land Management pursuant to section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), in addition to the location fee required under subsection (c) of this section, an initial maintenance fee of $100 per mining claim or site for the assessment year which includes the date of location of such mining claim or site. If a mining claim or site is located within 90 days before September 1 and the copy of the notice or certificate of location is

timely filed with the Bureau of Land Management under subsection 314(b) of the Federal Land Policy and Management Act of 1976 after September 1, the annual maintenance fee payable under the first sentence of this subsection shall be paid at the time such notice or certificate of location is filed, in addition to the location fee and the initial $100 maintenance fee. No maintenance fee shall be required if the fee is waived or the owner of the mining claim or site is exempt as provided in section 5703 of this Subtitle.

(b) MAINTENANCE FEE STATEMENT.—Each payment under subsection (a) of this section shall be accompanied by a statement which reasonably identifies the mining claim or site for which the maintenance fee is being paid. Such statement may include the name of the mining claim or site, the serial number assigned by the Secretary to such mining claim or site, the description of the book and page in which the notice or certificate of location for such mining claim or site is recorded under State law, any combination of the foregoing, or any other information that reasonably identifies the mining claim or site for which the maintenance fee is being paid. The statement required under this subsection shall be in lieu of any annual filing requirements for mining claims or sites, under

any other Federal law, but shall not supersede any such filing requirement under applicable State law.

(c) LOCATION FEE.—The owner of each unpatented mining claim or site located on or after the date of enactment of this Subtitle pursuant to the general mining laws shall pay to the Secretary, at the time the notice or certificate of location is filed with the Bureau of Land Management pursuant to subsection 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), a location fee of $25.00 per claim.

(d) CREDIT AGAINST ROYALTY.—The annual claim maintenance fee paid for any unpatented mining claim or site on or before September 1 of any year shall be credited against the amount of royalty required to be paid under Section 5705 for such mining claim or site during the following assessment year.

(e) FAILURE TO COMPLY.—The failure of the owner of the mining claim or site to pay the claim maintenance fee or location fee for a mining claim or site on or before the date such payment is due under subsection (a) or subsection (c) of this section shall constitute forfeiture of the mining claim or site and such mining claim or site shall be null and void, effective as of the day after the date such payment is due: *Provided, however*, That, if such maintenance fee or location fee is paid or tendered on or

before the 30th day after such payment was due under subsection (a) or subsection (c) of this section, such mining claim or site shall not be forfeited or null or void, and such maintenance fee or location fee shall be deemed timely paid.

(f) REPEAL OF OMNIBUS BUDGET RECONCILIATION ACT FEE REQUIREMENTS.—Sections 10101 through 10106 of the Omnibus Budget Reconciliation Act of 1993 (30 U.S.C. 28f through 28k) are hereby repealed.

(g) AMENDMENT OF FLPMA FILING REQUIREMENTS.—Section 314 (a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744 (a)) is hereby repealed.

SEC. 5703. WAIVER AND EXEMPTION.

(a) WAIVER OF FEE.—The maintenance fee provided for in subsection 5702(a) shall be waived for the owner of a mining claim or site who certifies in writing to the Secretary, on or before the date the payment is due, that, as of the date such payment is due, such owner and all related persons own not more than twenty-five unpatented mining claims or sites. Any owner of a mining claim or site that is not required to pay a maintenance fee under this subsection shall continue to be subject to the assessment work requirements of the general mining laws or of any other State or Federal law, subject to any suspension

or deferment of annual assessment work provided by law, for the assessment year following the filing of the certification required by this subsection.

(b) RELATED PERSONS.—As used in subsection (a), the term ''related persons'' includes—

(1) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the owner of the mining claim or site; and

(2) a person controlled by, controlling, or under common control with the owner of the mining claim or site.

(c) EXEMPTION.—The owner of any mining claim or site who certifies in writing to the Secretary on or before the first day of any assessment year that access to such mining claim or site was denied or impeded during the prior assessment year by the action or inaction of any local, State, or Federal Governmental officer, agency, or court, or by any Indian tribal authority, shall be exempt from the maintenance fee requirement of subsection (a) of section 5702 for the assessment year following the filing of the certification.

SEC. 5704. PATENTS.

(a) IN GENERAL.—Except as provided in subsection (c), any patent issued by the United States under the gen-

eral mining laws after the date of enactment of this Subtitle shall be issued only—

(1) upon payment by the owner of the claim of the fair market value for the interest in the land owned by the United States exclusive of and without regard to the mineral deposits in the land or the use of the land for mineral activities; and

(2) subject to reservation by the United States of the royalty provided in section 5705.

(b) RIGHT OF REENTRY.—

(1) Except as provided in subsection 5704(c), and notwithstanding any other provision of law, a patent issued pursuant to this section shall be subject to a right of reentry by the United States if the patented estate is used by the patentee for any purpose other than for conducting mineral activities in good faith and such unauthorized use is not discontinued as provided in this subsection.

(2) If the surface of the patented estate is used by the patentee, or any subsequent owners, for any purpose other than for conducting mineral activities in good faith, the Secretary shall serve on all owners of interests in such patented estate, in the manner prescribed for service of a summons and complaint under the Federal Rules of Civil Procedure, notice

specifying such unauthorized use and providing not more than 90 days in which such unauthorized use must be terminated. The giving of such notice shall constitute final agency action appealable by any owner of an interest in such patented estate. The Secretary may exercise the right of reentry as provided in paragraph (3) of this subsection if such unauthorized use has not been terminated in the time provided in this paragraph, and only after all appeal rights have expired and any appeals of such notice have been finally determined.

(3) The Secretary may exercise the right of the United States to reenter such patented estate by filing a declaration of reentry in the office of the Bureau of Land Management designated by the Secretary and recording such declaration where the notice or certificate of location for the patented claim or site is recorded under State law. Upon the filing and recording of such declaration, all right, title and interest in such patented estate shall revert to the United States. Lands and interests in lands for which the United States exercises its right of reentry under this section shall remain open to the location of mining claims and mill sites, unless withdrawn under other applicable law.

(c) PATENT TRANSITION.—Notwithstanding any other provision of law, the requirements of this subtitle (except the payment of maintenance and location fees in accordance with sections 5702 and 5703) shall not apply to those patent applications pending at the Department of the Interior as of September 30, 1995. Such patents shall be issued under or subject to the general mining laws in effect prior to the date of enactment of this subtitle.

SEC. 5705. ROYALTY.

(a) RESERVATION OF ROYALTY.—

(1) IN GENERAL.—Production of locatable minerals (including associated minerals) from any unpatented mining claim (other than those from Federal lands to which subsection 5704(c) applies) or any mining claim patented under subsection 5704(a), including mineral concentrates and products derived from locatable minerals, shall be subject to the payment of a royalty of 2.5 percent on the Net Smelter Return of all ores, minerals, metals, and materials mined and removed and sold.

(2) WAIVER.—If the Secretary determines that the Secretary's cost of accounting for and collecting a royalty for any mineral exceeds or is likely to exceed the amount of royalty to be collected, the Secretary shall waive such royalty. The obligation to

pay royalties hereunder shall accrue only upon the sale of locatable minerals or mineral products produced from a mining claim subject to such royalty, and not upon the stockpiling of the same for future processing.

(3) EXEMPTION.—Any mine with an annual Revenues Received of less than $500,000 shall be exempt from the requirement to pay a royalty under this section.

(4) DEFINITION.—

(A) ''Net Smelter Return'' means the ''Revenues Received'' for such ores, minerals, metals or materials, less the ''Allowable Deductions'' for any calendar year.

(B) ''Revenues Received'' means the proceeds from the sale of ores mined from the claims or patents before subtracting the ''Allowable Deductions'', or, in the case of sales of beneficiated products from locatable minerals such as cathode, anode or copper rod or wire, or other products fabricated from the locatable minerals, the gross income from mining derived from the first commercially marketable product determined in the same manner as under Section 613 of the Internal Revenue Code, before

subtracting the ''Allowable Deductions.'' Sales or transfers of ores to affiliates shall be valued at the fair market value of the products sold or transferred. Without limiting the foregoing, the profits or losses incurred in connection with forward sales, futures or commodity options trading, metal loans, or any other price hedging or speculative activity or arrangement shall not be included in Revenues Received.

(C) ''Allowable Deductions'' means the following costs and expenses actually incurred or paid to third parties by the royalty payor: processing and treatment cost, costs for all transportation and insurance for ores or products produced from ores mined from the claim, group of claims or patents comprising an operation, between the mine and processing facilities, from one processing facility to another, and from processing facilities to the point of delivery of said ores or products; assaying charges, umpire charges, independent representative charges; all charges by purchasers of said ores or products; all taxes (except income taxes) measured by or valued upon production.

(5) REVENUES RECEIVED.—All Revenues Received and Allowable Deductions shall be determined in accordance with generally accepted accounting principles and practices consistently applied. Revenues Received and Allowable Deductions shall be determined by the accrual method.

(6) ALLOWABLE DEDUCTIONS.—Where any Allowable Deductions are incurred in conjunction with like costs for mineral products from other properties controlled by the payor such costs shall be fairly allocated and apportioned in accordance with generally accepted practices in the mining industry.

(7) COMMINGLING.—The payor shall have the right to commingle ore and minerals from the claim, group of claims, or patent comprising an operation, with ore from other lands and properties: *Provided, however,* That the payor shall calculate from representative samples the average grade of the ore before commingling. If concentrates are produced from the commingled ores, the payor shall calculate from representative samples calculating the average grade of the ore, and calculating average recovery percentages the payor shall use procedures accepted in the mining and metallurgical industry suitable for the

type of mining and processing activity being conducted.

(8) EFFECTIVE DATE.—

(A) IN GENERAL.—The royalty required under this section shall take effect with respect to production on or after the first day of the first month following the date of enactment of this subtitle.

(B) PHASE-IN.—The royalty payments required under this section shall be reduced—

(i) by 66 2/3 percent for the first 12 months following the date of enactment of this subtitle for which royalties are due on production pursuant to this subtitle; and

(ii) by 33 1/3 percent for the second 12 months that royalties are due on production pursuant to this subtitle.

(C) TIME FOR PAYMENT.—Any royalty payment attributable to production during the first 15 calendar months after the date of enactment of this subtitle, after any reduction under paragraph (B), shall be due on the date that is 12 months after the date of enactment of this subtitle.

(D) NO MARKETABLE QUANTITY PRIOR TO DATE OF ENACTMENT.—For a claim, group of claims, or patents comprising an operation that has not produced a marketable quantity prior to the date of enactment of this subtitle, the royalty payments required pursuant to this section shall be reduced—

(i) by 66 2/3 percent for the first 12 months following the date of enactment of this subtitle for which royalties are due on production pursuant to this subtitle; and

(ii) by 33 1/3 percent for the second 12 months that royalties are due on production pursuant to this subtitle.

(9) ROYALTY REDUCTION FOR MARGINAL OPERATIONS.—

(A) APPLICATION.—A person that is required to make a royalty payment under this section may file for a reduction or waiver of the royalty by demonstrating that payment of the royalty would preclude recovery of costs of production, including invested capital, for a claim, group of claims or patents comprising an operation for the remaining reasonable life of the operation: *Provided,* That the Secretary shall

not consider royalty reduction effective during the phase-in periods under paragraph (8). For purposes of this initial application, ''Projected Revenues'' shall be calculated using the operator's current and projected rates of production at the average price for the preceding 12 months.

(B) DEFINITION.—For purposes of an application under subparagraph (A)—

(i) ''Projected Revenues'' shall be the net present value of the expected revenues for the remaining reasonable life of the operation calculated using the average mineral price received for the preceding 12 month calendar year.

(ii) ''Costs of Production'' shall mean the net present value of the following costs based on the expected rate of production for the remaining reasonable life of the operation—

(I) the projected cost of extracting the locatable mineral;

(II) the projected cost of transporting the locatable mineral to the

place or places of reduction, beneficiation, refining and sale;

(III) the projected cost of reduction, beneficiation, refining and sale of the locatable mineral;

(IV) the projected cost of marketing and delivering the locatable mineral and the conversion of the locatable mineral into money;

(V) the projected cost of maintenance and repairs of all machinery, equipment, apparatus, and facilities used in the mine; all crushing, milling, leaching, refining, smelting, and reduction works, plants, and facilities; and all facilities and equipment for transportation;

(VI) the projected cost for support personnel and support services at the mine site, including without limitation, accounting, assaying, drafting, and mapping, computer services, surveying, housing, camp and office expenses, safety and security;

(VII) the projected cost of engineering, sampling, and assaying pertaining to development and production;

(VIII) the projected cost of permitting, reclamation, environmental compliance and monitoring;

(IX) the projected cost of fire and other insurance on the machinery, equipment, apparatus, works, plants and facilities mentioned in subclause (B)(ii)(V);

(X) depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants, and facilities listed in subclause (B)(ii)(V), considering the probable life of the property in computing the annual depreciation charge;

(XI) all money expended for premiums for industrial insurance, and the owner-paid cost of hospital and medical attention and accident benefits and group insurance for all em-

ployees engaged in the production or processing of locatable minerals;

(XII) all money paid as contributions or payments under State unemployment compensation law, all money paid as contributions under the Federal Social Security Act, and all money paid to State government in real property taxes measured or levied on production, or Federal excise tax payments and payments as fees or charges for use of the Federal lands from which the locatable minerals are produced; and

(XIII) the projected cost of developmental work in or about the mine or upon a group of mines when operated as a unit.

(C) For purposes of the annual depreciation charge under paragraph (B)(ii)X)—

(i) Any expenditure not otherwise described in this clause which is not deductible in the year paid or incurred pursuant to the Internal Revenue Code of 1986, and which is:

(I) attributable to the direct acquisition of mining claims purchased separately or as part of a group of assets, or

(II) attributable to the indirect acquisition of mining property or mining claims by reason of being a portion of the consideration for an interest in a corporation, partnership or trust (in connection with an ownership change of such entity determined under the principles of Section 382(g) of the Internal Revenue Code of 1986) allocable to such property or claims of such entity, shall be allowable as a depreciation deduction to the purchaser in the case of an expenditure described in (I) or to the acquired corporation, partnership or trust in the case of an expenditure described in (II), ratably over a period based on the probable life of the property, beginning with the taxable year in which such expenditure was made.

(ii) The deduction allowed for costs attributable to mining property or claims is available only at the election of the purchaser in the case of expenditures described in (i)(I), or at the election of both the purchaser and acquired corporation, partnership or trust in the case of expenditures described in (i)(II), and is in lieu of any other deduction otherwise allowable under this section with respect to such expenditure.

(D) If the Costs of Production for the operation exceed the Projected Revenues, the Secretary shall waive in full the royalty obligation. If the Projected Revenues exceed the Costs of Production by less than the full royalty obligation under subsection (a), the Secretary shall reduce the royalty rate to a level allowing the recovery of the Costs of Production, including invested capital, over the remaining reasonable life of the operation.

(10) SPLIT ESTATES.—For circumstances where a claim, group of claims or patent is subject to this section but does not comprise the entirety of a mine, the Annual Revenues and Costs of Produc-

tion shall be allocated for royalty purposes in proportion to the value of production recovered from the claim, group of claims or patent.

(11) JUDICIAL REVIEW.—A determination by the Secretary under paragraph (9) shall be judicially reviewable under section 702 of title 5, United States Code, only for actions filed within 180 days of the Secretary's determination.

(12) ANNUAL FILING OF DATA.—If a reduction in royalty is provided under this paragraph, the royalty payor shall file cost and revenue data with the Secretary annually during the period of royalty waiver or reduction.

(b) DUTIES OF CLAIM HOLDERS, OPERATORS AND TRANSPORTERS.—A person that is required to make a royalty payment under this section shall make quarterly estimates of the royalty obligation and shall make the payment to the United States annually in such manner as the Secretary of the Interior may by rule prescribe. The owner or co-owners of a mining claim shall be liable for royalty on locatable minerals produced and sold during the period of ownership to the extent of the interest in such claim owned. As used in this subsection, ''owner'' or ''co-owner'' shall mean the person or persons owning the right to mine locatable minerals from such claim and receiving

the revenues of sale. Any person who makes any royalty payment attributable to the interest of the owner or co-owners liable therefor shall not become liable to the United States for such royalty as a result.

(c) MANNER OF PAYMENT.—

(1) Each royalty payment or adjustment shall be accompanied by a statement containing:

(A) the name and Bureau of Land Management serial number of the mining claim or claims from which ores, concentrates, solutions or beneficiated products of locatable minerals subject to the royalty required in this section were produced and sold for the period covered by such payment or adjustment;

(B) the estimated (or actual, if determined) quantity of such ore, concentrates, solutions or beneficiated or fabricated products produced and sold from such mining claim or claims for such period;

(C) the estimated (or actual, if determined) Gross Yield from the production and sale of such ore, concentrates, solutions or beneficiated products for such period;

(D) the estimated (or actual, if determined) Net Smelter Return from the produc-

tion and sale of such ores, concentrates, solutions or beneficiated products for such period, including an itemization of the applicable deductions described in paragraph 20(a)(4)(A); and

(E) the estimated (or actual, if determined) royalty due to the United States, or adjustment due to the United States or such owner or co-owners, for such period.

(2) In lieu of receiving a refund under subsection (e), the owner or co-owners may elect to apply any adjustment due to such owner or co-owners as an offset against royalties due from such owner or co-owners to the United States under this Subtitle, regardless of whether such royalties are due for production and sale from the same mining claim or claims.

(d) RECORDKEEPING AND REPORTING REQUIREMENTS.—

(1) An owner, operator, or other person directly involved in the conduct of mineral activities, transportation, purchase, or sale of locatable minerals, concentrates, or products derived therefrom, subject to the royalty required in this section, through the point of royalty computation, shall establish and

maintain any records, make any reports, and provide any information that the Secretary may reasonably require for the purposes of implementing this section or determining compliance with regulations or orders under this section. Upon the request of the Secretary when conducting an audit or investigation pursuant to subsection (f), the appropriate records, reports, or information which may be required by this section shall be made available for inspection and duplication by the Secretary.

(2) Records required by the Secretary under this section shall be maintained for three years after the records are generated unless the Secretary notifies the record holder that he or she has initiated an audit or investigation specifically identifying and involving such records and that such records must be maintained for a longer period. When an audit or investigation is under way, such records shall be maintained until the earlier of the date that the Secretary releases the record holder of the obligation to maintain such records or the date that the limitations period applicable to such audit or investigation under subsection (f) expires.

(e) INTEREST ASSESSMENTS.—In any case in which royalty payments are not received by the Secretary on the

date that such payments are due, or when such payments are less than the amount due, the Secretary shall charge interest on such late payments computed at the rate published by the Department of the Treasury as the ''Treasury Current Value of Funds Rate.'' In the case of an underpayment or partial payment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount, and only for the number of days such payment is late. No other late payment or underpayment charge or penalty shall be charged. In any case in which royalty payments are made in excess of the amount due, or amounts are held by the Secretary pending the outcome of any appeal in which the Secretary does not prevail, the Secretary shall promptly refund such overpayments or pay such amounts to the person or persons entitled thereto, together with interest thereon for the number of days such overpayment or amounts were held by the Secretary, with the addition of interest charged against the United States computed at the rate published by the Department of the Treasury as the ''Treasury Current Value of Funds Rate.''

(f) AUDITS, PAYMENT DEMANDS AND LIMITATIONS.—

(1) The Secretary may conduct, after notice, any audit reasonably necessary and appropriate to verify the payments required under this section.

(2) Any billing or demand letter for royalty due on locatable minerals produced and sold from any mining claim subject to royalty required by this section must be sent or issued not later than three years after the date such royalty was due and must specifically identify the production involved, the royalty allegedly due and the basis for the claim. No action, proceeding or claim for royalty due on locatable minerals produced and sold, or relating to such production, may be brought by the United States, including but not limited to any claim for additional royalties or claim of the right to offset the amount of such additional royalties against amounts owed to any person by the United States, unless judicial suit or administrative proceedings are commenced to recover specific amounts claimed to be due prior to the expiration of three years from the date such royalty is alleged to have been due.

(g) PENALTIES.—Any person who withholds payment of royalties under this section after a final, nonappealable determination of liability may be liable for civil penalties

of up to $5,000 per day that payment is withheld after becoming due.

(h) DISBURSEMENT OF REVENUES.—The receipts from royalties collected under this section shall be disbursed as follows:

(1) One-half of such receipts shall be paid into the Treasury of the United States and deposited as miscellaneous receipts; and

(2) One-half of such receipts shall be paid into a State Fund or the Federal Fund in accordance with section 5706; until termination as provided in section 5710.

SEC. 5706. ABANDONED LOCATABLE MINERALS MINE RECLAMATION FUND.

(a) STATE FUND.—Any State within which royalties are collected pursuant to section 5705 from a mining claim and which wishes to become eligible to receive such proceeds allocated by paragraph 5705(h)(2) shall establish and maintain an interest-bearing abandoned locatable mineral mine reclamation fund (hereinafter referred to in this subtitle as ''State Fund'') to accomplish the purposes of this subtitle.

(b) FEDERAL FUND.—There is established on the books of the Treasury of the United States an interest-bearing fund to be known as the Abandoned Locatable

Minerals Mine Reclamation Fund (hereinafter referred to in this subtitle as ''Federal Fund'') which shall consist of royalty proceeds allocated by paragraph 5705(h)(2) from mining claims in a State where a State Fund has not been established or maintained under subsection (a).

SEC. 5707. ALLOCATION AND PAYMENTS.

(a) STATE FUND.—Royalties collected pursuant to section 5705 and allocated by paragraph 5705(h)(2) shall be paid by the Secretary of the Treasury to the State Fund established pursuant to subsection 5706(a) for the State where the mining claim from which the production occurred is located. Payments to States under this subsection with respect to any royalties received by the United States, shall be made not later than the last business day of the month in which such royalties are warranted by the United States Treasury to the Secretary of the Interior as having been received, except for any portion of such royalties which is under challenge, which shall be placed in a suspense account pending resolution of such challenge. Such warrants shall be issued by the United States Treasury not later than 10 days after receipt of such royalties by the Treasury. Royalties placed in a suspense account which are determined to be due the United States shall be payable to a State Fund not later than fifteen days after such challenge is resolved. Any such amount

placed in a suspense account pending resolution shall bear interest until the challenge is resolved. In determining the amount of payments to State Funds under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.

(b) FEDERAL FUND.—Royalties collected pursuant to section 5705, and allocated by paragraph 5705(h)(2), from mining claims located in a State which has not established or maintained a State Fund, and such royalties from mining claims located in a State for which the Secretary's authority has expired under subsection 5710(a), shall be credited to the Federal Fund and distributed in accordance with subsection (c).

(c) TRANSITION.—Prior to the time a State establishes a State Fund pursuant to subsection 5706(a), any royalties collected from a mining claim within such State shall be deposited into the Federal Fund and allocated to such State. Once a State establishes a State Fund under subsection 5706(a), the State allocation in the Federal Fund with accrued interest shall be paid by the Secretary of the Treasury to the State Fund in accordance with subsection (a). Commencing three years after the date of enactment of this subtitle, the Secretary of the Treasury shall distribute royalty proceeds then accrued or which are

thereafter credited to the Federal Fund equally among all States which maintain a State Fund established under subsection 5706(a), and for which the Secretary of the Treasury's authority has not expired under subsection 5710(a).

SEC. 5708. ELIGIBLE AREA.

(a) IN GENERAL.—Subject to subsection (b), lands and water eligible for reclamation under this subtitle shall be Federal lands or private lands patented under the general mining laws that—

(1) have been adversely affected by past mineral activities on lands abandoned and left inadequately reclaimed prior to the date of enactment of this Subtitle; and

(2) for which the State determines there is no identifiable party with a continuing reclamation responsibility under State or Federal laws.

(b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—The following areas shall not be eligible for expenditures from a State Fund:

(1) Any area subject to a plan of operations submitted or approved prior to, on or after the date of enactment of this subtitle which includes remining or reclamation of the area adversely affected by past locatable mineral activities.

(2) Any area affected by coal mining eligible for reclamation expenditures pursuant to section 404 of the Surface Mining Control and Reclamation Act (30 U.S.C. 1234).

(3) Any area designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7912).

(4) Any area that was listed on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9605) prior to the date of enactment of this subtitle, or where the Environmental Protection Agency has initiated or caused to be initiated a response action pursuant to that Act.

SEC. 5709. USES AND OBJECTIVES OF FUNDS.

(a) USE OF FUNDS.—Royalty proceeds in a State Fund shall be used for the reclamation of eligible areas. For purposes of this section, reclamation includes—

(1) backfilling, fencing, sealing, or otherwise controlling abandoned underground mine entries to protect public health and safety;

(2) abatement, treatment or control of water pollution;

(3) shaping, grading, contouring and revegetation of land to prevent erosion and sedimentation, or to enhance fish and wildlife habitat;

(4) removal or control of toxic or hazardous materials; and

(5) control or reclamation of surface subsidence due to abandoned underground mines.

(b) PRIORITIES.—Expenditures of royalty proceeds from a State Fund shall reflect the following priorities in the order stated, but shall not preclude, where feasible and appropriate, a combination of these priorities for cost-effective reclamation:

(1) The protection of public health, safety, general welfare and property from extreme danger from the adverse effects of past mineral activities.

(2) The protection of public health, safety, and general welfare from the adverse effects of past mineral activities.

SEC. 5710. SUNSET PROVISIONS.

(a) TERMINATION OF AUTHORITY.—The Secretary of the Treasury's authority to allocate funds to a State Fund under section 5707 shall expire on the date that the State submits a report to the Congress which states that there are no areas in the State which remain to be reclaimed.

(b) TERMINATION OF FUND.—Upon the termination of authority as provided in subsection (a) with respect to all State Funds, the Federal Fund shall also be terminated, and all royalty proceeds thereafter remaining in the Federal Fund shall be paid into the Treasury of the United States and deposited as miscellaneous receipts.

SEC. 5711. EFFECT ON THE GENERAL MINING LAWS.

The provisions of this Subtitle shall supersede the general mining laws only to the extent such laws conflict with the requirements of this Subtitle. Where no such conflict exists, the general mining laws, including all judicial and administrative decisions interpreting them, shall remain in full force and effect.

SEC. 5712. SEVERABILITY.

If any provision of this subtitle or the applicability thereof to any person or circumstances is held invalid, the remainder of this Subtitle and the application of such provision to other persons or circumstances shall not be affected thereby.

Subtitle I—Department of the Interior

SEC. 5800. AIRCRAFT SERVICES.

(a) USE OF PRIVATE CONTRACTORS.—By not later than October 1, 1996, the Secretary of the Interior shall contract with private entities for the provision of all air-

craft services required by the Department of the Interior, other than those available from existing DOI aircraft whose primary purpose is fire suppression.

(b) SALE OF FEDERAL AIRCRAFT.—By September 30, 1998, the Secretary of the Interior is authorized and directed to sell all aircraft owned by the Department of the Interior, and all associated equipment and facilities, other than those whose primary purpose is fire suppression.

(c) EXEMPTIONS.—The disposition of assets under this section is not subject to section 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483 and 484) or section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. 1622).

(d) DISPOSITION OF PROCEEDS.—The proceeds from dispositions under this section shall be returned to the Treasury as miscellaneous receipts and all savings from reduced overhead and other costs related to the management of the assets sold shall be returned to the Treasury.

Subtitle J—Power Marketing Administrations

PART I—BONNEVILLE POWER ADMINISTRATION REFINANCING

SEC. 5900. DEFINITIONS.

For the purposes of this subtitle—

(1) ''Administrator'' means the Administrator of the Bonneville Power Administration;

(2) ''capital investment'' means a capitalized cost funded by Federal appropriations that—

(A) is for a project, facility, or separable unit or feature of a project or facility;

(B) is a cost for which the Administrator is required by law to establish rates to repay to the United States Treasury through the sale of electric power, transmission, or other services;

(C) excludes a Federal irrigation investment; and

(D) excludes an investment financed by the current revenues of the Administrator or by bonds issued and sold, or authorized to be issued and sold, by the Administrator under section 13 of the Federal Columbia River Transmission System Act (16 U.S.C.838(k));

(3) ''new capital investment'' means a capital investment for a project, facility, or separable unit or feature of a project, facility, or separable unit or feature of a project or facility, placed in service after September 30, 1995;

(4) ''old capital investment'' means a capital investment whose capitalized cost—

(A) was incurred, but not repaid, before October 1, 1995, and

(B) was for a project, facility, or separable unit or feature of a project or facility, placed in service before October 1, 1995;

(5) ''repayment date'' means the end of the period within which the Administrator's rates are to assure the repayment of the principal amount of a capital investment; and

(6) ''Treasury rate'' means—

(A) for an old capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1995, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1995, and the repayment date for the old capital investment; and

(B) for a new capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is

placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the new capital investment.

SEC. 5901. NEW PRINCIPAL AMOUNTS.

(a) PRINCIPAL AMOUNT.—Effective October 1, 1995, an old capital investment has a new principal amount that is the sum of—

(1) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and

(2) an amount equal to $100,000,000 multiplied by a fraction whose numerator is the principal amount of the old payment amounts for the old capital investment and whose denominator is the sum of the principal amounts of the old payment amounts for all old capital investments.

(b) DETERMINATION.—With the approval of the Secretary of the Treasury based solely on consistency with this part the Administrator shall determine the new principal amounts under section 5901 and the assignment of interest rates to the new principal amounts under section 5902.

(c) OLD PAYMENT AMOUNT.—For the purposes of this section, ''old payment amounts'' means, for an old capital investment, the annual interest and principal that the Administrator would have paid to the United States Treasury from October 1, 1995, if this part were not enacted, assuming that—

(1) the principal were repaid—

(A) on the repayment date the Administrator assigned before October 1, 1993, to the old capital investment, or

(B) with respect to an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1993, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 10(d)(1) of the version of Department of Energy Order RA 6120.2 in effect on October 1, 1993; and

(2) interest were paid—

(A) at the interest rate the Administrator assigned before October 1, 1993, to the old capital investment, or

(B) with respect to an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1993,

at a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the old capital investment.

SEC. 5902. INTEREST RATE FOR NEW PRINCIPAL AMOUNTS.

As of October 1, 1995, the unpaid balance on the new principal amount established for an old capital investment under section 5901 bears interest annually at the Treasury rate for the old capital investment until the earlier of the date that the new principal amount is repaid or the repayment date for the new principal amount.

SEC. 5903. REPAYMENT DATES.

As of October 1, 1995, the repayment date for the new principal amount established for an old capital investment under section 5901 is no earlier than the repayment date for the old capital investment assumed in section 5901(c)(1).

SEC. 5904. PREPAYMENT LIMITATIONS.

During the period October 1, 1995, through September 30, 2000, the total new principal amounts of old capital investments, as established under section 5901, that the Administrator may pay before their respective repayment dates shall not exceed $100,000,000.

SEC. 5905. INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION.

(a) NEW CAPITAL INVESTMENT.—The principal amount of a new capital investment includes interest in each fiscal year of construction of the related project, facility, or separable unit or feature at a rate equal to the one-year rate for the fiscal year on the sum of—

(1) construction expenditures that were made from the date construction commenced through the end of the fiscal year, and

(2) accrued interest during construction.

(b) PAYMENT.—The Administrator is not required to pay, during construction of the project, facility, or separable unit or feature, the interest calculated, accrued, and capitalized under subsection (a).

(c) ONE-YEAR RATE.—For the purposes of this section, ''one-year rate'' for a fiscal year means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year, on outstanding in-

terest-bearing obligations of the United States with periods to maturity of approximately one year.

SEC. 5906. INTEREST RATES FOR NEW CAPITAL INVESTMENTS.

The unpaid balance on the principal amount of a new capital investment bears interest at the Treasury rate for the new capital investment from the date the related project, facility, or separable unit or feature is placed in service until the earlier of the date the new capital investment is repaid or the repayment date for the new capital investment.

SEC. 5907. APPROPRIATED AMOUNTS.

The Confederated Tribe of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law No. 103–436) is amended by striking section 6 and its catchline and inserting the following:

"SEC. 6. APPROPRIATED AMOUNTS.

"(a) APPROPRIATED AMOUNTS.—Without fiscal year limitation, there are appropriated to the Administrator $15.25 million in fiscal year 1996, $15.86 million in fiscal year 1997, $16.49 million in fiscal year 1998, $17.15 million in fiscal year 1999, $17.84 million in fiscal year 2000, and $4.10 million in each succeeding fiscal year so long as the Administrator makes annual payments to the Tribes under the settlement agreement.

"(b) DEFINITIONS.—For the purposes of this section—

"(1) 'settlement agreement' means that settlement agreement between the United States of America and the Confederated Tribes of the Colville Reservation signed by the Tribes on April 16, 1994, and by the United States of America on April 21, 1994, which settlement agreement resolves claims of the Tribes in Docket 181–D of the Indian Claims Commission, which docket has been transferred to the United States Court of Federal Claims; and

"(2) 'Tribes' means the Confederated Tribes of the Colville Reservation, a federally recognized Indian Tribe.".

SEC. 5908. CONTRACT PROVISIONS.

In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services, and that is in effect after September 30, 1995, the Administrator shall offer to include, or as the case may be, shall offer to amend to include, provisions specifying that after September 30, 1995—

(1) the Administrator shall establish rates and charges on the basis that—

(A) the principal amount of an old capital investment shall be no greater than the new

principal amount established under section 5901 of this part;

(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under section 5902 of this part;

(C) any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and

(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

(2) apart from charges necessary to repay the new principal amount of an old capital investment as established under section 5901 of this part and to pay the interest on the principal amount under section 5902 of this part, no amount may be charged for return to the United States Treasury as repayment for or return on an old capital investment,

whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;

(3) amounts provided under section 1304 of title 31, United States Code, shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a breach of the contract provisions required by this part; and

(4) the contract provisions specified in this part do not—

(A) preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States, or

(B) affect the Administrator's authority under applicable law, including section 7(g) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(g)), to—

(i) allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources, or

(ii) design rates.

SEC. 5909. SAVINGS PROVISIONS.

(a) REPAYMENT.—This part does not affect the obligation of the Administrator to repay the principal associ-

ated with each capital investment, and to pay interest on the principal, only from the ''Administrator's net proceeds,'' as defined in section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k(b)).

(b) PAYMENT OF CAPITAL INVESTMENT.—Except as provided in section 5904 of this part, this part does not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.

PART II—ALASKA POWER MARKETING ADMINISTRATION SALE

SEC. 5910. SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS.

(a) SALE OF SNETTISHAM.—The Secretary of Energy is authorized and directed to sell the Snettisham Hydroelectric Project (referred to in this part as ''Snettisham'') to the State of Alaska in accordance with the terms of this part and the February 10, 1989, Snettisham Purchase Agreement, as amended, between the Alaska Power Administration of the United States Department of Energy and the Alaska Power Authority and the Authority's successors.

(b) SALE OF EKLUTNA.—The Secretary of Energy is authorized and directed to sell the Eklutna Hydro-

electric Project (referred to in this part as ''Eklutna'') to the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc. (referred to in this part as ''Eklutna Purchasers''), in accordance with the terms of this part and the August 2, 1989, Eklutna Purchase Agreement, as amended, between the Alaska Power Administration of the United States Department of Energy and the Eklutna Purchasers.

(c) FEDERAL SALE ASSISTANCE.—The heads of other Federal departments and agencies, including the Secretary of the Interior, shall assist the Secretary of Energy in implementing the sales authorized and directed by this part.

(d) DISPOSITION OF PROCEEDS.—Proceeds from the sales required by this part shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

(e) PREPARATION OF EKLUTNA AND SNETTISHAM FOR SALE.—The Secretary of Energy is authorized and directed to use such funds from the sale of electric power by the Alaska Power Administration as may be necessary to prepare, survey and acquire Eklutna and Snettisham assets for sale and conveyance. Such preparations and ac-

quisitions shall provide sufficient title to ensure the beneficial use, enjoyment, and occupancy by the purchaser.

SEC. 5911. EXEMPTION AND OTHER PROVISIONS.

(a) FEDERAL POWER ACT EXEMPTION.—

(1) After the sales authorized by this part occur, Eklutna and Snettisham, including future modifications, shall continue to be exempt from the requirements of the Federal Power Act (16 U.S.C. 791a et seq.) as amended.

(2) The exemption provided by paragraph (1) does not affect the Memorandum of Agreement entered into among the State of Alaska, the Eklutna Purchasers, the Alaska Energy Authority, and Federal fish and wildlife agencies regarding the protection, mitigation of, damages to, and enhancement of fish and wildlife, dated August 7, 1991, which remains in full force and effect.

(3) Nothing in this part or the Federal Power Act preempts the State of Alaska from carrying out the responsibilities and authorities of the Memorandum of Agreement.

(b) JUDICIAL REVIEW.—

(1) The United States District Court for the District of Alaska shall have jurisdiction to review decisions made under the Memorandum of Agree-

ment and to enforce the provisions of the Memorandum of Agreement, including the remedy of specific performance.

(2) An action seeking review of a Fish and Wildlife Program (''Program'') of the Governor of Alaska under the Memorandum of Agreement or challenging actions of any of the parties to the Memorandum of Agreement prior to the adoption of the Program shall be brought not later than ninety days after the date on which the Program is adopted by the Governor of Alaska, or be barred.

(3) An action seeking review of implementation of the Program shall be brought not later than ninety days after the challenged act implementing the Program, or be barred.

(c) TRANSFER OF EKLUTNA.—With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

(1) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers—

(A) at no cost to the Eklutna Purchasers;

(B) to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals, or replacements; and

(C) sufficient for the operation of, maintenance of, repair to, and replacement of, and access to, Eklutna facilities located on military lands and lands managed by the Bureau of Land Management, including lands selected by the State of Alaska.

(2) If the Eklutna Purchasers subsequently sell or transfer Eklutna to private ownership, the Bureau of Land Management may assess reasonable and customary fees for continued use of the rights-of-way on lands managed by the Bureau of Land Management and military lands in accordance with existing law.

(3) Fee title to lands at Anchorage Substation shall be transferred to Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to, and selections of, those lands are invalid or relinquished.

(4) With respect to the Eklutna lands identified in paragraph 1 of Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey to the

State, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85–508, 72 Stat. 339, as amended), and the North Anchorage Land Agreement dated January 31, 1983. This conveyance shall be subject to the rights-of-way provided to the Eklutna Purchasers under paragraph (1).

(d) TRANSFER OF SNETTISHAM.—With respect to the Snettisham lands identified in paragraph 1 of Exhibit A of the Snettisham Purchase Agreement and Public Land Order No. 5108, the State of Alaska may select, and the Secretary of the Interior shall convey to the State of Alaska, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85–508, 72 Stat. 339, as amended).

(e) APA TERMINATION.—Not later than one year after both of the sales authorized in section 102 have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

(1) complete the business of, and close out, the Alaska Power Administration;

(2) submit to Congress a report documenting the sales; and

(3) return unobligated balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

(f) REPEAL.—The Act of July 31, 1950 (64 Stat. 382) is repealed effective on the date, as determined by the Secretary of Energy, that all Eklutna assets have been conveyed to the Eklutna Purchasers.

(g) REPEAL.—Section 204 of the Flood Control Act of 1962 (76 Stat. 1193) is repealed effective on the date, as determined by the Secretary of Energy, that all Snettisham assets have been conveyed to the State of Alaska.

(h) CONFORMITY CHANGES TO THE DEPARTMENT OF ENERGY ORGANIZATION ACT.—As of the later of the two dates determined in subsections (f) and(g), section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152(a)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E) respectively; and

(2) in paragraph (2) by striking out ''and the Alaska Power Administration'' and by inserting ''and'' after ''Southwestern Power Administration,''.

(i) REPEAL.—The Act of August 9, 1955, concerning water resources investigation in Alaska (69 Stat. 618), is repealed.

(j) ASSET DISPOSAL.—The sales of Eklutna and Snettisham under this part are not considered disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the ''Surplus Property Act of 1944'' (50 U.S.C. App. 1622).

(k) For purposes of section 147(d) of the Internal Revenue Code, ''1st use'' of Snettisham shall be considered to occur upon acquisition of the property by or on behalf of the State of Alaska.

Subtitle K—Radio and Television Communication Site Fees

SEC. 5920. RADIO AND TELEVISION COMMUNICATION SITE FEES.

(a) ASSESSMENT AND COLLECTION OF FEES.—Notwithstanding any other provision of law, the Secretary of Agriculture and the Secretary of the Interior (hereinafter referred to as ''the Secretaries''), shall assess and collect charges for utilization of radio and television communica-

tions sites located on Federal lands administered by the Forest Service or the Bureau of Land Management at such rates as the Forest Service and the Bureau of Land Management shall establish or at such modified rates as are established pursuant to the provisions of subsection (b) of this section.

(b) SCHEDULE AND ADJUSTMENT OF FEES.—The schedule of charges established under this section shall be reviewed by the Forest Service and the Bureau of Land Management on an annual basis, and shall be adjusted by the Forest Service and the Bureau of Land Management to reflect changes in the Consumer Price Index. Increases or decreases in charges shall apply to all categories of charges, but any increase or decrease shall not total less than 3 percent or more than 5 percent of the charge assessed to the user in the preceding year. The Bureau of Land Management and the Forest Service shall transmit to the Congress notification of any such adjustment not later than 60 days before the effective date of such adjustment.

(1) Under the schedule of charges established under the section, if any radio or television communications site user is to be charged an amount that is greater than $1,000 more than the amount such site user pays to the Bureau of Land Management

or the Forest Service as of January 1, 1995, then during the first year in which the schedule of charges is in effect, such site user shall pay an amount equal to the amount it paid to the Bureau of Land Management or the Forest Service as of January 1, 1995 plus $1,000. Each year thereafter, such site user shall pay the full amount under the schedule of charges, as modified pursuant to the subsection.

(2) Under the schedule of charges established under this section, if any radio or television communications site user is to be charged an amount that is less than the amount such site user paid to the Bureau of Land Management or the Forest Service as of January 1, 1995, such site user shall continue to pay the higher amount until such time as the charge to the site user in the schedule of charges equals or exceeds that amount, as modified pursuant to this subsection.

(c) ADDITIONAL USERS OF COMMUNICATION SITES.—(1) If the radio or television communications site user is permitted under the terms of its site use authorization from the Bureau of Land Management or the Forest Service to grant access to the site to additional users, then the radio or television communications site user shall pay

annually to the Bureau of Land Management or the Forest Service an amount equal to 25 percent of the gross income it receives from each such additional user during that year.

(2) Authorizations to radio and television communications site users shall require such site users to provide the Bureau of Land Management or the Forest Service with a certified list which identifies all additional users of such sites and all gross revenues received from such additional users. The Bureau of Land Management and the Forest Service shall not require any additional user of a radio or television communications site to obtain a separate authorization to use such a site.

(d) REGULATIONS.—(1) The Secretaries shall prescribe appropriate rules and regulations to carry out the provisions of this section.

(2) Ten years after the date of enactment of this section, the Secretaries shall establish a broad-based advisory group, including representatives from the radio and television broadcast industry, to review the schedule of charges and other acceptable criteria for determining fair market value for radio and television communications site users. The advisory group shall report its findings to the Congress no later than 1 year after it is established.

(e) INITIAL SCHEDULE OF CHARGES.—(1) Until modified pursuant to subsection (b) of this section, the schedule of charges for television communications site users which the Secretaries shall prescribe pursuant to subsection (a) of this section shall be as listed in exhibit 3, (television rental fee schedule) in the report of the radio and television broadcast use fee advisory committee dated December 1992.

(2) Until modified pursuant to subsection (b) of this section, the schedule of charges for radio communications site users which the Secretaries shall prescribe pursuant to subsection (a) of this section shall be as listed in exhibit 4, (radio rental fee schedule) in the report of the radio and television broadcast use fee advisory committee dated December 1992.

(f) ADVISORY GROUP.—(1) The Secretaries are directed to jointly establish a broad-based advisory group comprised of representatives from the non-broadcast communications industry (users of both private and public communication sites) and the two agencies to review recommendations on acceptable criteria for determining fair market values and next best alternative use.

(2) The advisory group shall review the methodology used in any previous studies and reach concurrence on such methodology.

(3) The advisory group shall also assess the validity of the results of such studies, taking into account all reasonable options for the establishment of fair market values and next best alternative use.

(4) The advisory group shall report its findings to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives within one year after the enactment of this Act.

Subtitle L—Amendments to Outer Continental Shelf Lands Act

SEC. 5930. AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT.

Section 8(a) of the Outer Continental Shelf Lands Act, (43 U.S.C. 1337(a)(3)), is amended by striking paragraph (3) in its entirety and inserting the following:

"(3)(A) The Secretary may through primary, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease(s). With the lessee's consent, the Secretary may make other modifications to the royalty or net profit share terms of the lease in order to—

"(i) promote development or increased production on producing or non-producing leases; or

"(ii) encourage production of marginal resources on producing or non-producing leases;

"(B)(i) Notwithstanding any other provision of this Act, with respect to any lease or unit in existence on the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act meeting the requirements of this subparagraph, no royalty payments shall be due on new production, as defined in clause (iv) of this subparagraph, from any lease or unit located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, until such volume of production as determined pursuant to clause (ii) has been produced by the lessee.

"(ii) Upon submission of a complete application by the lessee, the Secretary shall determine within 180 days of such application whether new production from such lease or unit would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph. In making such determination, the Secretary shall consider the increased technological and finan-

cial risk of deep water development and all costs associated with exploring, developing, and producing from the lease. The lessee shall provide information required for a complete application to the Secretary prior to such determination. The Secretary shall clearly define the information required for a complete application under this section. Such application may be made on the basis of an individual lease or unit. If the Secretary determines that such new production would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph, the provisions of clause (i) shall not apply to such production. If the Secretary determines that such new production would not be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i), the Secretary must determine the volume of production from the lease or unit on which no royalties would be due in order to make such new production economically viable; except that for new production as defined in clause (iv)(aa), in no case will that volume be less than 17.5 million barrels of oil equivalent in water depths of 200 to 400 meters, 52.5 million barrels of oil equivalent in 400–800 meters of water, and 87.5 million barrels of oil

equivalent in water depths greater than 800 meters. Redetermination of the applicability of clause (i) shall be undertaken by the Secretary when requested by the lessee prior to the commencement of the new production and upon significant change in the factors upon which the original determination was made. The Secretary shall make such redetermination within 120 days of submission of a complete application. The Secretary may extend the time period for making any determination or redetermination under this clause for 30 days, or longer if agreed to by the applicant, if circumstances so warrant. The lessee shall be notified in writing of any determination or redetermination and the reasons for and assumptions used for such determination. Any determination or redetermination under this clause shall be a final agency action. The Secretary's determination or redetermination shall be judicially reviewable under section 10 (a) of the Administrative Procedures Act, 5 U.S.C. Sec. 702, only for actions filed within 30 days of the Secretary's determination or redetermination.

''(iii) In the event that the Secretary fails to make the determination or redetermination called for in clause (ii) upon application by the lessee with-

in the time period, together with any extension thereof, provided for by clause (ii), no royalty payments shall be due on new production as follows:

"(I) For new production, as defined in clause (iv)(aa) of this subparagraph, no royalty shall be due on such production according to the schedule of minimum volumes specified in clause (ii) of this subparagraph.

"(II) For new production, as defined in clause (iv)(bb) of this subparagraph, no royalty shall be due on such production for one year following the start of such production.

"(iv) For purposes of this subparagraph, the term 'new production' is—

"(I) any production from a lease from which no royalties are due on production, other than test production, prior to the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act; or

"(II) any production resulting from lease development activities pursuant to a Development Operations Coordination Document, or supplement thereto that would expand production significantly beyond the level anticipated in the Development Operations Coordination Doc-

ument, approved by the Secretary after the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act.

''(v) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for Light Sweet crude oil exceeds $28.00 per barrel, any production of oil will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $28.00. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

''(vi) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds $3.50 per million British thermal units, any production of nat-

ural gas will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clauses (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $3.50. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

''(vii) The prices referred to in clauses (v) and (vi) of this subparagraph shall be changed during any calendar year after 1994 by the percentage, if any, by which the implicit price deflator for the gross domestic product changed during the preceding calendar year.''.

SEC. 5931. NEW LEASES.

(a) AMENDMENTS.—Section 8(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)) is amended as follows:

(1) Redesignate section 8(a)(1)(H) as section 8(a)(1)(I);

(2) Add a new section 8(a)(1)(H) as follows:

"(H) cash bonus bid with royalty at no less than 12 and 1/2 per centum fixed by the Secretary in amount or value of production saved, removed, or sold, and with suspension of royalties for a period, volume, or value of production determined by the Secretary. Such suspensions may vary based on the price of production from the lease.".

(b) PRODUCTION.—For all tracts located in water depths of 200 meters or greater in the Western and Central Planning Ares of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any lease sale within seven years of the date of enactment of this Act, shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act, as amended by this Act, except that the suspension of royalties shall be set at a volume of not less than the following:

(1) 17.5 million barrels of oil equivalent for leases in water depths of 200 to 400 meters;

(2) 52.5 million barrels of oil equivalent for leases in 400 to 800 meters of water; and

(3) 87.5 million barrels of oil equivalent for leases in water depths greater than 800 meters.

SEC. 5932. REGULATIONS.

The Secretary shall promulgate such rules and regulations as are necessary to implement the provisions of this Act within 180 days after the enactment of this Act.

TITLE VI—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

SEC. 6001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Public Works Reconciliation Act of 1995''.

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 6001. Short title; table of contents.
Sec. 6002. Highway demonstration projects.
Sec. 6003. Technical correction concerning minimum allocation.
Sec. 6004. Nuclear Regulatory Commission annual charges.
Sec. 6005. Radiological emergency preparedness fees.

SEC. 6002. HIGHWAY DEMONSTRATION PROJECTS.

(a) PROJECTS AUTHORIZED FOR FISCAL YEARS 1996 AND 1997.—

(1) REDUCTIONS.—Subject to paragraph (2), notwithstanding any other law, for each of fiscal years 1996 and 1997 and with respect to each State, the total of the amounts authorized, allocated, or unallocated to the State for highway demonstration projects under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of

1991 (Public Law 102–240; 105 Stat. 2027) shall be reduced by 15 percent.

(2) ORDER OF REDUCTIONS.—For fiscal year 1996, the reductions required by paragraph (1) shall be made after any reduction required for the fiscal year under section 1003(c) of the Act (Public Law 102–240; 105 Stat. 1921).

(b) PROJECTS PREVIOUSLY AUTHORIZED UNDER CERTAIN TRANSPORTATION LAWS.—

(1) REDUCTIONS.—Subject to paragraph (2), notwithstanding any other law, with respect to each State, the total unobligated balance as of September 30, 1995, of the amounts authorized, allocated, unallocated, or otherwise provided to the State for highway demonstration projects under all of the following laws shall be reduced by 15 percent:

(A) For each of fiscal years 1992 through 1995, sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2027).

(B) Section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 181).

(C) Section 131 of the Surface Transportation Assistance Act of 1982 (Public Law 97–424; 96 Stat. 2119).

(2) EFFECT ON OTHER REDUCTIONS.—A reduction under paragraph (1) made with respect to a law described in paragraph (1)(A) shall not affect any reduction required for a fiscal year under section 1003(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1921).

(c) PROJECTS PREVIOUSLY AUTHORIZED UNDER OTHER LAWS.—Notwithstanding any other law, with respect to each State, the total unobligated balance as of September 30, 1995, of the amounts authorized, allocated, unallocated, or otherwise provided to the State for highway demonstration projects under all of the following laws shall be reduced by 15 percent:

(1) The Department of Transportation and Related Agencies Appropriations Act, 1995 (Public Law 103–331; 108 Stat. 2471).

(2) The Department of Transportation and Related Agencies Appropriations Act, 1994 (Public Law 103–122; 107 Stat. 1198).

(3) The Department of Transportation and Related Agencies Appropriations Act, 1993 (Public Law 102–388; 106 Stat. 1520).

(4) The Department of Transportation and Related Agencies Appropriations Act, 1992 (Public Law 102–143; 105 Stat. 917).

(5) The Department of Transportation and Related Agencies Appropriations Act, 1991 (Public Law 101–516; 104 Stat. 2155).

(6) The Department of Transportation and Related Agencies Appropriations Act, 1990 (Public Law 101–164; 103 Stat. 1069).

(7) The Department of Transportation and Related Agencies Appropriations Act, 1989 (Public Law 100–457; 102 Stat. 2125).

(8) The Department of Transportation and Related Agencies Appropriations Act, 1988 (Public Law 100–202; 101 Stat. 1329–358).

(9) Section 101(l) of Public Law 99–591 (100 Stat. 3341–308).

SEC. 6003. TECHNICAL CORRECTION CONCERNING MINIMUM ALLOCATION.

(a) FINDINGS.—Congress finds that—

(1) under the amendments made by section 1013(a) of the Intermodal Surface Transportation

Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1940), each State receives back from the Federal-aid highway program not less than 90 percent of the State's percentage of all contributions to the Highway Account of the Highway Trust Fund established by section 9503 of the Internal Revenue Code of 1986;

(2) for fiscal year 1995, the amount apportioned under section 157(a)(4) of title 23, United States Code, was $1,427,000,000;

(3) in fiscal year 1996, the Interstate construction program under the title will be terminated and replaced with a new reimbursement program; and

(4) as a result of the termination of the Interstate construction program, the number of States receiving funds under section 157(a)(4) of the title for fiscal year 1996 may decrease and the amount of funds some States will require will decrease, and, therefore, the amount of funds necessary to ensure that each State receives not less than 90 percent will be reduced from $1,427,000,000 to an estimated $565,000,000.

(b) CORRECTION.—

(1) IN GENERAL.—With respect to the first fiscal year beginning after September 30, 1995—

(A) the Secretary of Transportation shall determine, in accordance with the policies established by the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1914)—

(i) which of the States will no longer require an apportionment under section 157(a)(4) of title 23, United States Code; and

(ii) which of the States will require decreased funding under section 157(a)(4) of the title;

as a result of the termination of the Interstate construction program; and

(B) as a result of the reduced number of States that may require an apportionment under section 157(a)(4) of the title, and the decrease in the amount of funds some States will require under section 157(a)(4) of the title, the amount apportioned under section 157(a)(4) of the title shall be reduced from the amount apportioned for fiscal year 1995 by 60.4 percent.

(2) EFFECT ON CERTAIN CALCULATIONS.—The correction made by paragraph (1) shall not be taken into account in making the calculations required

under sections 1003(c), 1013(c), and 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1921, 1940, and 1943).

SEC. 6004. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking ''September 30, 1998'' and inserting ''September 30, 2005''.

SEC. 6005. RADIOLOGICAL EMERGENCY PREPAREDNESS FEES.

The first paragraph of the matter under the heading ''ADMINISTRATIVE PROVISIONS'' under the heading ''FEDERAL EMERGENCY MANAGEMENT AGENCY'' in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995 (Public Law 103–327; 108 Stat. 2325), is amended—

(1) in the first and second sentences, by striking ''fiscal year 1995'' each place it appears and inserting ''each of fiscal years 1995 through 2005''; and

(2) in the last sentence, by striking ''only authorized during fiscal year 1995'' and inserting ''au-

thorized only during fiscal years 1995 through 2005''.

TITLE VII—COMMITTEE ON FINANCE—SPENDING CONTROL PROVISIONS

SEC. 7000. REFERENCES; TABLE OF CONTENTS.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in subtitles A through G of this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this title, the terms ''OBRA–1986'', ''OBRA–1987'', ''OBRA–1990'', and ''OBRA–1993'' refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.

1 (c) TABLE OF CONTENTS OF SUBTITLES A
2 THROUGH J.—The table of contents of subtitles A
3 through J of this title is as follows:

TITLE VII—COMMITTEE ON FINANCE—SPENDING CONTROL PROVISIONS

Sec. 7000. References; table of contents.

Subtitle A—Medicare

CHAPTER 1—MEDICARE CHOICE PLANS

SUBCHAPTER A—ESTABLISHMENT OF MEDICARE CHOICE PLANS

Sec. 7001. Medicare choice plans.
Sec. 7002. Treatment of 1876 organizations.
Sec. 7003. Special rule for calculation of payment rates for 1996.

SUBCHAPTER B—TAX PROVISIONS RELATING TO MEDICARE CHOICE PLANS

Sec. 7006. Medicare Choice Accounts.
Sec. 7007. Certain rebates included in gross income.

CHAPTER 2—PROVISIONS RELATING TO PART A

SUBCHAPTER A—GENERAL PROVISIONS RELATING TO PART A

Sec. 7011. PPS hospital payment update.
Sec. 7012. PPS-exempt hospital payments.
Sec. 7013. Capital payments for PPS hospitals.
Sec. 7014. Disproportionate share hospital payments.
Sec. 7015. Indirect medical education payments.
Sec. 7016. Graduate medical education and disproportionate share payment adjustments for medicare choice.
Sec. 7017. Payments for hospice services.
Sec. 7018. Extending medicare coverage of, and application of hospital insurance tax to, all State and local government employees.

SUBCHAPTER B—PAYMENTS TO SKILLED NURSING FACILITIES

Sec. 7031. Payments for routine service costs.
Sec. 7032. Incentives for cost-effective management of covered non-routine services.
Sec. 7033. Payments for routine service costs.
Sec. 7034. Reductions in payment for capital-related costs.
Sec. 7035. Treatment of items and services paid for under part B.
Sec. 7036. Medical review process.
Sec. 7037. Report by Prospective Payment Assessment Commission.
Sec. 7038. Effective date.

CHAPTER 3—PROVISIONS RELATING TO PART B

Sec. 7041. Payments for physicians' services.
Sec. 7042. Elimination of formula-driven overpayments for certain outpatient hospital services.

Sec. 7043. Payment for clinical laboratory diagnostic services.
Sec. 7044. Durable medical equipment.
Sec. 7045. Updates for orthotics and prosthetics.
Sec. 7046. Payments for capital-related costs of outpatient hospital services.
Sec. 7047. Payments for non-capital costs of outpatient hospital services.
Sec. 7048. Updates for ambulatory surgical services.
Sec. 7049. Payment for ambulance services.
Sec. 7050. Physician supervision of nurse anesthetists.
Sec. 7051. Part B deductible.
Sec. 7052. Part B premium.
Sec. 7053. Increase in medicare part B premium for high income individuals.

CHAPTER 4—PROVISIONS RELATING TO PARTS A AND B

SUBCHAPTER A—GENERAL PROVISIONS RELATING TO PARTS A AND B

Sec. 7055. Secondary payor provisions.
Sec. 7056. Treatment of assisted suicide.
Sec. 7057. Administrative provisions.

SUBCHAPTER B—PAYMENTS FOR HOME HEALTH SERVICES

Sec. 7061. Payment for home health services.
Sec. 7062. Maintaining savings resulting from temporary freeze on payment increases for home health services.
Sec. 7063. Extension of waiver of presumption of lack of knowledge of exclusion from coverage for home health agencies.

CHAPTER 5—RURAL AREAS

Sec. 7071. Medicare-dependent, small, rural hospital payment extension.
Sec. 7072. Medicare rural hospital flexibility program.
Sec. 7073. Establishment of rural emergency access care hospitals.
Sec. 7074. Additional payments for physicians' services furnished in shortage areas.
Sec. 7075. Payments to physician assistants and nurse practitioners for services furnished in outpatient or home settings.
Sec. 7076. Demonstration projects to promote telemedicine.
Sec. 7077. PROPAC recommendations on urban medicare dependent hospitals.

CHAPTER 6—HEALTH CARE FRAUD AND ABUSE PREVENTION

Sec. 7100. Short title.

SUBCHAPTER A—FRAUD AND ABUSE CONTROL PROGRAM

Sec. 7101. Fraud and abuse control program.
Sec. 7102. Application of certain health anti-fraud and abuse sanctions to fraud and abuse against Federal health programs.
Sec. 7103. Health care fraud and abuse guidance.

SUBCHAPTER B—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

Sec. 7111. Mandatory exclusion from participation in medicare and State health care programs.
Sec. 7112. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.

Sec. 7113. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.
Sec. 7114. Sanctions against practitioners and persons for failure to comply with statutory obligations.
Sec. 7115. Intermediate sanctions for medicare health maintenance organizations.
Sec. 7116. Clarification of and additions to exceptions to anti-kickback penalties.
Sec. 7117. Effective date.

SUBCHAPTER C—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Sec. 7121. Establishment of the health care fraud and abuse data collection program.

SUBCHAPTER D—CIVIL MONETARY PENALTIES

Sec. 7131. Social Security Act civil monetary penalties.

SUBCHAPTER E—AMENDMENTS TO CRIMINAL LAW

Sec. 7141. Health care fraud.
Sec. 7142. Forfeitures for Federal health care offenses.
Sec. 7143. Injunctive relief relating to Federal health care offenses.
Sec. 7144. Grand jury disclosure.
Sec. 7145. False statements.
Sec. 7146. Obstruction of criminal investigations of Federal health care offenses.
Sec. 7147. Theft or embezzlement.
Sec. 7148. Laundering of monetary instruments.
Sec. 7149. Authorized investigative demand procedures.

SUBCHAPTER F—STATE HEALTH CARE FRAUD CONTROL UNITS

Sec. 7151. State health care fraud control units.

CHAPTER 7—OTHER PROVISIONS FOR TRUST FUND SOLVENCY

SUBCHAPTER A—GENERAL PROVISIONS

Sec. 7171. Conforming age for eligibility under medicare to retirement age for social security benefits.
Sec. 7172. Nondischargeability of certain medicare debts.
Sec. 7173. Transfers of certain part B savings to hospital insurance trust fund.

SUBCHAPTER B—BUDGET EXPENDITURE LIMITING TOOL

Sec. 7175. Budget expenditure limiting tool.

Subtitle B—Transformation of the Medicaid Program

Sec. 7190. Short title.
Sec. 7191. Transformation of medicaid program.
Sec. 7192. Medicaid drug rebate program.
Sec. 7193. Waivers.
Sec. 7194. Children with special health care needs.
Sec. 7195. CBO reports.

Subtitle C—Block Grants for Temporary Assistance for Needy Families

Sec. 7200. Short title.
Sec. 7201. Block grants to States.
Sec. 7202. Services provided by charitable, religious, or private organizations.
Sec. 7203. Limitations on use of funds for certain purposes.
Sec. 7204. Census data on grandparents as primary caregivers for their grandchildren.
Sec. 7205. Study of effect of welfare reform on grandparents as primary caregivers.
Sec. 7206. Development of prototype of counterfeit-resistant social security card required.
Sec. 7207. Disclosure of receipt of Federal funds.
Sec. 7208. Modifications to the job opportunities for certain low-income individuals program.
Sec. 7209. Demonstration projects for school utilization.
Sec. 7210. Corrective compliance plan.
Sec. 7211. Parental responsibility contracts.
Sec. 7212. Expenditure of Federal funds in accordance with laws and procedures applicable to expenditure of State funds.
Sec. 7213. Conforming amendments to the Social Security Act.
Sec. 7214. Conforming amendments to the Food Stamp Act of 1977 and related provisions.
Sec. 7215. Conforming amendments to other laws.
Sec. 7216. Secretarial submission of legislative proposal for technical and conforming amendments.
Sec. 7217. Effective date; transition rule.

Subtitle D—Supplemental Security Income

Chapter 1—Eligibility Restrictions

Sec. 7251. Denial of supplemental security income benefits by reason of disability to drug addicts and alcoholics.
Sec. 7252. Denial of SSI benefits for 10 years to individuals found to have fraudulently misrepresented residence in order to obtain benefits simultaneously in 2 or more States.
Sec. 7253. Denial of SSI benefits for fugitive felons and probation and parole violators.
Sec. 7254. Effective dates; application to current recipients.

Chapter 2—Benefits for Disabled Children

Sec. 7261. Definition and eligibility rules.
Sec. 7262. Eligibility redeterminations and continuing disability reviews.
Sec. 7263. Additional accountability requirements.

Chapter 3—Studies Regarding Supplemental Security Income Program

Sec. 7271. Annual report on the supplemental security income program.
Sec. 7272. Improvements to disability evaluation.
Sec. 7273. Study of disability determination process.
Sec. 7274. Study by General Accounting Office.

Chapter 4—National Commission on the Future of Disability

Sec. 7281. Establishment.
Sec. 7282. Duties of the Commission.

Sec. 7283. Membership.
Sec. 7284. Staff and support services.
Sec. 7285. Powers of Commission.
Sec. 7286. Reports.
Sec. 7287. Termination.

CHAPTER 5—STATE SUPPLEMENTATION PROGRAMS

Sec. 7291. Repeal of maintenance of effort requirements applicable to optional State programs for supplementation of SSI benefits.

CHAPTER 6—RETIREMENT AGE ELIGIBILITY

Sec. 7295. Eligibility for supplemental security income benefits based on social security retirement age.

Subtitle E—Child Support

CHAPTER 1—ELIGIBILITY FOR SERVICES; DISTRIBUTION OF PAYMENTS

Sec. 7301. State obligation to provide child support enforcement services.
Sec. 7302. Distribution of child support collections.
Sec. 7303. Rights to notification and hearings.
Sec. 7304. Privacy safeguards.

CHAPTER 2—LOCATE AND CASE TRACKING

Sec. 7311. State case registry.
Sec. 7312. Collection and disbursement of support payments.
Sec. 7313. State directory of new hires.
Sec. 7314. Amendments concerning income withholding.
Sec. 7315. Locator information from interstate networks.
Sec. 7316. Expansion of the Federal parent locator service.
Sec. 7317. Collection and use of social security numbers for use in child support enforcement.

CHAPTER 3—STREAMLINING AND UNIFORMITY OF PROCEDURES

Sec. 7321. Adoption of uniform State laws.
Sec. 7322. Improvements to full faith and credit for child support orders.
Sec. 7323. Administrative enforcement in interstate cases.
Sec. 7324. Use of forms in interstate enforcement.
Sec. 7325. State laws providing expedited procedures.

CHAPTER 4—PATERNITY ESTABLISHMENT

Sec. 7331. State laws concerning paternity establishment.
Sec. 7332. Outreach for voluntary paternity establishment.
Sec. 7333. Cooperation by applicants for and recipients of temporary family assistance.

CHAPTER 5—PROGRAM ADMINISTRATION AND FUNDING

Sec. 7341. Performance-based incentives and penalties.
Sec. 7342. Federal and State reviews and audits.
Sec. 7343. Required reporting procedures.
Sec. 7344. Automated data processing requirements.
Sec. 7345. Technical assistance.
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Subtitle A—Medicare

CHAPTER 1—MEDICARE CHOICE PLANS

Subchapter A—Establishment of Medicare Choice Plans

SEC. 7001. MEDICARE CHOICE PLANS.

(a) Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new part:

"PART D—MEDICARE CHOICE PLANS

"SUBPART 1—DEFINITIONS

"Sec. 1895A. Definitions.

"SUBPART 2—ENTITLEMENT OF MEDICARE CHOICE ELIGIBLE INDIVIDUALS TO HEALTH CARE CHOICES

"Sec. 1895B. Entitlement to medicare choices.
"Sec. 1895C. Enrollment procedures.
"Sec. 1895D. Effect of enrollment.

"SUBPART 3—MEDICARE CHOICE PLAN REQUIREMENTS

"Sec. 1895G. Availability and enrollment.
"Sec. 1895H. Benefits provided to individuals.
"Sec. 1895I. Licensing and financial requirements.
"Sec. 1895J. Health plan standards.

"SUBPART 4—DETERMINATION OF MEDICARE PAYMENT AMOUNTS AND REBATES

"Sec. 1895M. Medicare payment amounts.
"Sec. 1895N. Premiums and rebates.
"Sec. 1895O. Payments to plan sponsors.

"SUBPART 5—CONTRACTUAL AUTHORITY; TEMPORARY CERTIFICATION; REGULATIONS

"Sec. 1895P. General permission to contract.
"Sec. 1895Q. Renewal and termination of contract.
"Sec. 1895R. Temporary certification process for coordinated care plans.
"Sec. 1895S. Regulations.

"Subpart 1—Definitions

"SEC. 1895A. DEFINITIONS.

"(a) MEDICARE CHOICE PLAN.—In this part—

"(1) IN GENERAL.—The term 'medicare choice plan' means an eligible health plan with respect to which there is a contract in effect under this part to provide health benefits coverage to medicare choice eligible individuals.

"(2) MEDICARE CHOICE PLAN SPONSOR.—The terms 'medicare choice plan sponsor' and 'plan sponsor' mean a public or private entity which establishes or maintains a medicare choice plan.

"(b) TERMS RELATING TO HEALTH PLANS.—In this part:

"(1) ELIGIBLE HEALTH PLAN.—

"(A) IN GENERAL.—The term 'eligible health plan' means a policy, contract, or plan which is capable of providing health benefits coverage of items and services provided under the traditional medicare program to medicare choice eligible individuals.

"(B) TYPES OF INSURANCE.—The term 'eligible health plan' shall include any of the following types of plans of health insurance:

"(i) INDEMNITY OR FEE-FOR-SERVICE PLANS.—Private indemnity plans that re-

imburse hospitals, physicians, and other providers on the basis of a privately determined fee schedule.

"(ii) COORDINATED CARE PLANS.—Private managed or coordinated care plans which provide health care services through an integrated network of providers, including—

"(I) qualified health maintenance organizations as defined in section 1310(d) of the Public Health Service Act; and

"(II) preferred provider organization plans, point of service plans, provider-sponsored network plans, or other coordinated care plans.

"(iii) HIGH DEDUCTIBLE PLAN IN CONNECTION WITH MEDICARE MEDICAL SAVINGS ACCOUNT.—A high deductible health plan that—

"(I) requires an individual to pay a minimum annual per person deductible for insured medical expenses equal to at least $3,000;

"(II) has an annual limit on the aggregate deductible, coinsurance, and copayments an individual is required to pay for insured medical expenses which does not exceed $6,000; and

"(III) is operated in connection with a medicare choice account described in section 137(b) of the Internal Revenue Code of 1986.

"(iv) OTHER HEALTH CARE PLANS.—Any other private plan for the delivery of health care items and services that is not described in clause (i), (ii), or (iii).

"(2) UNION OR ASSOCIATION PLAN.—

"(A) IN GENERAL.—The term 'union or association plan' means an eligible health plan with a union sponsor, a Taft-Hartley sponsor, or a qualified association sponsor that—

"(i) is organized for purposes other than to market a health plan;

"(ii) may not condition its membership on health status, health claims experience, receipt of health care, medical history, or lack of evidence of insurability of a potential member;

"(iii) may not exclude a member or spouse of a member from health plan coverage based on factors described in clause (ii);

"(iv) is a permanent entity which receives a substantial majority of its financial support from active members; and

"(v) may not be owned or controlled by an insurance company.

"(B) UNION SPONSOR.—The term 'union sponsor' means an employee organization that establishes or maintains an eligible health plan other than pursuant to a collective bargaining agreement.

"(C) TAFT-HARTLEY SPONSOR.—The term 'Taft-Hartley sponsor' means, with respect to a group health plan established or maintained by 2 or more employees or jointly by 1 or more employees and 1 or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of parties who establish or maintain the plan.

"(D) QUALIFIED ASSOCIATION SPONSOR.—The term 'qualified association sponsor' means

an association, religious fraternal organization, or other organization (which may be a trade, industry, or professional association, a chamber of commerce, or a public entity association) which establishes or maintains an eligible health plan.

"(E) TERMS.—In this paragraph, the terms 'employee', 'employee organization', and 'group health plan' have the meanings given such terms for purposes of part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

"(c) OTHER DEFINITIONS.—In this part:

"(1) AREAS.—

"(A) MEDICARE PAYMENT AREA.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'medicare payment area' means—

"(I) a metropolitan statistical area (whether or not such area is in a single State) or in the case of a consolidated metropolitan statistical area, each primary metropolitan statistical area within the consolidated area; or

"(II) one area within each State composed of all areas that do not fall within a metropolitan statistical area.

"(ii) GEOGRAPHIC ADJUSTMENT.—Upon request of a State, the Secretary may make a geographic adjustment to a medicare payment area otherwise determined under clause (i).

"(iii) AREAS.—In this subparagraph, the terms 'metropolitan statistical area', 'consolidated metropolitan statistical area', and 'primary metropolitan statistical area' mean any area designated as such by the Secretary of Commerce.

"(B) MEDICARE SERVICE AREA.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'medicare service area' means a medicare payment area.

"(ii) GEOGRAPHIC ADJUSTMENT.—The Secretary may designate a medicare service area other than a medicare payment area for a medicare choice plan if the Secretary determines that such designation would not result in the enrollment of en-

rollees in the plan in such area which are substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the population in the medicare payment area.

"(2) MEDICARE CHOICE ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'medicare choice eligible individual' means an individual who is entitled to benefits under part A and enrolled under part B.

"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—Such term shall not include an individual medically determined to have end-stage renal disease, except that an individual who develops end-stage renal disease while enrolled in a medicare choice plan may continue to be enrolled in that plan. Not later than December 31, 1999, the Secretary shall submit to the Congress recommendations on expanding the definition of 'medicare choice eligible individual' to include individuals with end-stage renal disease and the enrollment of such individuals in medicare choice plans.

"(3) TRADITIONAL MEDICARE PROGRAM.—The term 'traditional medicare program' means the program of benefits available to individuals entitled to benefits under part A and enrolled under part B of this title, other than enrollment in a medicare choice plan under this part.

"Subpart 2—Entitlement of Medicare Choice Eligible Individuals to Health Care Choices

"SEC. 1895B. ENTITLEMENT TO MEDICARE CHOICES.

"Each medicare choice eligible individual is entitled to choose to receive health care items and services covered under parts A and B—

"(1) through the traditional medicare program; or

"(2) by receiving payments toward the individual's enrollment in a medicare choice plan under this part.

"SEC. 1895C. ENROLLMENT PROCEDURES.

"(a) IN GENERAL.—Except as provided in section 1895G(a)(2), each medicare choice eligible individual shall be entitled to enroll in any medicare choice plan with a medicare service area including the geographic area in which the individual resides during—

"(1) the annual open enrollment period described in section 1895G(b)(1); or

"(2) any other enrollment period described in section 1895G(b)(2) applicable to the individual.

"(b) METHOD OF ENROLLMENT AND DISENROLLMENT.—

"(1) NOTICE PROVIDED TO THE SECRETARY.—Each medicare choice eligible individual desiring to enroll or terminate enrollment in a medicare choice plan shall provide the Secretary with notice of such enrollment or disenrollment during any enrollment period applicable to the individual. The Secretary shall, to the extent feasible, provide for the receipt of such notice by telephone, through the mail, and in person at local social security offices.

"(2) INFORMATION FORWARDED TO THE PLAN.—The Secretary shall promptly provide each medicare choice plan with notice of an individual's enrollment or disenrollment with the plan.

"(c) NOTICES TO INDIVIDUALS TO ASSIST IN ENROLLMENT.—

"(1) OPEN SEASON NOTIFICATION.—

"(A) MAILING OF NOTICE.—By September 30 of each year beginning after 1995, the Secretary shall mail a notice of eligibility to each medicare choice eligible individual and each individual entitled to benefits under part A prior

to the end of the annual open enrollment period described in section 1895G(b)(1).

"(B) NOTICE DESCRIBED.—The notice described in subparagraph (A) shall include an informational brochure that includes the information described in this section, and any other information that the Secretary determines will assist the individual's enrollment decision.

"(2) NOTIFICATION TO NEWLY MEDICARE CHOICE ELIGIBLE INDIVIDUALS.—With respect to an individual who becomes eligible to enroll in a medicare choice plan during the period described in section 1895G(b)(2)(A) and to whom paragraph (1) does not apply, the Secretary shall, not later than 2 months before the date on which the individual becomes eligible, mail to the individual the notice of eligibility described in paragraph (1).

"(d) SECRETARY'S MATERIALS; CONTENTS.—The notice and informational materials mailed by the Secretary under subsection (c) shall be written and formatted in the most easily understandable manner possible, and shall include, at a minimum, the following:

"(1) GENERAL INFORMATION.—General information with respect to coverage under this part during the next calendar year, including—

"(A) the part B premium rates that will be charged for part B coverage,

"(B) the deductible, copayment, and coinsurance amounts for coverage under the traditional medicare program,

"(C) a description of the coverage under the traditional medicare program and any changes in coverage under the program from the prior year,

"(D) a description of the individual's medicare payment area, and the standardized medicare payment amount available with respect to such individual,

"(E) information and instructions on how to enroll in a medicare choice plan,

"(F) the right of each medicare choice plan sponsor by law to terminate or refuse to renew its contract and the effect the termination or nonrenewal of its contract may have on individuals enrolled with the medicare choice plan under this part, and

"(G) to the extent available, quality indicators for the traditional medicare program and each medicare choice plan, including—

1 "(i) disenrollment rates for medicare
2 enrollees for the previous 2 years (exclud-
3 ing disenrollment due to death or moving
4 outside the plan's medicare service area),
5 and
6 "(ii) information on medicare enrollee
7 satisfaction and health outcomes.
8 "(2) PLAN-SPECIFIC INFORMATION.—Informa-
9 tion for the next calendar year for each medicare
10 choice plan in the individual's medicare payment
11 area, including—
12 "(A) the plan's medicare service area,
13 "(B) the enrollee's rights to benefits under
14 the plan, including—
15 "(i) covered items and services,
16 "(ii) deductible, coinsurance, and
17 copayment amounts, and
18 "(iii) the enrollee's liability for pay-
19 ment amounts billed in excess of the plan's
20 fee schedule,
21 "(C) the extent to which enrollees may se-
22 lect the providers of their choice (from within or
23 outside the plan's network of providers if appli-
24 cable) and the restrictions (if any) on the plan's

payment for services furnished to the enrollees by other than the plan's participating providers,

"(D) out-of-area coverage provided by the plan,

"(E) coverage of emergency services and urgently needed care,

"(F) appeal rights of enrollees, including the right to address grievances to the Secretary or the applicable external review entity,

"(G) whether the plan is out-of-compliance with any requirements of this part (as determined by the Secretary),

"(H) the plan's premium price submitted under section 1895N(a)(1) and an indication of the difference between such premium price and the standardized medicare payment amount, and

"(I) optional supplemental coverage available from the plan, including—

"(i) the supplemental items and services covered, and

"(ii) the premium price for the optional supplemental benefits.

"(e) ASSISTANCE.—

"(1) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY.—In order to promote the efficient administration of this section and this part, the Secretary may enter into an agreement with the Commissioner of Social Security under which the Commissioner performs administrative responsibilities relating to enrollment and disenrollment under this section.

"(2) USE OF NON-FEDERAL ENTITIES.—The Secretary shall, to the maximum extent feasible, enter into contracts with appropriate non-Federal entities to carry out activities under subsection (d).

"(3) PLANS.—Each medicare choice plan sponsor shall provide such information as the Secretary requests with respect to a medicare choice plan in order to carry out activities under subsection (d).

"SEC. 1895D. EFFECT OF ENROLLMENT.

"(a) PREMIUM DIFFERENTIALS.—If a medicare choice eligible individual enrolls in a medicare choice plan, the individual—

"(1) shall receive a rebate in the amount determined under section 1895N(b) if the plan's premium is less than the standardized medicare payment amount; and

"(2) shall be required to pay the plan's premium in excess of the standardized medicare payment amount.

"(b) PERIOD OF ENROLLMENT.—

"(1) ANNUAL ENROLLMENT PERIOD.—An individual enrolling in a medicare choice plan during the annual open enrollment period under section 1895G(b)(1) shall be enrolled in the plan for the calendar year following the open enrollment period.

"(2) SPECIAL ENROLLMENT PERIODS.—An individual enrolling in a plan under section 1895G(b)(2) shall be enrolled in the plan for the portion of the calender year on and after the date on which the enrollment becomes effective (as specified by the Secretary).

"(3) TERMINATIONS.—

"(A) IN GENERAL.—Except as otherwise provided in this subsection, an individual may not terminate enrollment in a medicare choice plan before the next annual open enrollment period applicable to the individual.

"(B) QUALIFYING EVENTS.—Notwithstanding subparagraph (A), an individual may terminate enrollment in a medicare choice plan if—

"(i) the individual moves to a new medicare service area, or

"(ii) the individual has experienced a qualifying event (as determined by the Secretary).

"(C) FOR CAUSE.—Notwithstanding subparagraph (A), an individual may terminate enrollment in a medicare choice plan if the plan fails to meet quality or capacity standards or for other cause as determined by the Secretary.

"(D) TERMINATION AFTER INITIAL ENROLLMENT.—An individual may terminate enrollment in a medicare choice plan within 90 days of the individual's initial enrollment in such medicare choice plan and enroll in another medicare choice plan or the traditional medicare program.

"(4) SEAMLESS ENROLLMENT.—If a medicare choice eligible individual is enrolled in a medicare choice plan under this part and such individual fails to provide the Secretary with notice of the individual's enrollment or disenrollment under section 1895C(b)(1) during any open enrollment period applicable to the individual, the individual shall be deemed to have reenrolled in the plan.

"(5) SPECIAL RULES FOR HIGH DEDUCTIBLE PLANS.—In the case of a high deductible plan described in section 1895A(b)(1)(B)(iii) operated in connection with a medicare choice account, an individual may not terminate enrollment in the plan (other than under paragraph (3) (B), (C), or (D)) without at least 12 months notice given during the annual open enrollment period under section 1895G(b)(1).

"(6) SPECIAL RULES FOR UNION, TAFT-HARTLEY, OR ASSOCIATION PLANS.—The Secretary shall establish special enrollment rules for the enrollment of individuals in medicare choice plans that are union or association-sponsored health plans described in section 1895A(b)(2).

"(c) SOLE PAYMENTS.—Subject to subsections (d)(2) and (e) of section 1895H, payments under a contract to a medicare choice plan under section 1895O and for rebates under section 1895N(b) shall be instead of the amounts which (in the absence of the contract) would be otherwise payable under the traditional medicare program for items or services furnished to individuals enrolled with the plan under this section.

"Subpart 3—Medicare Choice Plan Requirements

"SEC. 1895G. AVAILABILITY AND ENROLLMENT.

"(a) GENERAL AVAILABILITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each medicare choice plan sponsor shall provide that each medicare choice eligible individual shall be eligible to enroll under this part in a medicare choice plan of the sponsor during an enrollment period applicable to such individual if the plan's medicare service area includes the geographic area in which the individual resides.

"(2) EXCEPTIONS.—

"(A) ACCEPTANCE TO LIMITS OF CAPACITY.—Each medicare choice plan sponsor shall provide that, at any time during which enrollments are accepted, the plan sponsor will accept medicare choice eligible individuals in the order in which they apply for enrollment up to the limits of the medicare choice plan's capacity (as determined by the Secretary) and without restrictions, except as may be authorized in regulations. The preceding sentence shall not apply if it would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary,

of the medicare population in the medicare service area of the plan.

"(B) UNION, TAFT-HARTLEY, OR ASSOCIATION HEALTH PLAN.—A medicare choice plan sponsor of a union or association plan described in section 1895A(b)(2) shall limit its enrollment to members of the sponsoring group who are entitled to all rights and privileges of any other members of the group and spouses of such members. An association plan which is sponsored by a religious fraternal benefit society may limit membership to individuals who share the same religious convictions as the society.

"(b) ENROLLMENT PERIODS.—

"(1) ANNUAL OPEN ENROLLMENT PERIOD.—Each medicare choice plan sponsor shall offer an annual open enrollment period in November of each year for the enrollment and termination of enrollment of medicare choice eligible individuals for the next year.

"(2) ADDITIONAL PERIODS.—Each medicare choice plan sponsor shall accept the enrollment of an individual in the medicare choice plan—

"(A) during the initial medicare enrollment period specified by section 1837 that applies to

the individual (effective as specified by section 1838), and

"(B) during the period specified by the Secretary following any termination of the enrollment of the individual in a medicare choice plan under subparagraph (B), (C), or (D) of section 1895D(b)(3).

"(c) PLAN PARTICIPATION IN ENROLLMENT PROCESS.—

"(1) IN GENERAL.—In addition to any informational materials distributed by the Secretary under section 1895C(c), a medicare choice plan sponsor may develop and distribute marketing materials and engage in marketing strategies in accordance with this subsection.

"(2) PLAN MARKETING AND ADVERTISING STANDARDS.—Any marketing material developed or distributed by a medicare choice plan sponsor and any marketing strategy developed by such plan sponsor—

"(A) shall accurately describe differences between health care coverage available under the plan and the health care coverage available under the traditional medicare program,

"(B) shall be pursued in a manner not intended to violate the nondiscrimination requirement of section 1895J(e)(1), and

"(C) shall not contain false or materially misleading information, and shall conform to any other fair marketing and advertising standards and requirements applicable to such plans under law.

"(3) PRIOR APPROVAL BY SECRETARY.—

"(A) IN GENERAL.—No marketing materials may be distributed by a medicare choice plan sponsor to (or for the use of) individuals eligible to enroll with the plan under this part unless—

"(i) at least 45 days before its distribution, the plan has submitted the material to the Secretary for review, and

"(ii) the Secretary has not disapproved the distribution of the material.

"(B) REVIEW.—The Secretary shall review all marketing materials submitted under guidelines established by the Secretary and shall disapprove such material if the Secretary determines, in the Secretary's discretion, that the material is materially inaccurate or misleading

or otherwise makes a material misrepresentation.

"(C) DEEMED APPROVAL.—If marketing material has been submitted under subparagraph (A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of the materials under subparagraph (B) with respect to an area, the Secretary is deemed not to have disapproved such distribution in all areas covered by the plan.

"SEC. 1895H. BENEFITS PROVIDED TO INDIVIDUALS.

"(a) BASIC BENEFITS.—Each medicare choice plan shall provide to members enrolled under this part, through providers and other persons that meet the applicable requirements of this title and part A of title XI—

"(1) those items and services covered under parts A and B of this title which are available to individuals residing in the medicare service area of the plan, and

"(2) additional health services as the Secretary may approve.

The Secretary shall approve any such additional health care services which the plan proposes to offer to such

members, unless the Secretary determines that including such additional services will substantially discourage enrollment by medicare choice eligible individuals with the plan.

"(b) SUPPLEMENTAL BENEFITS.—Each medicare choice plan may offer optional supplemental benefits to each individual enrolled in the plan under this part for an additional premium amount. If the supplemental benefits are offered only to individuals enrolled in the sponsor's plan under this part, the additional premium amount shall be the same for all enrolled individuals in the medicare payment area. Such benefits may be marketed and sold by the medicare choice plan sponsor outside of the enrollment process described in section 1895D(b).

"(c) COST-SHARING.—

"(1) ENROLLEE COST-SHARING UNDER CHOICE PLAN MAY NOT EXCEED MEDICARE ENROLLEE COST.—Except as provided in paragraph (2), in no event may the average total amount of deductibles, coinsurance, and copayments charged an individual under a medicare choice plan with respect to basic benefits described in subsection (a)(1) for a year exceed the average total amount of deductibles, coinsurance, and copayments charged an individual under the traditional medicare program for a year.

"(2) HIGH DEDUCTIBLE PLANS.—Subparagraph (A) shall not apply to a high deductible plan described in section 1895A(b)(1)(B)(iii).

"(3) DETERMINATION ON OTHER BASIS.—If the Secretary determines that adequate data are not available to determine the average amount under paragraph (1), the Secretary may determine such amount with respect to all individuals in the medicare payment area, the State, or in the United States, eligible to enroll in such plan under this part or on the basis of other appropriate data.

"(d) NATIONAL COVERAGE DETERMINATION.—If there is a national coverage determination made in the period beginning on the date of an announcement under section 1895M(a) and ending on the date of the next announcement under such section and the Secretary projects that the determination will result in a significant change in the costs to the medicare choice plan of providing the benefits that are the subject of such national coverage determination and that such change in costs was not incorporated in the determination of the medicare payment amount included in the announcement made at the beginning of such period—

"(1) such determination shall not apply to contracts under this part until the first contract year that begins after the end of such period, and

"(2) if such coverage determination provides for coverage of additional benefits or coverage under additional circumstances, section 1895I(b)(2) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances until the first contract year that begins after the end of such period,

unless otherwise required by law.

"(e) OVERLAPPING PERIODS OF COVERAGE.—A contract under this part shall provide that in the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

"(1) enrollment with a medicare choice plan under this part—

"(A) payment for such services until the date of the individual's discharge shall be made under this title as if the individual were not enrolled with the plan,

"(B) the plan sponsor shall not be financially responsible for payment for such services

until the date after the date of the individual's discharge, and

"(C) the plan sponsor shall nonetheless be paid the full amount otherwise payable to the plan under this part, or

"(2) termination of enrollment with a medicare choice plan under this part—

"(A) the plan sponsor shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(B) payment for such services during the stay shall not be made under section 1886(d), and

"(C) the plan sponsor shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

"(f) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a medicare choice plan sponsor may (in the case of the provision of services to an individual under this part under circumstances in which payment is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed

under the law, plan, or policy which is the primary payer under such circumstances—

"(1) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(2) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

"SEC. 1895I. LICENSING AND FINANCIAL REQUIREMENTS.

"(a) LICENSING REQUIREMENT.—

"(1) IN GENERAL.—A medicare choice plan sponsor shall be organized and licensed under applicable State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which the medicare choice plan enrolls individuals under this part.

"(2) EXCEPTION FOR UNION, TAFT-HARTLEY, OR ASSOCIATION PLANS.—Paragraph (1) shall not apply to a union or association plan described in section 1895A(b)(2) if such plan is exempt from such requirements under the Employee Retirement Income Security Act of 1974.

"(3) COORDINATED CARE PLANS.—Paragraph (1) shall apply to a coordinated care plan except to the extent provided in section 1895R.

"(b) ASSUMPTION OF FULL FINANCIAL RISK.—A medicare choice plan sponsor shall assume full financial risk on a prospective basis for the provision of health care services for which benefits are required to be provided under section 1895H(a)(1), except that such plan sponsor may—

"(1) obtain insurance or make other arrangements for the cost of such health care services the aggregate value of which exceeds $5,000 in any year,

"(2) obtain insurance or make other arrangements for the cost of such health care services provided to its enrolled members other than through the plan sponsor because medical necessity required their provision before they could be secured through the plan sponsor,

"(3) obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(4) make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health

services by the physicians or other health professionals or through the institutions.

"(c) PROTECTION AGAINST RISK OF INSOLVENCY.—

"(1) IN GENERAL.—A medicare choice plan sponsor shall make adequate provision against the risk of insolvency (including provision to prevent enrollees from being held liable to any person or entity for the plan sponsor's debts in the event of the plan sponsor's insolvency)—

"(A) as determined by the Secretary, or

"(B) as determined by a State which the Secretary determines requires solvency standards at least as stringent as the standards under subparagraph (A).

"(2) FACTORS TO CONSIDER.—In establishing standards under paragraph (1) for coordinated care plans described in section 1895A(b)(1)(B)(ii), the Secretary shall consult with interested parties and shall take into account—

"(A) a coordinated care plan sponsor's delivery system assets and its ability to provide services directly to enrollees through affiliated providers, and

"(B) alternative means of protecting against insolvency, including reinsurance, unre-

stricted surplus, letters of credit, guarantees, organizational insurance coverage, and partnerships with other licensed entities.

The Secretary is not required to include alternative means described in subparagraph (B) in the standards but may consider such alternatives where consistent with the standards.

''(d) PAYMENTS TO THE PLAN.—

''(1) PREPAID PAYMENT.—A medicare choice plan sponsor shall be compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to individuals enrolled under this part by a payment by the Secretary (and if applicable, the individual) which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

''(2) SOLE PAYMENTS.—Subject to subsections (d)(2) and (e) of section 1895H, if an individual is enrolled under this part with a medicare choice plan, only the plan sponsor shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"SEC. 1895J. HEALTH PLAN STANDARDS.

"(a) IN GENERAL.—Each medicare choice plan sponsor shall meet the requirements of this section.

"(b) QUALITY ASSURANCE AND ACCREDITATION.—

"(1) INTERNAL REVIEW.—

"(A) IN GENERAL.—Each medicare choice plan sponsor must establish an ongoing quality assurance program (in accordance with regulations established by the Secretary) for health care services it provides to such individuals.

"(B) ELEMENTS OF PROGRAM.—The quality assurance program established under subparagraph (A) shall—

"(i) stress health outcomes,

"(ii) provide for the establishment of written protocols for utilization review, based on current standards of medical practice,

"(iii) provide review by physicians and other health care professionals of the process followed in the provision of such health care services,

"(iv) monitor and evaluate high-volume and high-risk services and the care of acute and chronic conditions,

"(v) evaluate the continuity and coordination of care that enrollees receive,

"(vi) have mechanisms to detect both underutilization and overutilization of services,

"(vii) after identifying areas for improvement, establish or alter practice parameters,

"(viii) take action to improve quality and assess the effectiveness of such action through systematic followup,

"(ix) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate), and

"(x) provide that the program is evaluated on an ongoing basis as to its effectiveness.

"(2) EXTERNAL REVIEW.—

"(A) IN GENERAL.—Each medicare choice plan sponsor shall, for each medicare choice plan it operates, have an agreement with an

independent quality review and improvement organization approved by the Secretary.

"(B) FUNCTIONS OF ORGANIZATION.—Each independent quality review and improvement organization with an agreement under subparagraph (A) shall—

"(i) provide an alternative mechanism for addressing enrollee grievances,

"(ii) review plan performance based on accepted quality performance criteria,

"(iii) promote and make plans accountable for improved plan performance,

"(iv) integrate into ongoing external quality assurance activities a new set of quality indicators and standards developed specifically for the medicare population that would be used to determine whether a plan is providing quality care and appropriate continuity and coordination of care, and

"(v) report to the Secretary on those plans that have demonstrated unwillingness or inability to improve their performance.

"(3) ACCREDITATION.—Each medicare choice plan sponsor shall be required—

"(A) to meet accreditation standards established by the Secretary, or

"(B) to be accredited by an external independent accrediting organization, recognized by the Secretary as requiring standards at least as stringent as the standards established under subparagraph (A).

"(4) ENCOUNTER DATA.—The Secretary shall create incentives for medicare choice plan sponsors to report aggregate encounter data, including data on physician visits, nursing home days, home health days, hospital inpatient days, and rehabilitation services.

"(c) ACCESS.—Each medicare choice plan sponsor shall—

"(1) make the services described in section 1895H(a) (and such other health care services as such individuals have contracted for)—

"(A) available and accessible to each such individual, within the medicare service area of the plan, with reasonable promptness, and in a manner which assures continuity, and

"(B) when medically necessary, available and accessible 24 hours a day and 7 days a week,

"(2) provide for reimbursement with respect to such services which are provided to such an individual other than through the plan's providers, if—

"(A) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and

"(B) it was not reasonable given the circumstances to obtain the services through the plan's providers,

"(3) provide access to appropriate providers, including credentialed specialists, for all medically necessary treatment and services, and

"(4) except as provided by the Secretary on a case-by-case basis, in the case of a coordinated care plan described in section 1895A(b)(1)(B)(ii), provide primary care services within 30 minutes or 30 miles from an enrollee's place of residence if the enrollee resides in a rural area.

"(d) CAPACITY.—Each medicare choice plan sponsor shall provide the Secretary with a demonstration of the plan's capacity to adequately service the plan's expected enrollment of individuals under this part.

1 "(e) CONSUMER PROTECTIONS.—

2 "(1) NONDISCRIMINATION.—Each medicare
3 choice plan sponsor shall provide assurances to the
4 Secretary that it will not deny enrollment to, expel,
5 or refuse to reenroll any such individual because of
6 the individual's health status or requirements for
7 health care services, and that it will notify each such
8 individual of such fact at the time of the individual's
9 enrollment. A medicare choice plan sponsor may not
10 cancel or refuse to renew a beneficiary except in the
11 case of fraud or nonpayment of premium amounts
12 due the plan.

13 "(2) GRIEVANCE PROCEDURES.—

14 "(A) IN GENERAL.—Each medicare choice
15 plan sponsor shall provide meaningful proce-
16 dures for hearing and resolving grievances be-
17 tween the plan (including any entity or individ-
18 ual through which the plan provides health care
19 services) and members enrolled with the plan
20 under this part.

21 "(B) HEARING REQUIREMENT.—A mem-
22 ber enrolled with a medicare choice plan under
23 this part who is dissatisfied by reason of his
24 failure to receive any health service to which he
25 believes he is entitled and at no greater charge

than he believes he is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the plan sponsor a party. If the amount in controversy is $1,000 or more, the individual or plan sponsor shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the plan sponsor shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

"(C) EXPEDITED REVIEW.—The Secretary shall provide an expedited review procedure under subparagraph (B) where a failure to receive any health care service or payment for such service would result in significant harm.

"(3) SUPPLEMENTAL COVERAGE IF PLAN TERMINATES THE CONTRACT.—Each medicare choice plan sponsor that provides items and services pursuant to a contract under this part shall provide assurances to the Secretary that in the event the contract is terminated, the sponsor shall provide or arrange for supplemental coverage of benefits under this title related to a preexisting condition with respect to any exclusion period, to all individuals enrolled with the entity who receive benefits under this title, for the lesser of 6 months or the duration of such period.

"(f) PROMPT PAYMENT.—

"(1) IN GENERAL.—Each medicare choice plan sponsor shall provide prompt payment (consistent with the provisions of sections 1816(c)(2) and 1842(c)(2)) of claims submitted for services and supplies furnished to individuals pursuant to such contract, if the services or supplies are not furnished under a contract between the plan and the provider or supplier.

"(2) DIRECT PAYMENT.—In the case of a medicare choice plan sponsor which the Secretary determines, after notice and opportunity for a hearing, has failed to make payments of amounts in compliance with paragraph (1), the Secretary may provide

for direct payment of the amounts owed to providers and suppliers for such covered services furnished to individuals enrolled under this part under the contract. If the Secretary provides for such direct payments, the Secretary shall provide for an appropriate reduction in the amount of payments otherwise made to the plan sponsor under this part to reflect the amount of the Secretary's payments (and costs incurred by the Secretary in making such payments).

''(g) ADVANCE DIRECTIVES.—A contract under this part shall provide that a medicare choice plan sponsor shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

"Subpart 4—Determination of Medicare Payment Amounts and Rebates

"SEC. 1895M. MEDICARE PAYMENT AMOUNTS.

''(a) IN GENERAL.—Not later than July 31 of each calendar year (beginning with 1996), the Secretary shall determine, and announce in a manner intended to provide notice to interested parties, a standardized medicare payment amount determined in accordance with this section for the following calendar year for each medicare payment area.

"(b) CALCULATION OF STANDARDIZED MEDICARE PAYMENT AMOUNTS.—For purposes of this part—

"(1) 1997.—

"(A) IN GENERAL.—The standardized medicare payment amount for calendar year 1997 for a medicare payment area shall be equal to the sum of—

"(i) 50 percent of the modified per capita rate for calendar year 1996, and

"(ii) 50 percent of the adjusted average national per capita rate for calendar year 1996,

increased by the percentage increase in the gross domestic product per capita for the 12-month period ending on June 30, 1996.

"(B) MODIFIED PER CAPITA RATE.—For purposes of subparagraph (A)(i), the modified per capita rate for calendar year 1996 for a medicare payment area shall be equal to the per capita rate which would have been determined (without regard to class) under section 1876(a)(1)(C) for 1995 if—

"(i) the applicable geographic area were the medicare payment area, and

"(ii) 50 percent of any payments attributable to sections 1886(d)(5)(B), 1886(h), and 1886(d)(5)(F) (relating to IME, GME, and DSH payments) were not taken into account,

increased by the percentage increase which the Secretary estimates will occur in medicare expenditures per capita for 1996 over medicare expenditures per capita for 1995.

"(C) ADJUSTED AVERAGE NATIONAL PER CAPITA RATE.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the adjusted average national per capita rate for a medicare payment area for calendar year 1996 shall be equal to the sum, for all types of medicare services (as classified by the Secretary), of the product for each such type of—

"(I) the average national per capita rate for 1996,

"(II) the proportion of such rate for the year which is attributable to such type of services, and

"(III) an index that reflects for 1996 and that type of service the relative input price of such services in the medicare payment area as compared to the national average input price of such services.

In applying subclause (III), the Secretary shall apply those indices that are used in applying (or updating) medicare payment rates for specific areas and localities.

"(ii) AVERAGE NATIONAL PER CAPITA RATE.—For purposes of clause (i), the average national per capita rate for 1996 is the weighted average of the modified per capita rates determined under subparagraph (B) for all medicare payment areas for 1996.

"(2) SUCCEEDING YEARS.—

"(A) IN GENERAL.—The standardized medicare payment amount for any calendar year after 1997 in a medicare payment area shall be an amount equal to the standardized medicare payment amount determined for such area for the preceding year, increased by the percentage increase in the gross domestic prod-

uct per capita for the 12-month period ending on June 30 of the preceding calendar year.

"(B) SPECIAL RULE FOR 1998.—In applying subparagraph (A) for 1998, the standardized medicare payment amount for the preceding calendar year shall be the amount which would have been determined if clause (ii) of paragraph (1)(B) had been applied by substituting '100 percent' for '50 percent'.

"(3) SPECIAL RULE FOR INDIVIDUALS WITH END-STAGE RENAL DISEASE.—In computing the standardized medicare payment amount for any medicare payment area, there shall not be taken into account any individuals with end-stage renal disease or any medicare expenditures for such individuals.

"(c) ADJUSTMENTS FOR PAYMENTS TO PLAN SPONSORS.—

"(1) IN GENERAL.—The rate of payment under section 1895O to a medicare choice plan sponsor with respect to any individual enrolled in a medicare choice plan of the sponsor shall be equal to the standardized medicare payment amount for the medicare payment area, adjusted for such risk factors as age, disability status, gender, institutional status, health status, and such other factors as the Sec-

retary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

"(2) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—The Secretary shall establish a separate rate of payment under section 1895O to a medicare choice plan sponsor with respect to any individual with end-stage renal disease enrolled in a medicare choice plan of the sponsor. Such rate of payment shall be actuarially equivalent to rates paid to other enrollees in the medicare payment area (or such other area as specified by the Secretary).

"(d) GEOGRAPHICAL ADJUSTMENTS.—

"(1) ANNUAL ADJUSTMENTS.—

"(A) IN GENERAL.—Unless Congress provides otherwise, beginning with calendar years after 1999, the Secretary shall, based on the analysis under paragraph (2) and to the extent the Secretary determines necessary, make annual differential adjustments to the standardized medicare payment amounts determined under subsection (b)(2) for calendar years 2000 and 2001 in a manner designed to achieve ap-

propriate and equitable variation in standardized medicare payment amounts across medicare payment areas by calendar year 2002. Such variation shall be reasonably related to measurable geographic differences in medicare payment areas.

"(B) BUDGET NEUTRALITY.—The Secretary shall adjust the standardized medicare payment amounts under subsection (b) in a manner that ensures that total payments under this section for a year are not greater or less than total payments under this section would have been but for the application of subparagraph (A).

"(2) ANALYSIS.—The Secretary, in consultation with interested parties, shall conduct an analysis of the measurable input cost differences across medicare payment areas, including wage differentials, and other measurable variables identified by the Secretary. The Secretary shall also determine the degree to which medicare beneficiaries, including beneficiaries in rural and underserved areas, have access to more health plan choices by calendar year 2000 under this part, and the extent to which standard-

ized medicare payment amounts have limited or enhanced such choices.

"(3) REPORT TO CONGRESS.—Not later than March 1, 1999, the Secretary shall submit a report to the appropriate committees of Congress that includes the results of the analysis described in paragraph (2) and the annual differential adjustments that the Secretary intends to implement under paragraph (1) for calendar years 2000 and 2001.

"(e) NOTICE IN CHANGES TO BENEFIT ASSUMPTIONS.—

"(1) IN GENERAL.—At least 45 days before making the announcement under subsection (a) for a year (beginning with the announcement for 1998), the Secretary shall provide for notice to medicare choice plans of proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such plans an opportunity to comment on such proposed changes.

"(2) EXPLANATION.—In each announcement made under subsection (a) for a year (beginning with the announcement for 1998), the Secretary shall include an explanation of the assumptions (including any benefit coverage assumptions) and

changes in methodology used in the announcement in sufficient detail so that medicare choice plans can compute medicare payment rates under subsection (d) for classes of individuals located in each medicare payment area which is in whole or in part within the medicare service area of such a plan.

"(f) DEMONSTRATION PROJECT ON MARKET-BASED REIMBURSEMENT AND COMPETITIVE PRICING.—The Secretary shall establish 1 or more demonstration projects to determine the standardized medicare payment amounts described in subsection (b) through competitive bidding by medicare choice plans in a medicare payment area. Not later than December 31, 2001, the Secretary shall submit a report to the Congress on the success of such projects in determining standardized medicare payment amounts that are reflective of market price.

"SEC. 1895N. PREMIUMS AND REBATES.

"(a) SUBMISSION AND CHARGING OF PREMIUMS.—

"(1) IN GENERAL.—Each medicare choice plan sponsor shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary, the amount of the monthly premium for coverage under each medicare choice plan it offers under this part in each medicare payment area in which the plan is being offered.

"(2) UNIFORM PREMIUM.—The premiums charged by a medicare choice plan sponsor under this part may not vary among individuals who reside in the same medicare payment area.

"(3) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each medicare choice plan sponsor shall permit the payment of monthly premiums on a monthly basis.

"(b) REBATES.—

"(1) IN GENERAL.—If the standardized medicare payment amount for the medicare payment area in which an individual resides exceeds the amount of the monthly premium for the plan in which the individual is enrolled (as submitted under subsection (a)(1)), the Secretary shall—

"(A) in the case of an individual—

"(i) who is enrolled in a high deductible health plan described in section 1895A(b)(1)(B)(iii), deposit 100 percent of such excess in the medicare choice account specified by the individual, or

"(ii) who is not so enrolled but who elects the application of this clause, deposit 100 percent of such excess in the medicare

choice account specified by the individual; or

"(B)(i) pay to the medicare choice plan sponsor on behalf of such individual the monthly amount equal to 100 percent of such excess up to the amount of the premium amount of such individual for supplemental benefits described in section 1895H(b),

"(ii) pay to such individual an amount equal to 75 percent of the remainder of such excess, and

"(iii) deposit the remainder of such excess in the Federal Hospital Insurance Trust Fund.

"(2) TIME FOR PAYMENT.—

"(A) IN GENERAL.—A rebate under paragraph (1)(B)(ii) shall be paid as of the close of the calendar year to which the enrollment applied.

"(B) DEPOSITS IN MEDICARE CHOICE ACCOUNTS.—Deposits described in paragraph (1)(A) shall be made on a monthly basis.

"(C) OTHER PAYMENTS AND DEPOSITS.—Payments and deposits described in subparagraphs (B)(i) and (iii) shall be made on a monthly basis.

"(3) SOURCE OF REBATES.—Deposits and payments described in paragraph (1) shall be made in the same manner as payments are made under section 1895O(b).

"SEC. 1895O. PAYMENTS TO PLAN SPONSORS.

"(a) MONTHLY PAYMENTS.—

"(1) IN GENERAL.—For each individual enrolled with a plan under this part, the Secretary shall make monthly payments in advance to the medicare choice plan sponsor of the medicare choice plan with which the individual is enrolled in an amount equal to the medicare payment rate determined with respect to such individual under section 1895M(c).

"(2) RETROACTIVE ADJUSTMENTS.—The amount of payment under this paragraph may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(b) PAYMENTS FROM TRUST FUNDS.—The payment to a medicare choice plan sponsor under this section for a medicare-eligible individual shall be made from the Federal Hospital Insurance Trust Fund and the Federal

Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under parts A and B are representative of the actuarial value of the total benefits under this part.

"Subpart 5—Contractual Authority; Temporary Certification; Regulations

"SEC. 1895P. GENERAL PERMISSION TO CONTRACT.

''The Secretary shall enter into a contract with any medicare choice plan sponsor in a medicare payment area if the requirements of this part are met with respect to the medicare choice plan and the plan sponsor.

"SEC. 1895Q. RENEWAL AND TERMINATION OF CONTRACT.

''(a) IN GENERAL.—Except as provided in subsection (b), each contract under this part may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

''(b) TERMINATION FOR CAUSE.—

''(1) IN GENERAL.—In accordance with procedures established under paragraph (2), the Secretary may terminate any contact with a medicare choice plan sponsor at any time or may impose the intermediate sanctions described in paragraph (2) or (3) or subsection (f) (whichever is applicable) on the

plan sponsor, if the Secretary finds that the plan sponsor—

"(A) has failed substantially to carry out the contract,

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this part, or

"(C) no longer substantially meets the applicable conditions of this part.

"(2) PROCEDURES.—The Secretary may terminate a contract with a medicare choice plan sponsor under this part or may impose the intermediate sanctions described in subsection (f)(3) on the plan in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the medicare choice plan sponsor with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the medicare choice plan sponsor fails to develop or implement such a corrective action plan,

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether a plan sponsor has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the plan sponsor's attention,

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions, and

"(D) the Secretary provides the plan sponsor with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.

"(c) TERMS OF CONTRACT.—Each contract under this part—

"(1) shall provide that the Secretary, or any person or organization designated by the Secretary—

"(A) shall have the right to inspect or otherwise evaluate—

"(i) the quality, appropriateness, and timeliness of services performed under the contract, and

"(ii) the facilities of the plan sponsor when there is reasonable evidence of some need for such inspection,

"(B) shall have the right to audit and inspect any books and records of the plan sponsor that pertain—

"(i) to the ability of the plan sponsor to bear the risk of potential financial losses, and

"(ii) shall require the plan sponsor with a contract to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under this part with the plan sponsor,

"(C)(i) except as provided by the Secretary, shall require the plan sponsor to comply with requirements similar to the requirements of subsections (a) and (c) of section 1318 of the Public Health Service Act (relating to disclosure of certain financial information) and section 1301(c)(8) of such Act (relating to liability arrangements to protect members),

"(ii) shall require the plan sponsor to provide and supply information (described in section 1866(b)(2)(C)(ii)) in the manner such information is required to be provided or supplied under that section, and

"(iii) shall require the plan sponsor to notify the Secretary of loans and other special financial arrangements which are made between the plan sponsor and subcontractors, affiliates, and related parties, and

"(D) shall contain such other terms and conditions not inconsistent with this part (including requiring the plan sponsor to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(d) 5-YEAR LOCKOUT.—The Secretary may not enter into a contract under this part with a medicare choice plan sponsor if a previous contract with that plan sponsor under this part was terminated at the request of the plan sponsor within the preceding 5-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(e) APPLICATION OF OTHER FEDERAL LAWS.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regula-

tions relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(f) REMEDIES FOR FAILURE TO COMPLY.—

"(1) FAILURE OF PLAN SPONSOR TO COMPLY WITH CONTRACT.—If the Secretary determines that a medicare choice plan sponsor—

"(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, and the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual,

"(B) imposes cost sharing on individuals enrolled under this part in excess of the cost sharing permitted,

"(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part,

"(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals

with the plan whose medical condition or history indicates a need for substantial future medical services,

"(E) misrepresents or falsifies information that is furnished—

"(i) to the Secretary under this section, or

"(ii) to an individual or to any other entity under this section,

"(F) fails to comply with the requirements of section 1895J(f), or

"(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services,

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

"(2) REMEDIES.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such subparagraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

"(B) suspension of enrollment of individuals under this section after the date the Secretary notifies the plan sponsor of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(C) suspension of payment to the plan sponsor under this section for individuals enrolled after the date the Secretary notifies the plan sponsor of a determination under para-

graph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(3) INTERMEDIATE SANCTIONS.—In the case of a medicare choice plan sponsor for which the Secretary makes a determination under subsection (b)(1) the basis of which is not described in subparagraph (A) thereof, the Secretary may apply the following intermediate sanctions:

"(A) Civil money penalties of not more than $25,000 for each determination under subsection (b)(1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the plan's contract.

"(B) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (b)(2) during which the deficiency that is the basis of a determination under subsection (b)(1) exists.

"(C) Suspension of enrollment of individuals under this section after the date the Secretary notifies the plan sponsor of a determina-

tion under subsection (b)(1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

"(4) PROCEEDINGS.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under paragraph (2)(A) or (3)(A) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"SEC. 1895R. TEMPORARY CERTIFICATION PROCESS FOR COORDINATED CARE PLANS.

"(a) FEDERAL ACTION ON CERTIFICATION.—

"(1) IN GENERAL.—If—

"(A) a State fails to substantially complete action on a licensing application of a coordinated care plan sponsor within 90 days of receipt of the completed application, or

"(B) a State denies a licensing application and the Secretary determines that the State's licensing standards or review process create an unreasonable barrier to market entry,

the Secretary shall evaluate such application pursuant to the procedures established under subsection (b).

"(2) UNREASONABLE BARRIERS TO MARKET ENTRY.—A State's licensing standards and review process shall not be treated as unreasonable barriers to market entry under paragraph (1) if—

"(A) they are applied consistently to all coordinated care medicare choice plan applications,

"(B) are not directly in conflict, or inconsistent with, the Federal standards.

"(b) FEDERAL CERTIFICATION PROCEDURES.—

"(1) IN GENERAL.—The Secretary shall establish a process for certification of a coordinated care plan and its sponsor as meeting the requirements of this part in cases described in subsection (a)(1).

"(2) REQUIREMENTS.—Such process shall—

"(A) set forth the standards for certification,

"(B) provide that final action will be taken on an application for certification within 120 business days of receipt of the completed application,

"(C) provide that State law and regulations shall apply to the extent they have not been found to be an unreasonable barrier to market entry under subsection (a)(1)(B), and

"(D) require any person receiving a certificate to provide the Secretary with all reasonable information in order to ensure compliance with the certification.

"(3) EFFECT OF CERTIFICATIONS.—

"(A) IN GENERAL.—A certificate under this section shall be issued for not more than 36 months and may not be renewed.

"(B) COORDINATION WITH STATE.—A person receiving a certificate under this section shall continue to seek State licensure under subsection (a) during the period the certificate is in effect.

"(C) SUNSET.—No certificate shall be issued under this section after December 31, 2000, and no certificate under this section shall remain in effect after December 31, 2001.

"(c) REPORT.—Not later than December 31, 1998, the Secretary shall report to Congress on the temporary Federal certification system under subsection (b), including an analysis of State efforts to adopt licensing standards and review processes that take into account the fact that coordinated care plan sponsors provide services directly to enrollees through affiliated providers.

"(d) COORDINATED CARE PLAN.—In this section, the term 'coordinated care plan' means a plan described in section 1895A(b)(1)(B)(ii).

"(e) TRANSITION RULE FOR CERTAIN RISK CONTRACTORS.—A medicare choice plan sponsor that is an eligible organization (as defined in section 1876(b)) and that—

"(1) has a risk-sharing contract in effect under section 1876 as of the date of the enactment of this part, or

"(2) has an application for such a contract filed before such date and the contract is entered into before July 1, 1996,

shall be treated as meeting the Federal standards in effect under this section for any contract year beginning before January 1, 2000.

"(f) PARTIAL CAPITATION DEMONSTRATION.—The Secretary shall conduct a demonstration on alternative partial risk-sharing arrangements between the Secretary and health care providers. The Secretary shall report to Congress no later than December 31, 1998, on the administrative feasibility of such partial capitation methods and the information necessary to implement such arrangements.

"SEC. 1895S. REGULATIONS.

"(a) IN GENERAL.—The Secretary shall establish such regulations as may be necessary to carry out the purposes of this part, including regulations setting forth the requirements to meet all quality, access, and solvency standards specified in sections 1895I and 1895J.

"(b) USE OF INTERIM, FINAL REGULATIONS.—In order to carry out the provisions of this part in a timely manner, the Secretary may, within 120 days after the date of the enactment of this part, promulgate regulations described in subsection (a) that take effect on an interim basis, after notice and opportunity for public comment."

(b) COORDINATION WITH FEHBP.—Notwithstanding any provision of part D of title XVIII of the Social Security Act (as added by subsection (a)), individuals who are enrolled in a health benefit plan under chapter 89 of title 5, United States Code, shall not be eligible to enroll in high deductible medicare choice plans described in section 1895A(b)(1)(B)(iii) of such Act until such time as the Director of the Office of Management and Budget certifies to the Secretary of Health and Human Services that the Office of Personnel Management has adopted policies which will ensure that the enrollment of such individuals in such plans will not result in increased expenditures for the Federal Government for health benefit plans under such chapter.

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this chapter.

(2) OTHER AMENDMENTS.—(A) Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended—

(i) in the matter preceding clause (i), by inserting ''or medicare choice plan under part D'' after ''eligible organization'', and

(ii) in clause (i), by inserting ''or under a contract under part D, '' after ''1972,''.

(B) Section 1882(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended in the first sentence by inserting '', or under a medicare choice plan under part D'' before the end period.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contracts effective on and after January 1, 1997.

SEC. 7002. TREATMENT OF 1876 ORGANIZATIONS.

(a) TERMINATION OF 1876 RISK-SHARING ORGANIZATIONS.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

''(k)(1) Except as provided in paragraph (2), this section shall not apply to risk-sharing contracts effective for contract years beginning on or after January 1, 1997.

''(2) An individual who is enrolled in part B only and is enrolled in an eligible organization with a risk-sharing contract under this section on December 31, 1996, may continue enrollment in such organization. Not later then July 1, 1996, the Secretary shall issue regulations relating to such individuals and such organizations.''

(b) HMO LIMITS LIFTED.—Section 1301(b) of the Public Health Service Act (42 U.S.C. 300e(b)) is amended by adding at the end the following new paragraph:

''(6)(A) Effective January 1, 1997, if a member certifies that a medicare choice account has been established for the benefit of such member, a health maintenance organization may reduce the basic health services payment otherwise determined under paragraph (1) by requiring the payment of a deductible by the member for basic health services.

''(B) For purposes of this paragraph, the term 'medicare choice account' has the meaning given

such term by section 7705 of the Internal Revenue Code of 1986.''

SEC. 7003. SPECIAL RULE FOR CALCULATION OF PAYMENT RATES FOR 1996.

(a) IN GENERAL.—Notwithstanding any other provision of law, the per capita rate under section 1876 of the Social Security Act for 1996 for any class for a geographic area shall be equal to the sum of—

(1) 75 percent of the updated per capita rate for such class for such area, and

(2) 25 percent of the weighted average of the updated per capita rates for such class for all geographic areas, adjusted in the same manner as under section 1895M(b)(1)(C)(i) of the Social Security Act (as added by section 7001 of this Act) to reflect differences in input prices in the geographic area as compared to the national average input prices.

In no event shall any average per capita rate in a geographic area determined under the preceding sentence be less than such rate determined under section 1876 of such Act for 1995.

(b) UPDATED PER CAPITA RATES.—For purposes of subsection (a), the updated per capita rate for any class is the per capita rate of payment for 1995 determined

under section 1876(a)(1)(C) of the Social Security Act for a county (or equivalent area), increased by the percentage increase which the Secretary estimates will occur in medicare expenditures per capita for 1996 over medicare expenditures per capita for 1995.

(c) PUBLICATION.—The Secretary shall publish the rates determined under subsection (a) no later than 30 days after the date of the enactment of this Act.

Subchapter B—Tax Provisions Relating to Medicare Choice Plans

SEC. 7006. MEDICARE CHOICE ACCOUNTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. MEDICARE CHOICE ACCOUNTS.

"(a) EXCLUSION.—

"(1) IN GENERAL.—Gross income shall not include any payment to the medicare choice account of an individual by the Secretary of Health and Human Services under section 1895N(b)(1) of the Social Security Act.

"(2) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of an individ-

ual solely because the individual may choose between—

"(A) the payment described in paragraph (1) or a rebate under section 1895N(b) of the Social Security Act, or

"(B) the payment of the individual's premium for supplemental benefits described in section 1895H(b) of such Act or such a rebate.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MEDICARE CHOICE ACCOUNT.—The term 'medicare choice account' means a trust created or organized in the United States exclusively for the purpose of paying qualified medical expenses, but only if the written governing instrument creating the trust meets the following requirements:

"(A) Except in the case of a trustee-to-trustee transfer described in subsection (d)(4), no contribution will be accepted unless it is made by the Secretary of Health and Human Services under section 1895N(b)(1) of the Social Security Act.

"(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Sec-

retary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) The interest of an individual in the balance in his account is nonforfeitable.

"(F) Trustee-to-trustee transfers described in subsection (d)(4) may be made to and from the trust.

"(2) QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The term 'qualified medical expenses' means, with respect to an account beneficiary, amounts paid by such beneficiary—

"(i) for medical care (as defined in section 213(d)) for—

"(I) the account beneficiary, or

"(II) the spouse of the account beneficiary if the spouse is entitled to benefits under part A of title XVIII of

the Social Security Act and enrolled under part B of such title,

but only to the extent such amounts are not compensated for by insurance or otherwise, or

''(ii) for qualified long-term care services for the account beneficiary or such spouse.

''(B) HEALTH INSURANCE MAY NOT BE PURCHASED FROM ACCOUNT.—Subparagraph (A) shall not apply to any payment for insurance other than insurance providing coverage for qualified long-term care services.

''(C) QUALIFIED LONG-TERM CARE SERVICES.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, rehabilitative, and maintenance (including personal care) services which are required by an individual during any period during which such individual is a functionally impaired individual (as determined in the manner prescribed by the Secretary).

''(3) ACCOUNT BENEFICIARY.—

"(A) IN GENERAL.—The term 'account beneficiary' means the individual on whose behalf the medicare choice account is maintained.

"(B) JOINT ACCOUNTS.—If married individuals are both enrolled in a medicare choice plan, they may establish a joint account and each spouse shall be treated as an account beneficiary.

"(4) MEDICARE CHOICE PLAN.—The term 'medicare choice plan' has the meaning given such term by section 1895A(a) of the Social Security Act.

"(5) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (g) and (h) of section 408 shall apply for purposes of this section.

"(c) TAX TREATMENT OF ACCOUNTS.—

"(1) IN GENERAL.—A medicare choice account is exempt from taxation under this subtitle unless such account has ceased to be a medicare choice account by reason of paragraph (2). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) ACCOUNT ASSETS TREATED AS DISTRIBUTED IN THE CASE OF PROHIBITED TRANSACTIONS

1 OR ACCOUNT PLEDGED AS SECURITY FOR LOAN.—
2 Rules similar to the rules of paragraphs (2) and (4)
3 of section 408(e) shall apply to medicare choice ac-
4 counts, and any amount treated as distributed under
5 such rules shall be treated as not used to pay quali-
6 fied medical expenses.
7 ''(d) TAX TREATMENT OF DISTRIBUTIONS.—
8 ''(1) IN GENERAL.—Any amount paid or dis-
9 tributed out of a medicare choice account to an ac-
10 count beneficiary which is used exclusively to pay
11 qualified medical expenses shall not be includible in
12 gross income. Any amount paid or distributed out of
13 a medicare choice account to an account beneficiary
14 which is not used exclusively to pay qualified medical
15 expenses shall be included in the gross income of the
16 account beneficiary.
17 ''(2) PENALTY FOR DISTRIBUTIONS NOT USED
18 FOR QUALIFIED MEDICAL EXPENSES.—
19 ''(A) IN GENERAL.—The tax imposed by
20 this chapter on an account beneficiary for any
21 taxable year in which there is a payment or dis-
22 tribution to the account beneficiary from a
23 medicare choice account which is not used ex-
24 clusively to pay the qualified medical expenses

shall be increased by 10 percent of the amount of such payment or distribution.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account beneficiary—

"(i) becomes disabled within the meaning of section 72(m)(7), or

"(ii) dies.

"(C) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all medicare choice accounts of the account beneficiary shall be treated as 1 account,

"(ii) all payments and distributions not used exclusively to pay qualified medical expenses during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) WITHDRAWAL OF ERRONEOUS CONTRIBUTIONS.—Paragraphs (1) and (2) shall not apply to any payment or distribution from a medicare choice account to the Secretary of Health and Human

1 Services of an erroneous contribution to such ac-
2 count and of the net income attributable to such
3 contribution.

4 ''(4) TRUSTEE-TO-TRUSTEE TRANSFERS.—
5 Paragraphs (1) and (2) shall not apply to any trust-
6 ee-to-trustee transfer from a medicare choice ac-
7 count of an account beneficiary to another medicare
8 choice account of such account beneficiary.

9 ''(5) COORDINATION WITH MEDICAL EXPENSE
10 DEDUCTION.—For purposes of section 213, any pay-
11 ment or distribution out of a medicare choice ac-
12 count for qualified medical expenses shall not be
13 treated as an expense paid for medical care.

14 ''(e) TREATMENT OF ACCOUNT AFTER DEATH OF
15 ACCOUNT BENEFICIARY.—

16 ''(1) TREATMENT IF DESIGNATED BENEFICIARY
17 IS SPOUSE.—

18 ''(A) IN GENERAL.—In the case of an ac-
19 count beneficiary's interest in a medicare choice
20 account which is payable to (or for the benefit
21 of) such beneficiary's spouse upon the death of
22 such beneficiary, such account shall be treated
23 as a medicare choice account of such spouse as
24 of the date of such death.

"(B) SPECIAL RULES IF SPOUSE NOT MEDICARE ELIGIBLE.—If, as of the date of such death, such spouse is not entitled to benefits under title XVIII of the Social Security Act, then after the date of such death—

"(i) the Secretary of Health and Human Services may not make any payments to such account, other than payments attributable to periods before such date, and

"(ii) in applying subsection (b)(2) with respect to such account, references to the account beneficiary shall be treated as including references to any dependent (as defined in section 152) of such spouse and any subsequent spouse of such spouse.

"(2) TREATMENT IF DESIGNATED BENEFICIARY IS NOT SPOUSE.—In the case of an account beneficiary's interest in a medicare choice account which is payable to (or for the benefit of) any person other than such beneficiary's spouse upon the death of such beneficiary—

"(A) such account shall cease to be a medicare choice account as of the date of death, and

"(B) an amount equal to the fair market value of the assets in such account on such date shall be includible—

"(i) if such person is not the estate of such beneficiary, in such person's gross income for the taxable year which includes such date, or

"(ii) if such person is the estate of such beneficiary, in such beneficiary's gross income for last taxable year of such beneficiary.

"(f) REPORTS.—

"(1) IN GENERAL.—The trustee of a medicare choice account shall make such reports regarding such account to the Secretary and to the account beneficiary with respect to—

"(A) the fair market value of the assets in such account as of the close of each calendar year, and

"(B) contributions, distributions, and other matters,

as the Secretary may require by regulations.

"(2) TIME AND MANNER OF REPORTS.—The reports required by this subsection—

"(A) shall be filed at such time and in such manner as the Secretary prescribes in such regulations, and

"(B) shall be furnished to the account beneficiary—

"(i) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(ii) in such manner as the Secretary prescribes in such regulations."

(b) EXCLUSION OF MEDICARE CHOICE ACCOUNTS FROM ESTATE TAX.—Part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new section:

"SEC. 2057. MEDICARE CHOICE ACCOUNTS.

"For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any medicare choice account (as defined in section 137(b)) included in the gross estate."

(c) TAX ON PROHIBITED TRANSACTIONS.—

(1) Section 4975 of such Code (relating to tax on prohibited transactions) is amended by adding at the end of subsection (c) the following new paragraph:

"(5) SPECIAL RULE FOR MEDICARE CHOICE ACCOUNTS.—An individual for whose benefit a medicare choice account (within the meaning of section 137(b)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medicare choice account by reason of the application of section 137(c)(2) to such account."

(2) Paragraph (1) of section 4975(e) of such Code is amended to read as follows:

"(1) PLAN.—For purposes of this section, the term 'plan' means—

"(A) a trust described in section 401(a) which forms a part of a plan, or a plan described in section 403(a), which trust or plan is exempt from tax under section 501(a),

"(B) an individual retirement account described in section 408(a),

"(C) an individual retirement annuity described in section 408(b),

"(D) a medicare choice account described in section 137(b), or

"(E) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary to be described in any preceding subparagraph of this paragraph."

(d) FAILURE TO PROVIDE REPORTS ON MEDICARE CHOICE ACCOUNTS.—

(1) Subsection (a) of section 6693 of such Code (relating to failure to provide reports on individual retirement accounts or annuities) is amended to read as follows:

"(a) REPORTS.—

"(1) IN GENERAL.—If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.

"(2) PROVISIONS.—The provisions referred to in this paragraph are—

"(A) subsections (i) and (l) of section 408 (relating to individual retirement plans), and

"(B) section 137(f) (relating to medicare choice accounts)."

(2) The section heading for section 6693 of such Code is amended to read as follows:

"SEC. 6693. FAILURE TO FILE REPORTS ON INDIVIDUAL RETIREMENT PLANS AND CERTAIN OTHER TAX-FAVORED ACCOUNTS; PENALTIES RELATING TO DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS."

(e) EXCEPTION FROM CAPITALIZATION OF POLICY ACQUISITION EXPENSES.—Subparagraph (B) of section 848(e)(1) of such Code (defining specified insurance contract) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) any contract which is a medicare choice account (as defined in section 137(b)).''

(f) CLERICAL AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

''Sec. 137. Medicare choice accounts.
''Sec. 138. Cross references to other Acts.''

(2) The table of sections for subchapter B of chapter 68 of such Code is amended by striking the

item relating to section 6693 and inserting the following new item:

"Sec. 6693. Failure to file reports on individual retirement plans and certain other tax-favored accounts; penalties relating to designated nondeductible contributions."

(3) The table of sections for part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new item:

"Sec. 2057. Medicare choice accounts."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 7007. CERTAIN REBATES INCLUDED IN GROSS INCOME.

(a) IN GENERAL.—Section 61(a) of the Internal Revenue Code of 1986 (defining gross income) is amended by striking "and" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting "; and", and by adding at the end the following new paragraph:

"(16) Payments under section 1895N(b)(1)(B)(ii) of the Social Security Act."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after the date of the enactment of this Act.

CHAPTER 2—PROVISIONS RELATING TO PART A

Subchapter A—General Provisions Relating to Part A

SEC. 7011. PPS HOSPITAL PAYMENT UPDATE.

Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended by striking subclauses (XI), (XII), and (XIII) and inserting the following new subclauses:

"(XI) for fiscal years 1996 through 2002 for hospitals in all areas, the greater of—

"(aa) the market basket percentage increase minus 2.5 percentage points, or

"(bb) 1.1 percent (1.3 percent for discharges during fiscal year 1996 and 1.2 percent for discharges during fiscal year 1997), and

"(XII) for fiscal year 2003 and each subsequent fiscal year for hospitals in all areas, the market basket percentage increase.".

SEC. 7012. PPS-EXEMPT HOSPITAL PAYMENTS.

(a) UPDATE.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) in subclause (V)—

(i) by striking ''1997'' and inserting ''1995'', and

(ii) by striking ''and'' at the end,

(B) by redesignating subclause (VI) as subclause (VII); and

(C) by inserting after subclause (V), the following subclause:

''(VI) for fiscal years 1996 through 2002—

''(aa) the market basket percentage increase minus the applicable reduction (as defined in clause (vi)(II)),

''(bb) in the case of a hospital for a fiscal year for which the hospital's update adjustment percentage (as defined in clause (vi)(I)) is at least 10 percent, the market basket percentage increase, or

''(cc) in the case of a hospital for which 150 percent of the hospital's allowable operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is available is less than the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, 0 percent,

except that the applicable percentage increase determined under item (aa) or (bb) may not be less than 1.4 percent for fiscal year 1996, 1.3 percent for fiscal year 1997, and 1.1 percent for fiscal years 1998 through 2002, and''.

(2) DEFINITIONS.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended by adding at the end the following new clause:

''(vi) For purposes of clause (ii)(VI)—

''(I) a hospital's 'update adjustment percentage' for a fiscal year is the percentage by which the hospital's allowable operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is available exceeds the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, and

''(II) the 'applicable reduction' with respect to a hospital for a fiscal year is 2.5 percentage points, reduced by 0.25 percentage point for each percentage point (if any) the hospital's update adjustment percentage for the fiscal year is less than 10 percentage points.''.

(3) EFFECT OF PAYMENT REDUCTION ON EXCEPTIONS AND ADJUSTMENTS.—Section

1886(b)(4)(A)(ii) (42 U.S.C. 1395ww(b)(4)(A)(ii)) is amended by striking ''paragraph (3)(B)(ii)(V)'' and inserting ''subclause (V) or (VI) of paragraph (3)(B)(ii)''.

(b) TARGET AMOUNTS FOR NEW REHABILITATION HOSPITALS AND LONG-TERM CARE HOSPITALS.—Section 1886(b)(3)(A) (42 U.S.C. 1395ww(b)(3)(A)) is amended—

(1) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(2) by inserting ''(i)'' after ''(3)(A)''; and

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

''(ii) Notwithstanding clause (i), in the case of a rehabilitation hospital (or unit thereof) which first receives payments under this section—

''(I) on or before October 1, 1995, the target amount determined under this subparagraph for such hospital or unit for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under this paragraph for all rehabilitation hospitals (and units thereof) for cost reporting periods beginning during such fiscal year (determined without regard to this clause); and

"(II) on or after October 1, 1995, such target amount may not be greater than 130 percent of the national mean of the target amounts for such hospitals (and units thereof) for cost reporting periods beginning during fiscal year 1991.

"(iii) Notwithstanding clause (i), in the case of a hospital which has an average inpatient length of stay of greater than 25 days—

"(I) which first receives payments under this section as a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B)) or a subsection (d) Puerto Rico hospital (as defined in section 1886(d)(9)(A)) on or before October 1, 1995, the target amount determined under this subparagraph for such hospital for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under this paragraph for all such hospitals for cost reporting periods beginning during such fiscal year (determined without regard to this clause); and

"(II) which first receives payment under this section as a hospital described in subclause (I) on or after October 1, 1995, such target amount may not be greater than 130 percent of such national mean

of the target amounts for such hospitals for cost reporting periods beginning during fiscal year 1991.

"(iv) The Secretary shall, if the Secretary determines it is appropriate, calculate and implement a separate ceiling under clause (iii)(II) based on case-mix and DRG category.".

(c) DEVELOPMENT NATIONAL PROSPECTIVE PAYMENT RATES FOR CURRENT NON-PPS HOSPITALS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Prospective Payment Assessment Commission, appropriate providers of services, health plans, and other experts, shall develop a proposal to replace the current system under which hospitals that are not subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act) receive payment for the operating and capital-related costs of inpatient hospital services under part A of the medicare program with a prospective payment system.

(2) DEVELOPMENT OF SYSTEM FOR REHABILITATION AND LONG TERM CARE HOSPITALS.—

(A) IN GENERAL.—Not later then June 1, 1996, the Secretary of Health and Human Services shall submit a report to the Congress providing recommendations on a prospective

payment system for rehabilitation hospitals (and units thereof) and hospitals which have an average inpatient length of stay of greater than 25 days.

(B) MATTERS INCLUDED.—The report submitted under subparagraph (A) shall include—

(i) the available and preferred systems of classifying rehabilitation patients relative to duration and intensity of inpatient services;

(ii) the means of calculating medicare program payments to reflect such patient requirements;

(iii) other adjustments deemed appropriate such as geographic variations in wages and other costs and outliers;

(iv) a schedule upon which it is deemed feasible to introduce a prospective payment system for such providers and whether any such system should be applied to other types of providers of rehabilitation services; and

(v) any other matters the Secretary determines are relevant including rec-

ommendations for other types of hospitals that are not subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act).

(d) CAPITAL PAYMENTS FOR PPS-EXEMPT HOSPITALS.—Section 1886(g) (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

''(4) In determining the amount of the payments that may be made under this title with respect to all the capital-related costs of inpatient hospital services furnished during fiscal years 1996 through 2002 of a hospital which is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 15 percent.''.

SEC. 7013. CAPITAL PAYMENTS FOR PPS HOSPITALS.

(a) IN GENERAL.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following new sentence: ''In addition to the reduction described in the preceding sentence, for discharges occurring after September 30, 1995, the Secretary shall reduce by 7.47 percent the unadjusted standard Federal capital payment rate (as described in 42 CFR 412.308(c), as in effect on the date of the enactment of the Balanced Budget Rec-

onciliation Act of 1995) and shall reduce by 8.27 percent the unadjusted hospital-specific rate (as described in 42 CFR 412.328(e)(1), as in effect on the date of the enactment of such Act).''.

(b) BUDGET NEUTRALITY ADJUSTMENT.—

(1) IN GENERAL.—The second sentence of section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended—

(A) by striking ''fiscal years 1992 through 1995'' and inserting ''fiscal years 1996 through 2002''; and

(B) by striking ''10 percent'' and inserting ''15 percent''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply on and after October 1, 1995.

(c) HOSPITAL-SPECIFIC ADJUSTMENT FOR CAPITAL-RELATED TAX COSTS.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D), and

(2) by inserting after subparagraph (B) the following subparagraph:

''(C)(i) For discharges occurring after September 30, 1995, such system shall provide for

an adjustment in an amount equal to the amount determined under clause (iv) for capital-related tax costs for each hospital that is eligible for such adjustment.

''(ii) Subject to clause (iii), a hospital is eligible for an adjustment under this subparagraph, with respect to discharges occurring in a fiscal year, if the hospital—

''(I) is a hospital that may otherwise receive payments under this subsection,

''(II) is not a public hospital, and

''(III) incurs capital-related tax costs for the fiscal year.

''(iii)(I) In the case of a hospital that first incurs capital-related tax costs in a fiscal year after fiscal year 1992 because of a change from nonproprietary to proprietary status or because the hospital commenced operation after such fiscal year, the first fiscal year for which the hospital shall be eligible for such adjustment is the second full fiscal year following the fiscal year in which the hospital first incurs such costs.

''(II) In the case of a hospital that first incurs capital-related tax costs in a fiscal year

after fiscal year 1992 because of a change in State or local tax laws, the first fiscal year for which the hospital shall be eligible for such adjustment is the fourth full fiscal year following the fiscal year in which the hospital first incurs such costs.

''(iv) The per discharge adjustment under this clause shall be equal to the hospital-specific capital-related tax costs per discharge of a hospital for fiscal year 1992 (or, in the case of a hospital that first incurs capital-related tax costs for a fiscal year after fiscal year 1992, for the first full fiscal year for which such costs are incurred), updated to the fiscal year to which the adjustment applies. Such per discharge adjustment shall be added to the Federal capital rate, after such rate has been adjusted as described in 42 CFR 412.312 (as in effect on the date of the enactment of the Balanced Budget Reconciliation Act of 1995), and before such rate is multiplied by the applicable Federal rate percentage.

''(v) For purposes of this subparagraph, capital-related tax costs include—

"(I) the costs of taxes on land and depreciable assets owned by a hospital and used for patient care,

"(II) payments in lieu of such taxes (made by hospitals that are exempt from taxation), and

"(III) the costs of taxes paid by a hospital as lessee of land, buildings, or fixed equipment from a lessor that is unrelated to the hospital under the terms of a lease that requires the lessee to pay all expenses (including mortgage, interest, and amortization) and leaves the lessor with an amount free of all claims (sometimes referred to as a 'net net net' or 'triple net' lease).

In determining the adjustment required under clause (i), the Secretary shall not take into account any capital-related tax costs of a hospital to the extent that such costs are based on tax rates and assessments that exceed those for similar commercial properties.

"(vi) The system shall provide that the Federal capital rate for any fiscal year after September 30, 1995, shall be reduced by a per-

centage sufficient to ensure that the adjustments required to be paid under clause (i) for a fiscal year neither increase nor decrease the total amount that would have been paid under this system but for the payment of such adjustments for such fiscal year.''.

(d) REVISION OF EXCEPTIONS PROCESS UNDER PROSPECTIVE PAYMENT SYSTEM FOR CERTAIN PROJECTS.—

(1) IN GENERAL.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)), as amended by subsection (c), is amended—

(A) by redesignating subparagraph (D) as subparagraph (E), and

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

''(D) The exceptions under the system provided by the Secretary under subparagraph (B)(iii) shall include the provision of exception payments under the special exceptions process provided under 42 CFR 412.348(g) (as in effect on September 1, 1995), except that the Secretary shall revise such process as follows:

''(i) A hospital with at least 100 beds which is located in an urban area shall be eligible under such process without regard to its disproportionate pa-

tient percentage under subsection (d)(5)(F) or whether it qualifies for additional payment amounts under such subsection.

"(ii) The minimum payment level for qualifying hospitals shall be 80 percent.

"(iii) A hospital shall be considered to meet the requirement that it completes the project involved no later than the end of the hospital's last cost reporting period beginning after October 1, 2001, if—

"(I) the hospital has obtained a certificate of need for the project approved by the State or a local planning authority by September 1, 1995, and

"(II) by September 1, 1995, the hospital has expended on the project at least $750,000 or 10 percent of the estimated cost of the project.

"(iv) Offsetting amounts, as described in 42 CFR 412.348(g)(8)(ii), shall apply except that subparagraph (B) of such section shall be revised to require that the additional payment that would otherwise be payable for the cost reporting period shall be reduced by the amount (if any) by which the hospital's current year medicare capital payments (excluding, if applicable, 75 percent of the hospital's

capital-related disproportionate share payments) exceeds its medicare capital costs for such year.''.

(2) LIMIT TO ADDITIONAL PAYMENTS.—The amendment made by subsection (a) shall not result in aggregate additional payments under the special exception process described in section 1886(b)(1)(D) for fiscal years 1996 through 2000 in excess of an amount equal to the sum of $50,000,000 per year more than would have been paid in such fiscal years if such amendment had not been enacted.

(3) CONFORMING AMENDMENT.—Section 1886(g)(1)(B) (42 U.S.C. 1395ww(g)(1)(B)) is amended by striking ''may provide'' and inserting ''shall provide (in accordance with subparagraph (D)''.

SEC. 7014. DISPROPORTIONATE SHARE HOSPITAL PAYMENTS.

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

(1) by striking ''The'' and inserting ''Subject to clause (ix), the'';

(2) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively;

(3) by inserting ''(I)'' after ''(ii)'';

(4) by inserting ''the applicable percentage determined under subclause (II) of the amount'' after ''discharge shall be'';

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

''(II) For purposes of subclause (I), the applicable percentage for discharges occurring during a fiscal year is 95 percent in fiscal year 1996, 90 percent in fiscal year 1997, 85 percent in fiscal year 1998, 80 percent in fiscal year 1999, and 75 percent in fiscal years 2000, 2001, and 2002.''; and

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

''(ix) With respect to discharges occurring on or after October 1, 1995, the Secretary shall adjust the additional payment amounts provided in accordance with this subparagraph for each discharge such that the total amount of such additional payment amounts for discharges occurring over the 7-year period beginning on October 1, 1995, does not exceed an average 5 percent of the sum of the total estimated payments under this subsection over such 7-year period (other than payments under subparagraph (B) or this subparagraph).''.

(b) NO RESTANDARDIZATION OF PAYMENT AMOUNTS REQUIRED.—Section 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)) is amended by striking ''1990'' and inserting '', 1990, and the modifications made to such paragraph by section 7014(a) of the Balanced Budget Reconciliation Act of 1995.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to discharges occurring on or after October 1, 1995.

SEC. 7015. INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) IN GENERAL.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as follows:

''(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to c × (((1+r) to the nth power) − 1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equals .405. For discharges occurring on or after—

''(I) May 1, 1986, and before October 1, 1995, 'c' is equal to 1.89;

''(II) October 1, 1995, and before October 1, 1996, 'c' is equal to 1.65;

''(III) October 1, 1996, and before October 1, 1997, 'c' is equal to 1.38; and

"(IV) October 1, 1997, and before October 1, 2001, 'c' is equal to 1.11.".

(b) NO RESTANDARDIZATION OF PAYMENT AMOUNTS REQUIRED.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by striking "of 1985" and inserting "of 1985, but not taking into account the amendments made by section 7015(a) of the Balanced Budget Reconciliation Act of 1995".

SEC. 7016. GRADUATE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS FOR MEDICARE CHOICE.

Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(j) GRADUATE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS FOR MEDICARE CHOICE.—

"(1) IN GENERAL.—For discharges occurring on or after January 1, 1997, a subsection (d) hospital shall receive payment for each discharge of an individual enrolled under part D with a medicare choice plan in an amount equal to the applicable percentage of the amount that the hospital would have received for such discharge under subsections (d)(5)(B), (relating to indirect medical education), (d)(5)(F) (relating to disproportionate share), and

(h) (relating to direct graduate medical education), if such individual was enrolled in the traditional medicare program (as defined in section 1895A(c)(3)).

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

"(A) for calendar year 1997, 50 percent; and

"(B) for calendar years after 1997, 100 percent.".

SEC. 7017. PAYMENTS FOR HOSPICE SERVICES.

Section 1814(i)(1)(C)(ii) (42 U.S.C. 1395f(i)(1)(C)(ii)) is amended by striking subclauses (IV), (V), and (VI), and inserting the following subclauses:

"(IV) for each of fiscal years 1996 through 2002, the greater of—

"(aa) the market basket percentage increase for the fiscal year minus 2.5 percentage points, or

"(bb) 1.1 percent (1.3 percent in fiscal year 1996 and 1.2 percent in fiscal year 1997); and

"(V) for a subsequent fiscal year, the market basket percentage increase for the fiscal year.".

SEC. 7018. EXTENDING MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL.—

(1) APPLICATION OF HOSPITAL INSURANCE TAX.—Section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraphs (C) and (D).

(2) COVERAGE UNDER MEDICARE.—Section 210(p) (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services performed after December 31, 1995.

(b) TRANSITION IN BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES AND FORMER EMPLOYEES.—

(1) IN GENERAL.—

(A) EMPLOYEES NEWLY SUBJECT TO TAX.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs services during the calendar quarter beginning January 1, 1996, the wages for which are subject to the tax imposed by section 3101(b) of the Internal Reve-

nue Code of 1986 only because of the amendments made by subsection (a), the individual's medicare qualified State or local government employment (as defined in subparagraph (B)) performed before January 1, 1996, shall be considered to be ''employment'' (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act for months beginning with January 1996.

(B) MEDICARE QUALIFIED STATE OR LOCAL GOVERNMENT EMPLOYMENT DEFINED.—In this paragraph, the term ''medicare qualified State or local government employment'' means medicare qualified government employment described in section 210(p)(1)(B) of the Social Security Act (determined without regard to section 210(p)(3) of such Act, as in effect before its repeal under subsection (a)(2)).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and

Human Services deems necessary for any fiscal year on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1),

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts, in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

(3) INFORMATION TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON STATE AND LOCAL GOVERNMENT EMPLOYMENT.—Section 226(g) (42 U.S.C. 426(g)) is amended—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively,

(B) by inserting ''(1)'' after ''(g)'', and

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

"(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are fully informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (B) the requirements for, and conditions of, such eligibility, and (C) the necessity of timely application as a condition of becoming entitled under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity or retirement benefit and whose eligibility for such annuity or retirement benefit is based on a disability."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking "subparagraphs (B) and (C)," and inserting "subparagraph (B),".

(2) Subparagraph (B) of section 210(p)(1) (42 U.S.C. 410(p)(1)) is amended by striking "paragraphs (2) and (3)." and inserting "paragraph (2)."

(3) Section 218 (42 U.S.C. 418) is amended by striking subsection (n).

(4) The amendments made by this subsection shall apply after December 31, 1995.

Subchapter B—Payments to Skilled Nursing Facilities

SEC. 7031. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) CLARIFICATION OF DEFINITION OF ROUTINE SERVICE COSTS.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

''(e) For purposes of this section, the 'routine service costs' of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment limits under section 1888A.''.

(b) CONFORMING AMENDMENT.—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting ''AND CERTAIN ANCILLARY'' after ''SERVICE''.

SEC. 7032. INCENTIVES FOR COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1888 the following new section:

"INCENTIVES FOR COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES

"SEC. 1888A. (a) DEFINITIONS.—For purposes of this section:

"(1) COVERED NON-ROUTINE SERVICES.—The term 'covered non-routine services' means post-hospital extended care services consisting of any of the following:

"(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy.

"(B) Prescription drugs.

"(C) Complex medical equipment.

"(D) Intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment).

"(E) Radiation therapy.

"(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

"(2) SNF MARKET BASKET PERCENTAGE INCREASE.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage equal

to input price changes in routine service costs for the year under section 1888(a).

"(3) STAY.—The term 'stay' means, with respect to an individual who is a resident of a skilled nursing facility, a period of continuous days during which the facility provides extended care services for which payment may be made under this title for the individual during the individual's spell of illness.

"(b) NEW PAYMENT METHOD FOR COVERED NON-ROUTINE SERVICES.—

"(1) IN GENERAL.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during a cost reporting period beginning during a fiscal year (after fiscal year 1996) in an amount equal to the reasonable cost of providing such services in accordance with section 1861(v). The Secretary may adjust such payments if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period limit determined under subsection (c)(1)(B).

"(2) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—

"(A) CLARIFICATION RELATING TO PART A BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part A (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(B) PART B BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is not entitled to coverage under section 1812(a)(2) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part B (without regard to whether or not the

item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(C) MAINTAINING RECORDS ON SERVICES FURNISHED TO RESIDENTS.—Each skilled nursing facility receiving payments for extended care services under this title shall document on the facility's cost report all covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during a fiscal year (beginning with fiscal year 1996) (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(c) RECONCILIATION OF AMOUNTS.—

"(1) LIMIT BASED ON PER STAY LIMIT AND NUMBER OF STAYS.—

"(A) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during

a fiscal year in excess of an amount equal to the cost reporting period limit determined under subparagraph (B), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.

"(B) COST REPORTING PERIOD LIMIT.—The cost reporting period limit determined under this subparagraph is an amount equal to the product of—

"(i) the per stay limit applicable to the facility under subsection (d) for the period; and

"(ii) the number of stays beginning during the period for which payment was made to the facility for such services.

"(C) PROSPECTIVE REDUCTION IN PAYMENTS.—In addition to the process for reducing payments described in subparagraph (A), the Secretary may reduce payments made to a

facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period limit for the period determined under this paragraph.

"(2) INCENTIVE PAYMENTS.—

"(A) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in an amount that is less than the amount determined under paragraph (1)(B), the Secretary shall pay the skilled nursing facility in the following fiscal year an incentive payment equal to 50 percent of the difference between such amounts, except that the incentive payment may not exceed 5 percent of the aggregate payments made to the facility under subsection (b) for the previous fiscal year (without regard to subparagraph (B)).

"(B) INSTALLMENT INCENTIVE PAYMENTS.—The Secretary may make installment

payments during a fiscal year to a skilled nursing facility based on the estimated incentive payment that the facility would be eligible to receive with respect to such fiscal year.

"(d) DETERMINATION OF FACILITY PER STAY LIMIT.—

"(1) LIMIT FOR FISCAL YEAR 1997.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall establish separate per stay limits for hospital-based and freestanding skilled nursing facilities for the 12-month cost reporting period beginning during fiscal year 1997 that are equal to the sum of—

"(i) 50 percent of the facility-specific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before September 30, 1994; and

"(ii) 50 percent of the average of all facility-specific stay amounts for all hospital-based facilities or all freestanding facilities (whichever is applicable) during the cost reporting period described in clause (i).

"(B) FACILITIES NOT HAVING 1994 COST REPORTING PERIOD.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994, the per stay limit for the 12-month cost reporting period beginning during fiscal year 1997 shall be twice the amount determined under subparagraph (A)(ii).

"(2) LIMIT FOR SUBSEQUENT FISCAL YEARS.—Subject to paragraph (3), the per stay limit for a skilled nursing facility for a 12-month cost reporting period beginning during a fiscal year after fiscal year 1997 is equal to the per stay limit established under this subsection for the 12-month cost reporting period beginning during the previous fiscal year, increased by the greater of—

"(A) the SNF market basket percentage increase for such subsequent fiscal year minus 2.5 percentage points; or

"(B) 1.1 percent (1.2 percent for fiscal year 1997).

"(3) REBASING OF AMOUNTS.—

"(A) IN GENERAL.—The Secretary shall provide for an adjustment to the facility-specific amounts used to determine the per stay limits under this subsection for cost reporting periods beginning on or after October 1, 1999, and every 2 years thereafter.

"(B) TREATMENT OF FACILITIES NOT HAVING REBASED COST REPORTING PERIODS.—Paragraph (1)(B) shall apply with respect to a skilled nursing facility for which payments were not made under this title for covered non-routine services for the 12-month cost reporting period used by the Secretary to update facility-specific amounts under subparagraph (A) in the same manner as such paragraph applies with respect to a facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994.

"(e) DETERMINATION OF FACILITY-SPECIFIC STAY AMOUNTS.—The 'facility-specific stay amount' for a skilled nursing facility for a cost reporting period is the sum of—

"(1) the average amount of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during a stay; and

"(2) the Secretary's best estimate of the average amount of payments made under part B during the period for covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary.

"(f) INTENSIVE NURSING OR THERAPY NEEDS.—

"(1) IN GENERAL.—In applying subsection (b) to covered non-routine services furnished during a stay beginning during a cost reporting period beginning during a fiscal year (beginning with fiscal years after fiscal year 1997) to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay limit for such resident shall be the per stay limit developed under para-

graph (2) instead of the per stay limit determined under subsection (d)(1)(A).

"(2) PER STAY LIMIT FOR INTENSIVE NEED RESIDENTS.—Not later than June 30, 1997, the Secretary, after consultation with the Prospective Payment Assessment Commission and skilled nursing facility experts, shall develop and publish a per stay limit for residents of a skilled nursing facility who require intensive nursing or therapy services.

"(3) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(g) EXCEPTIONS AND ADJUSTMENTS TO LIMITS.—

"(1) IN GENERAL.—The Secretary may make exceptions and adjustments to the cost reporting period limits applicable to a skilled nursing facility under subsection (c)(1)(B) for a cost reporting period, except that the total amount of any additional payments made under this section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not

exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).

"(2) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(h) SPECIAL TREATMENT FOR MEDICARE LOW VOLUME SKILLED NURSING FACILITIES.—The Secretary shall determine an appropriate manner in which to apply this section, taking into account the purposes of this section, to non-routine costs of a skilled nursing facility for which payment is made for routine service costs during a cost reporting period on the basis of prospective payments under section 1888(d).".

(b) CONFORMING AMENDMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "1813 and 1886" and inserting "1813, 1886, 1888, and 1888A".

SEC. 7033. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES.—

(1) BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—

(A) IN GENERAL.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by adding at the end the following: ''(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995).''.

(B) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subparagraph (A) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(2) PAYMENTS TO LOW MEDICARE VOLUME SKILLED NURSING FACILITIES.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into

account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.

(b) ESTABLISHMENT OF SCHEDULE FOR MAKING ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended by striking the period at the end of the second sentence and inserting ", and may only make adjustments under this subsection with respect to a facility which applies for an adjustment during an annual application period established by the Secretary.".

(c) LIMITATION ON AGGREGATE INCREASE IN PAYMENTS RESULTING FROM ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended—

(1) by striking "(c) The Secretary" and inserting "(c)(1) Subject to paragraph (2), the Secretary"; and

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

"(2) The Secretary may not make any adjustments under this subsection in the limits set forth in subsection (a) for a cost reporting period beginning during a fiscal year to the extent that the total amount of the additional payments made under this title as a result of such adjustments is greater than an amount equal to—

"(A) for cost reporting periods beginning during fiscal year 1997, the total amount of the additional payments made under this title as a result of adjustments under this subsection for cost reporting periods beginning during fiscal year 1994 increased (in a compounded manner) by the SNF market basket percentage increase (as defined in section 1888A(e)(3)) for each fiscal year; and

"(B) for cost reporting periods beginning during a subsequent fiscal year, the amount determined under this paragraph for the previous fiscal year increased by the SNF market basket percentage increase for such subsequent fiscal year.".

(d) IMPOSITION OF LIMITS FOR ALL COST REPORTING PERIODS.—Section 1888(a) (42 U.S.C. 1395yy(a)) is amended in the matter preceding paragraph (1) by inserting after "extended care services" the following: "(for any cost reporting period for which payment is made under this title to the skilled nursing facility for such services)".

SEC. 7034. REDUCTIONS IN PAYMENT FOR CAPITAL-RELATED COSTS.

Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of skilled nursing facilities, the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.".

SEC. 7035. TREATMENT OF ITEMS AND SERVICES PAID FOR UNDER PART B.

(a) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO FACILITY.—

(1) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(A) by striking "and (D)" and inserting "(D)"; and

(B) by striking the period at the end and inserting the following: ", and (E) in the case of an item or service furnished to an individual who (at the time the item or service is furnished) is a resident of a skilled nursing facility, payment shall be made to the facility (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility,

under any other contracting or consulting arrangement, or otherwise), except that this subparagraph shall not preclude a physician from providing evaluation and management services to patients under the physician's care.''.

(2) EXCLUSION FOR ITEMS AND SERVICES NOT BILLED BY FACILITY.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) by striking ''or'' at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting ''; or''; and

(C) by inserting after paragraph (15) the following new paragraph:

''(16) where such expenses are for covered nonroutine services (as defined in section 1888A(a)(1)) furnished to an individual who is a resident of a skilled nursing facility and for which the claim for payment under this title is not submitted by the facility.''.

(3) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking ''(2);'' and inserting ''(2) and section 1842(b)(6)(E);''.

(b) REDUCTION IN PAYMENTS FOR ITEMS AND SERVICES FURNISHED BY OR UNDER ARRANGEMENTS WITH FACILITIES.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 7034, is amended by adding at the end the following new subparagraph:

''(U) In the case of an item or service furnished by a skilled nursing facility (or by others under arrangement with them made by a skilled nursing facility or under any other contracting or consulting arrangement or otherwise) for which payment is made under part B in an amount determined in accordance with section 1833(a)(2)(B), the Secretary shall reduce the reasonable cost for such item or service otherwise determined under clause (i)(I) of such section by 5.8 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.''.

SEC. 7036. MEDICAL REVIEW PROCESS.

In order to ensure that medicare beneficiaries are furnished appropriate extended care services, the Secretary of Health and Human Services shall establish and implement a thorough medical review process to examine the effects of the amendments made by this subchapter on the quality of extended care services furnished to medicare beneficiaries. In developing such a medical review process, the Secretary shall place a particular emphasis

on the quality of non-routine covered services for which payment is made under section 1888A of the Social Security Act.

SEC. 7037. REPORT BY PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.

Not later than October 1, 1997, the Prospective Payment Assessment Commission shall submit to Congress a report on the system under which payment is made under the medicare program for extended care services furnished by skilled nursing facilities, and shall include in the report the following:

(1) An analysis of the effect of the methodology established under section 1888A of the Social Security Act (as added by section 7032) on the payments for, and the quality of, extended care services under the medicare program.

(2) An analysis of the advisability of determining the amount of payment for covered non-routine services of facilities (as described in such section) on the basis of the amounts paid for such services when furnished by suppliers under part B of the medicare program.

(3) An analysis of the desirability of maintaining separate limits for hospital-based and freestanding facilities in the costs of extended care services

recognized as reasonable under the medicare program.

(4) An analysis of the quality of services furnished by skilled nursing facilities.

(5) An analysis of the adequacy of the process and standards used to provide exceptions to the limits described in paragraph (3).

SEC. 7038. EFFECTIVE DATE.

Except as otherwise provided in this subchapter, the amendments made by this subchapter shall apply to services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1996.

CHAPTER 3—PROVISIONS RELATING TO PART B

SEC. 7041. PAYMENTS FOR PHYSICIANS' SERVICES.

(a) ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.—

(1) Section 1848(d)(2) (42 U.S.C. 1395ww(d)(2)) is amended to read as follows:

"(2) RECOMMENDATION OF UPDATE.—

"(A) IN GENERAL.—Not later than April 15 of each year (beginning with 1996), the Secretary shall transmit to the Congress a report

that includes a recommendation on the appropriate update in the conversion factor for all physicians' services (as defined in subsection (f)(3)(A)) in the following year. In making the recommendation, the Secretary shall consider—

"(i) the percentage change in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for that year;

"(ii) such factors as enter into the calculation of the update adjustment factor as described in paragraph (3)(B); and

"(iii) access to services.

"(B) ADDITIONAL CONSIDERATIONS.—In making recommendations under subparagraph (A), the Secretary may also consider—

"(i) unexpected changes by physicians in response to the implementation of the fee schedule;

"(ii) unexpected changes in outlay projections;

"(iii) changes in the quality or appropriateness of care;

"(iv) any other relevant factors not measured in the resource-based payment methodology; and

"(v) changes in volume or intensity of services.

"(C) COMMISSION REVIEW.—The Physician Payment Review Commission shall review the report submitted under subparagraph (A) in a year and shall submit to the Congress, by not later than May 15 of the year, a report including its recommendations respecting the update in the conversion factor for the following year.".

(2) UPDATE.—Section 1848(d)(3) (42 U.S.C. 1395w–4(d)(3)) is amended to read as follows:

"(3) UPDATE.—

"(A) IN GENERAL.—Unless Congress otherwise provides, subject to subparagraph (E), for purposes of this section the update for a year (beginning with 1997) is equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth

sentence of section 1842(b)(3)) for the year (divided by 100), and

"(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

"(B) UPDATE ADJUSTMENT FACTOR.—The 'update adjustment factor' for a year is equal to the quotient of—

"(i) the difference between (I) the sum of the allowed expenditures for physicians' services furnished during each of the years 1995 through the year involved and (II) the sum of the amount of actual expenditures for physicians' services furnished during each of the years 1995 through the previous year; divided by

"(ii) the Secretary's estimate of allowed expenditures for physicians' services furnished during the year.

"(C) DETERMINATION OF ALLOWED EXPENDITURES.—For purposes of subparagraph (B), allowed expenditures for physicians' services shall be determined as follows (as estimated by the Secretary):

"(i) In the case of allowed expenditures for 1995, such expenditures shall be equal to actual expenditures for services furnished during the 12-month period ending with June 30, 1995.

"(ii) In the case of allowed expenditures for 1996 and each subsequent year, such expenditures shall be equal to allowed expenditures for the previous year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during the year.

"(D) DETERMINATION OF ACTUAL EXPENDITURES.—For purposes of subparagraph (B), the amount of actual expenditures for physicians' services furnished during a year shall be equal to the amount of expenditures for such services during the 12-month period ending with June of the previous year.

"(E) RESTRICTION ON VARIATION FROM MEDICARE ECONOMIC INDEX.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

"(i) greater than 103 percent of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), minus 1 and multiplied by 100; or

"(ii) less than 93 percent of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), minus 1 and multiplied by 100.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to physicians' services furnished on or after January 1, 1997.

(b) REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.—Section 1848(f) (42 U.S.C. 1395w–4(f)) is amended to read as follows:

"(f) SUSTAINABLE GROWTH RATE.—

"(1) PROCESS FOR ESTABLISHING SUSTAINABLE GROWTH RATE OF INCREASE.—

"(A) SECRETARY'S RECOMMENDATION.—By not later than April 15 of each year (beginning with 1996), the Secretary shall transmit to

the Congress a recommendation on the sustainable growth rate for the fiscal year beginning in such year. In making the recommendation, the Secretary shall confer with organizations representing physicians and shall consider—

"(i) inflation,

"(ii) changes in numbers of enrollees (other than private plan enrollees) under this part,

"(iii) changes in the age composition of enrollees (other than private plan enrollees) under this part,

"(iv) changes in technology,

"(v) evidence of inappropriate utilization of services,

"(vi) evidence of lack of access to necessary physicians' services, and

"(vii) such other factors as the Secretary considers appropriate.

"(B) COMMISSION REVIEW.—The Physician Payment Review Commission shall review the recommendation transmitted during a year under subparagraph (A) and shall make its recommendation to Congress, by not later than May 15 of the year, respecting the sustainable

growth rate for the fiscal year beginning in that year.

"(C) PUBLICATION OF SUSTAINABLE GROWTH RATE.—The Secretary shall cause to have the sustainable growth rate published in the Federal Register, in the last 15 days of October of each calendar year (beginning with 1997), for the fiscal year beginning in that year. The Secretary shall cause to have published in the Federal Register, by not later than January 1, 1997, the paragraph (2) for fiscal year 1997.

"(2) SPECIFICATION OF GROWTH RATE.—

"(A) FISCAL YEAR 1996.—The sustainable growth rate for all physicians' services for fiscal year 1996 shall be equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for 1996 (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan

enrollees) from fiscal year 1995 to fiscal year 1996,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from fiscal year 1995 to fiscal year 1996, plus 2 percentage points, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in fiscal year 1996 (compared with fiscal year 1995) which will result from changes in law (including the Balanced Budget Reconciliation Act of 1995), determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d),

minus 1 and multiplied by 100.

"(B) SUBSEQUENT FISCAL YEARS.—The sustainable growth rate for all physicians' services for fiscal year 1997 and each subsequent fiscal year shall be equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for the fiscal year involved (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from the previous fiscal year to the fiscal year involved,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, plus 2 percentage points, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law, determined without taking into account estimated changes in expenditures due to changes in the volume and in-

tensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.

"(3) DEFINITIONS.—In this subsection:

"(A) SERVICES INCLUDED IN PHYSICIANS' SERVICES.—The term 'physicians' services' includes other items and services (such as clinical diagnostic laboratory tests and radiology services), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services furnished to a private plan enrollee.

"(B) PRIVATE PLAN ENROLLEE.—The term 'private plan enrollee' means, with respect to a fiscal year, an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through a medicare choice plan offered under part D or through enrollment with an eligible organization with a risk-sharing contract under section 1876.".

(c) ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1996.—

(1) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w–4(d)(1)) is amended—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph:

''(C) SPECIAL RULE FOR 1996.—For 1996, the conversion factor under this subsection shall be $35.42 for all physicians' services.''.

(2) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(A) by striking ''(or factors)'' each place it appears in subsection (d)(1)(A) and (d)(1)(C)(ii);

(B) in subsection (d)(1)(A), by striking ''or updates'';

(C) in subsection (d)(1)(C)(ii), by striking ''(or updates)''; and

(D) in subsection (i)(1)(C), by striking ''conversion factors'' and inserting ''the conversion factor''.

SEC. 7042. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking ''of 80 percent''; and

(2) by striking the period at the end and inserting the following: '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).''.

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(1) by striking ''of 80 percent''; and

(2) by striking the period at the end and inserting the following: '', less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after October 1, 1995.

SEC. 7043. PAYMENTS FOR CLINICAL LABORATORY DIAGNOSTIC SERVICES.

(a) FREEZE IN UPDATE.—Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395*l*(h)(2)(A)(ii)(IV)) is amended by striking ''and 1995'' and inserting ''through 2002''.

(b) REDUCTION OF NATIONAL CAPS.—Section 1833(h)(4)(B) (42 U.S.C. 1395*l*(h)(4)(B)) is amended—

(1) by striking ''and'' at the end of clause (vi);

(2) in clause (vii)—

(A) by inserting ''and before January 1, 1997,'' after ''December 31, 1995,''; and

(B) by striking the period and inserting '', and''; and

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

''(viii) after December 31, 1996, is equal to 65 percent of such median.''.

(c) STUDY AND REPORT TO CONGRESS.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study of—

(A) the fee schedule determined under section 1833(h)(1) of the Social Security Act (42 U.S.C. 1395*l*(h)(1)) relating to clinical laboratory services; and

(B) options for rebasing or otherwise revising the amounts payable for such services under such fee schedule, taking into account the amounts paid for such services by other large volume purchasers.

(2) REPORT.—Not later then 1 year after the date of the enactment of the Balanced Budget Reconciliation Act of 1995, the Secretary shall submit to Congress a report on the study conducted under paragraph (1).

SEC. 7044. DURABLE MEDICAL EQUIPMENT.

(a) FREEZE IN UPDATES.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

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

(3) by inserting after subparagraph (A), the following subparagraph:

''(B) for 1996 through 2002, the percentage increase is 0 percent; and''.

(b) OXYGEN EQUIPMENT.—

(1) IN GENERAL.—Section 1834(a)(5)(A) (42 U.S.C. 1395m(a)(5)(A)) is amended to read as follows:

"(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (E), payment for—

"(i) oxygen shall be made on a monthly basis in the monthly payment amount recognized under paragraph (9) for oxygen; and

"(ii) oxygen equipment (other than portable oxygen equipment) shall be made on a monthly basis in an amount equal to 60 percent of the monthly payment amount recognized under paragraph (9) for oxygen equipment.".

(2) PORTABLE OXYGEN EQUIPMENT.—Section 1834(a)(5)(B) (42 U.S.C. 1395m(a)(5)(B)) is amended by inserting "60 percent of" after "increased by".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items and services furnished on or after January 1, 1996.

(c) UPGRADED DURABLE MEDICAL EQUIPMENT.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following new paragraph:

"(16) CERTAIN UPGRADED ITEMS.—

"(A) INDIVIDUAL'S RIGHT TO CHOOSE UPGRADED ITEM.—Notwithstanding any other

provision of law, effective on the date on which the Secretary issues regulations under subparagraph (C), an individual may purchase or rent from a supplier an item of upgraded durable medical equipment for which payment would be made under this subsection if the item were a standard item.

"(B) PAYMENTS TO SUPPLIER.—In the case of the purchase or rental of an upgraded item under subparagraph (A)—

"(i) the supplier shall receive payment under this subsection with respect to such item as if such item were a standard item; and

"(ii) the individual purchasing or renting the item shall pay the supplier an amount equal to the difference between the supplier's charge and the amount under clause (i).

In no event may the supplier's charge for an upgraded item exceed the applicable fee schedule amount (if any) for such item.

"(C) CONSUMER PROTECTION SAFEGUARDS.—The Secretary shall issue regulations providing for consumer protection standards

with respect to the furnishing of upgraded equipment under subparagraph (A). Such regulations shall provide for—

"(i) determination of fair market prices with respect to an upgraded item;

"(ii) full disclosure of the availability and price of standard items and proof of receipt of such disclosure information by the beneficiary before the furnishing of the upgraded item;

"(iii) conditions of participation for suppliers in the simplified billing arrangement;

"(iv) sanctions of suppliers who are determined to engage in coercive or abusive practices, including exclusion; and

"(v) such other safeguards as the Secretary determines are necessary.".

SEC. 7045. UPDATES FOR ORTHOTICS AND PROSTHETICS.

(a) IN GENERAL.—Section 1834(h)(4)(A)(iii) (42 U.S.C. 1395m(h)(4)(A)(iii)) is amended by striking "1994 and 1995" and inserting "1994 through 2002".

(b) EXTENSION OF FREEZE ON PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.—In determining the amount of payment under part B of title

XVIII of the Social Security Act with respect to parenteral and enteral nutrients, supplies, and equipment during 1996 through 2002, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1995 (as such charges were determined in accordance with section 13541 of OBRA—1993).

SEC. 7046. PAYMENTS FOR CAPITAL-RELATED COSTS OF OUTPATIENT HOSPITAL SERVICES.

Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking ", and by 10 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1992 through 1998" and inserting "by 10 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1992 through 1995, and by 15 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.".

SEC. 7047. PAYMENTS FOR NON-CAPITAL COSTS OF OUTPATIENT HOSPITAL SERVICES.

Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking "through 1998" and inserting "through 2002".

SEC. 7048. UPDATES FOR AMBULATORY SURGICAL SERVICES.

Section 1833(i)(2)(C) (42 U.S.C. 1395*l*(i)(2)(C)) is amended—

(1) by striking ''1996'' and inserting ''2003''; and

(2) by inserting before the first sentence the following new sentence: ''Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), the Secretary shall not update amounts established under such subparagraphs for fiscal years 1996 through 2002.''

SEC. 7049. PAYMENTS FOR AMBULANCE SERVICES.

Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by sections 7034 and 7035(b), is amended by adding at the end the following new subparagraph:

''(V) In determining the reasonable cost or charge of ambulance services for fiscal years 1996 through 2002, the Secretary shall not recognize anycosts in excess of costs recognized as reasonable for fiscal year 1995.''.

SEC. 7050. PHYSICIAN SUPERVISION OF NURSE ANESTHETISTS.

(a) PROMULGATION OF REVISED REGULATIONS.—The Secretary of Health and Human Services shall revise any regulations describing the conditions under which pay-

ment may be made for anesthesia services under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) to provide that payment may be made under the medicare program for anesthesia services furnished in a hospital or an ambulatory surgical center by a certified registered nurse anesthetist who, under the law of the State in which the service is furnished, is permitted to administer anesthesia services without supervision by the physician performing the operation or the anesthesiologist.

(b) EFFECTIVE DATE.—The revisions to the regulations referred to in subsection (a) shall apply with respect to anesthesia services furnished on or after January 1, 1996.

SEC. 7051. PART B DEDUCTIBLE.

Section 1833(b) (42 U.S.C. 1395*l*(b)) is amended in the first sentence by striking ''and $100 for 1991 and subsequent years'' and inserting '', $100 for calendar years 1991 through 1995, $150 for calendar year 1996, and for calendar years after 1996, an amount equal to the deductible amount determined under this subsection in the prior calendar year, increased by $10.00''.

SEC. 7052. PART B PREMIUM.

Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(1) in subparagraph (A), by striking ''after December 1995 and prior to January 1999'' and inserting ''after December 2002''; and

(2) in subparagraph (B)—

(A) by striking ''and'' at the end of clause (iv),

(B) in clause (v), by striking the period and inserting a comma, and

(C) by adding at the end the following new clauses:

''(vi) 1996 shall be $53.00,

''(vii) 1997 shall be $57.00,

''(viii) 1998 shall be $61.00,

''(ix) 1999 shall be $66.00,

''(x) 2000 shall be $74.00,

''(xi) 2001 shall be $80.00, and

''(xii) 2002 shall be $89.00.''.

SEC. 7053. INCREASE IN MEDICARE PART B PREMIUM FOR HIGH-INCOME INDIVIDUALS.

(a) IN GENERAL.—Part B of title XVIII is amended by inserting after section 1839 the following new section:

''INCREASE IN PREMIUM FOR HIGH-INCOME INDIVIDUALS

''SEC. 1839A. (a) INCREASE IN PREMIUM.—

''(1) IN GENERAL.—If this section applies to an individual for any calendar year, the monthly premium otherwise applicable under section 1839 for

each month during the calendar year shall be increased by an amount equal to the supplemental Medicare part B premium.

"(2) INDIVIDUALS TO WHOM SECTION APPLIES.—This section shall apply to any individual for a calendar year if—

"(A) the individual is covered under this part for any month during the calendar year, and

"(B) the modified adjusted gross income of the taxpayer for the taxable year beginning in the calendar year exceeds the threshold amount.

"(b) PREMIUMS TO BE DEDUCTED BASED ON ESTIMATED AMOUNTS.—

"(1) IN GENERAL.—Each individual shall—

"(A) during the medicare open enrollment period under section 1895G(b)(1), or

"(B) during any other medicare enrollment period applicable to the individual under section 1895G(b)(2),

include with the medicare enrollment an estimate of the taxpayer's modified adjusted gross income for the following calendar year.

"(2) INDIVIDUALS NOT FILING ENROLLMENT FORM.—If an individual does not file a medicare en-

rollment form for any enrollment period applicable to the individual and the individual's coverage under this part continues without modification by reason of the failure to file, the individual's modified adjusted gross income shall be determined on the basis of the most recent information available to the Secretary from prior enrollment forms, the Secretary of the Treasury under section 6103(l)(15), or otherwise.

"(3) INDIVIDUALS FILING INCORRECT ENROLLMENT FORMS.—If, on the basis of information obtained from the Secretary of the Treasury under section 6103(l)(15), the Secretary determines that the information included with a medicare enrollment form under paragraph (1) is incorrect, the individual's modified adjusted gross income shall be determined on the basis of the information obtained from the Secretary of the Treasury.

"(4) TRANSFER OF INFORMATION.—The Secretary shall notify the applicable agency under section 1840 of—

"(A) the estimates received under paragraph (1) or the determinations under paragraph (2) or (3), and

"(B) the amount of the premiums to be deducted under section 1840.

The premiums under subparagraph (B) shall be effective with respect to months beginning with the later of the month for which the enrollment is effective or the month following the month in which the notice is received. Such premium shall remain in effect until another premium takes effect under this subsection or there is an increase in the premium determined without regard to this section.

"(c) SUPPLEMENTAL MEDICARE PART B PREMIUM.—For purposes of subsection (a)—

"(1) IN GENERAL.—The supplemental Medicare part B premium for any month is an amount equal to the excess of—

"(A) 200 percent of the monthly actuarial rate for enrollees age 65 and over determined under subsection 1839(a)(1) for such month, over

"(B) the total monthly premium under section 1839 (determined without regard to subsections (b) and (f) of section 1839).

"(2) PHASEIN OF SUPPLEMENTAL PREMIUM.—

"(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for any taxable year exceeds the threshold amount by less than $50,000, the supplemental Medicare part

B premium under this section for months in the calendar year in which the taxable year begins shall be an amount which bears the same ratio to the amount of the premium (without regard to this paragraph) as such excess bears to $50,000. The preceding sentence shall not apply to any individual whose threshold amount is zero.

"(B) PHASEIN RANGE FOR JOINT RETURNS.—In the case of a joint return under section 6013 of the Internal Revenue Code of 1986, subparagraph (A) shall be applied by substituting '$75,000' for '$50,000' each place it appears.

"(d) VERIFICATION AND ADJUSTMENTS OF SUPPLEMENTAL PREMIUMS.—

"(1) VERIFICATION.—Each individual to whom this section applies shall, on the basis of information shown on the return of tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year, determine the difference (if any) between—

"(A) the aggregate supplemental Medicare part B premiums imposed by this section for months during the calendar year in which the taxable year begins, and

"(B) the aggregate amount of premiums deducted and paid under section 1840 for such months with respect to the individual.

Such determination shall be included on a form prescribed by the Secretary and the form shall be submitted to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) DEFICIENCY ADJUSTMENTS.—

"(A) IN GENERAL.—If the amount under paragraph (1)(A) exceeds the amount under paragraph (1)(B), the individual shall include with the form required to be filed under paragraph (1) a separate check made payable to the Secretary in an amount equal to such excess plus interest determined under subparagraph (B).

"(B) INTEREST ON UNDERPAYMENTS.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The amount of interest taken into account shall be the sum of the amounts determined under clause (ii) for each of the months in the taxable year.

"(ii) MONTHLY INTEREST.—Interest shall be computed for any month in an

amount determined by applying the underpayment rate established under section 6621 of the Internal Revenue Code of 1986 to any portion of the underpayment for the period beginning on the first day of the following month and ending on the date the portion is paid. For purposes of this clause, payments shall be applied to months in order, beginning with the earliest.

"(iii) SAFE-HARBOR EXCEPTION.—No interest shall be imposed for any month if the individual's estimate of modified adjusted gross income under subsection (b) on which the supplemental Medicare part B premium for the month was based was not less than the individual's modified adjusted gross income determined on the basis of information shown on the return of tax imposed by chapter 1 of such Code for the taxable year ending with or within the calendar year preceding the calendar year in which the estimate was made.

"(3) OVERPAYMENT ADJUSTMENTS.—If the amount under paragraph (1)(B) exceeds the amount

under paragraph (1)(A), the Secretary shall, at the Secretary's discretion—

"(A) credit such excess against any supplemental premium required under this section, or

"(B) make a payment to the individual in the amount of such excess.

"(4) ADJUSTMENTS BY SECRETARY.—If the Secretary determines, on the basis of information received from the Secretary of the Treasury under section 6103(l)(15), that there was an underpayment or overpayment of the aggregate supplemental Medicare part B premiums for months during any taxable year (after any other adjustment under this subsection), the Secretary shall—

"(A) notify the individual of such underpayment or overpayment,

"(B) in the case of an underpayment, give such individual an opportunity for a hearing with respect to such underpayment and a reasonable time for payment of such underpayment and interest determined under paragraph (2)(B), and

"(C)(i) collect the amount of any underpayment and interest not paid under sub-

paragraph (B) in such manner as the Secretary may prescribe, and

"(ii) take the actions described in paragraph (3) with respect to any overpayment.

"(5) TRANSFERS TO TRUST FUND.—Amounts equal to amounts paid under paragraphs (2)(A), (4)(B), and (4)(C)(i) shall be deposited into the Federal Supplementary Medical Insurance Trust Fund.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) THRESHOLD AMOUNT.—The term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $50,000,

"(B) $75,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married at the close of the taxable year but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means

adjusted gross income determined under section 62 of the Internal Revenue Code of 1986—

"(A) determined without regard to sections 135, 911, 931, and 933 of such Code, and

"(B) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

"(3) JOINT RETURNS.—In the case of a joint return under section 6013 of such Code, this section shall be applied by taking into account the combined modified adjusted gross income of the spouses.

"(4) MARRIED INDIVIDUAL.—The determination of whether an individual is married shall be made in accordance with section 7703 of such Code.

"(5) AGREEMENTS.—In order to promote the efficient administration of this section, the Secretary may enter into agreements with the Commissioner of the Social Security Administration or the head of any other appropriate Federal agency under which such agency performs administrative responsibilities under this section."

(b) DISCLOSURE OF INFORMATION.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(15) DISCLOSURE OF TAXPAYER RETURN INFORMATION TO SOCIAL SECURITY ADMINISTRATION FOR PURPOSES OF COLLECTING SUPPLEMENTAL PART B PREMIUMS.—

"(A) IN GENERAL.—The Secretary shall, upon written request from the Secretary of Health and Human Services, disclose to the Secretary with respect to any medicare beneficiary (as defined in paragraph (12)(E)(i)) identified in the request whether or not (and the amount by which) the individual's modified adjusted gross income for any taxable year specified in the request exceeded the threshold amount.

"(B) RESTRICTION ON USE.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of Health and Human Services (or of any other Federal agency if an agreement under section 1839A(e)(5) of the Social Security Act is in effect) only for the purposes of, and to the extent necessary in, establishing an individual's correct supplemental Medicare part B premium under section 1839A of the such Act.

"(C) DEFINITIONS.—For purposes of this paragraph, any term used which is also used in section 1839A of the Social Security Act shall have the meaning given such term by such section."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1839(a) (42 U.S.C. 1395r(a)(2)) is amended by inserting "or section 1839A" after "subsections (b) and (e)".

(2) Paragraph (3) of section 1839(a) (42 U.S.C. 1395r(a)(3)) is amended by inserting "or section 1839A" after "subsection (e)".

(3) Section 1839(b) (42 U.S.C. 1395r(b)) is amended by inserting "(and as increased under section 1839A)" after "subsection (a) or (e)".

(4) Section 1839(f) (42 U.S.C. 1395r(f)) is amended by adding at the end the following new sentence: "This subsection shall not apply to the portion of the premium attributable to the supplemental premium under section 1839A."

(5) Section 1840(c) (42 U.S.C. 1395r(c)) is amended by inserting "or an individual determines that the estimate of modified adjusted gross income used in determining the supplemental premium under section 1839A is too low and results in a por-

tion of the premium not being deducted,'' before ''he may''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to months after December 1996.

(2) INFORMATION FOR PRIOR YEARS.—The Secretary of Health and Human Services may request information under section 6013(l)(15) of the Social Security Act (as added by subsection (b)) for taxable years beginning after December 31, 1993.

CHAPTER 4—PROVISIONS RELATING TO PARTS A AND B

Subchapter A—General Provisions Relating to Parts A and B

SEC. 7055. SECONDARY PAYOR PROVISIONS.

(a) PERMANENT EXTENSION OF APPLICATION TO DISABLED BENEFICIARIES.—Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking '', and before October 1, 1998''.

(b) INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the last sentence by striking ''October 1, 1998'' and inserting ''the date of the enactment of

the Balanced Budget Reconciliation Act of 1995''; and

(2) by adding at the end the following new sentence: ''Effective for items and services furnished on or after the date of the enactment of the Balanced Budget Reconciliation Act of 1995, (with respect to periods beginning on or after the date that is 18 months prior to such date), clauses (i) and (ii) shall be applied by substituting '30-month' for '12-month' each place it appears.''.

(c) EXTENSION OF TRANSFER OF DATA.—

(1) ELIMINATION OF SUNSET.—Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) ELIMINATION OF TERMINATION.—Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(d) NO RETROACTIVE APPLICATION OF ESRD SECONDARY PAYER INTERPRETATION.—Notwithstanding any other provision of law, the April 1995 interpretation of section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) issued by the Health Care Financing Administration shall not apply retroactively to a group health plan that paid benefits primary to title XVIII of such Act (42 U.S.C. 1395 et seq.) (but would have paid

benefits secondary to such title in the absence of such section) on or after August 10, 1993, and before April 24, 1995, on behalf of an individual who, during such period—

(1) was entitled to benefits under such title under subsection (a) or (b) of section 226 of such Act (42 U.S.C. 426); and

(2) subsequently became entitled or eligible for benefits under such title under section 226A of such Act (42 U.S.C. 426–1).

SEC. 7056. TREATMENT OF ASSISTED SUICIDE.

(a) PROHIBITION OF PAYMENT.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking ''or'' at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting ''; or''; and

(3) by inserting after paragraph (15) and before the flush language at the end the following new paragraph:

''(16) where such expenses are for items and services, or to assist in the purchase in whole or in part of health benefit coverage that includes items or services, for the purpose of causing, or assisting in

causing, the death, suicide, euthanasia, or mercy killing of an individual.''.

(b) NO REQUIREMENT THAT HEALTH CARE PROVIDERS INFORM PATIENTS CONCERNING ASSISTING SUICIDE.—Section 1866(f)(1)(A)(i) (42 U.S.C. 1395cc(f)(1)(A)(i)) is amended by striking ''paragraph (3))'' and inserting ''paragraph (3)), except that no health care provider or employee of a health care provider be required under this section to inform or counsel a patient regarding assisted suicide, euthanasia, mercy killing, or other service which purposefully causes the death of a person''.

SEC. 7057. ADMINISTRATIVE PROVISIONS.

(a) INDIAN HEALTH SERVICE FACILITIES.—Nothing in this Act shall be construed to change the status under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of—

(1) a Federally qualified health center (as defined in section 1861(aa)(4) of such Act) which is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act; or

(2) hospitals or skilled nursing facilities of the Indian Health Service, whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), that are eligible for payments under title XVIII of the Social Security Act, in accordance with section 1880 of such Act (42 U.S.C. 1395qq).

(b) CONFORMING AMENDMENT TO CERTIFICATION OF CHRISTIAN SCIENCE PROVIDERS.—

(1) HOSPITALS.—Section 1861(e) (42 U.S.C. 1395x(e)) is amended in the sixth sentence by striking ''the First Church of Christ, Scientist, Boston, Massachusetts,'' and inserting ''the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.,''.

(2) SKILLED NURSING FACILITIES.—Section 1861(y)(1) (42 U.S.C. 1395x(y)(1)) is amended by striking ''the First Church of Christ, Scientist, Boston, Massachusetts,'' and inserting ''the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.,''.

(3) GENERAL PROVISIONS.—

(A) UNIFORM REPORTING SYSTEMS.—Section 1122(h) (42 U.S.C. 1320a–1(h)) is amend-

ed by striking ''the First Church of Christ, Scientist, Boston, Massachusetts'' and inserting ''the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.''.

(B) PEER REVIEW.—Section 1162 (42 U.S.C. 1320c–11) is amended by striking ''the First Church of Christ, Scientist, Boston, Massachusetts'' and inserting ''the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1997.

Subchapter B—Payments for Home Health Services

SEC. 7061. PAYMENT FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Part C of title XVIII (42 U.S.C. 1395x et seq.) is amended by adding at the end the following new section:

''PAYMENT FOR HOME HEALTH SERVICES

''SEC. 1893. (a) IN GENERAL.—

''(1) PER VISIT PAYMENTS.—Subject to subsection (c), the Secretary shall make per visit payments beginning with fiscal year 1997 to a home health agency in accordance with this section for each type of home health service described in para-

graph (2) furnished to an individual who at the time the service is furnished is under a plan of care by the home health agency under this title (without regard to whether or not the item or service was furnished by the agency or by others under arrangement with them made by the agency, under any other contracting or consulting arrangement, or otherwise).

"(2) TYPES OF SERVICES.—The types of home health services described in this paragraph are the following:

"(A) Part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse.

"(B) Physical therapy.

"(C) Occupational therapy.

"(D) Speech-language pathology services.

"(E) Medical social services under the direction of a physician.

"(F) To the extent permitted in regulations, part-time or intermittent services of a home health aide who has successfully completed a training program approved by the Secretary.

"(b) ESTABLISHMENT OF PER VISIT RATE FOR EACH TYPE OF SERVICES.—

"(1) IN GENERAL.—The Secretary shall, subject to paragraph (3), establish a per visit payment rate for a home health agency in an area (which shall be the same area used to determine the area wage index applicable to hospitals under section 1886(d)(3)(E)) for each type of home health service described in subsection (a)(2). Such rate shall be equal to the national per visit payment rate determined under paragraph (2) for each such type, except that the labor-related portion of such rate shall be adjusted by the area wage index applicable under section 1886(d)(3)(E) for the area in which the agency is located.

"(2) NATIONAL PER VISIT PAYMENT RATE.—The national per visit payment rate for each type of service described in subsection (a)(2)—

"(A) for fiscal year 1997, is an amount equal to the national average amount paid per visit under this title to home health agencies for such type of service during the most recent 12-month cost reporting period ending on or before June 30, 1994; and

"(B) for each subsequent fiscal year, is an amount equal to the national per visit payment rate in effect for the preceding fiscal year, increased by the greater of—

"(i) the home health market basket percentage increase for such subsequent fiscal year minus 2.5 percentage points; or

"(ii) 1.1 percent (1.2 percent in fiscal year 1997).

"(3) REBASING OF RATES.—The Secretary shall adjust the national per visit payment rates under this subsection for cost reporting periods beginning on or after October 1, 1999, and every 2 years thereafter, to reflect the most recent available data.

"(4) HOME HEALTH MARKET BASKET PERCENTAGE INCREASE.—For purposes of this subsection, the term 'home health market basket percentage increase' means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and applied with respect to the types of home health services described in subsection (a)(2) in the same manner as the market basket percentage increase under section 1886(b)(3)(B)(iii) is determined and

applied to inpatient hospital services for the fiscal year.

"(c) PER EPISODE LIMIT.—

"(1) AGGREGATE LIMIT.—

"(A) IN GENERAL.—Except as provided in paragraph (2), a home health agency may not receive aggregate per visit payments under subsection (a) for a fiscal year in excess of an amount equal to the sum of the following products determined for each case-mix category for which the agency receives payments:

"(i) The number of episodes of each such case-mix category during the fiscal year; multiplied by

"(ii) the per episode limit determined for such case-mix category for such fiscal year.

"(B) ESTABLISHMENT OF PER EPISODE LIMITS.—

"(i) IN GENERAL.—The per episode limit for a fiscal year for any case-mix category for the area in which a home health agency is located (which shall be the same area used to determine the area wage

index applicable to hospitals under section 1886(d)(3)(E)) is equal to—

"(I) the mean number of visits for each type of home health service described in subsection (a)(2) furnished during an episode of such case-mix category in such area during fiscal year 1994, adjusted by the case-mix adjustment factor determined in clause (ii) for the fiscal year involved; multiplied by

"(II) the per visit payment rate established under subsection (b) for such type of home health service for the fiscal year for which the determination is being made.

"(ii) CASE-MIX ADJUSTMENT FACTOR.—For purposes of clause (i), the case-mix adjustment factor for—

"(I) each of fiscal years 1997 through 2000 is the factor determined by the Secretary to assure that aggregate payments for home health services under this section during the year will not exceed the payment for such

services during the previous year as a result of changes in the number and type of home health visits within case-mix categories over the previous year; and

"(II) each subsequent fiscal year, is the factor determined by the Secretary to necessary remove the effects of case-mix increases due to reporting improvements instead of real changes in patients' resource usage.

"(iii) REBASING OF PER EPISODE LIMITS.—Beginning with fiscal year 1999 and every 2 years thereafter, the Secretary shall revise the mean number of home health visits determined under clause (i)(I) for each type of home health service visit described in subsection (a)(2) furnished during an episode in a case-mix category to reflect the most recently available data on the number of visits.

"(iv) DETERMINATION OF AREA.—In the case of an area which the Secretary determines has insufficient number of home health agencies to establish an appropriate

per episode limit, the Secretary may establish an area other than the area used to determine the area wage under section 1886(d)(3)(E)) for purposes of establishing an appropriate per episode limit.

"(C) CASE-MIX CATEGORY.—For purposes of this paragraph, the term 'case-mix category' means each of the 18 case-mix categories established under the Home Health Agency Prospective Payment Demonstration Project conducted by the Health Care Financing Administration. The Secretary may develop an alternate methodology for determining case-mix categories.

"(D) EPISODE.—For purposes of this paragraph, the term 'episode' means, with respect to a cost reporting period, the continuous 120-day period that—

"(i) begins on the date of an individual's first visit for a type of home health service described in subsection (a)(2) for a case-mix category, and

"(ii) is immediately preceded by a 60-day period in which the individual did not receive visits for a type of home health service described in subsection (a)(2).

"(E) EXEMPTIONS AND EXCEPTIONS.—The Secretary may provide for exemptions and exceptions to the limits established under this paragraph for a fiscal year as the Secretary deems appropriate, to the extent such exemptions and exceptions do not result in greater payments under this section than the exemptions and exceptions provided under section 1861(v)(1)(L)(ii) in fiscal year 1994, increased by the home health market basket percentage increase for the fiscal year involved (as defined in subsection (b)(4)).

"(2) RECONCILIATION OF AMOUNTS.—

"(A) PAYMENTS IN EXCESS OF LIMITS.—Subject to subparagraph (B), if a home health agency has received aggregate per visit payments under subsection (a) for a fiscal year in excess of the amount determined under paragraph (1) with respect to such home health agency for such fiscal year, the Secretary shall, in such manner as the Secretary considers appropriate, reduce the payments under this section to the home health agency in the following fiscal year by the amount of such excess.

"(B) EXCEPTION FOR HOME HEALTH SERVICES FURNISHED OVER A PERIOD GREATER THAN 165 DAYS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the amount of aggregate per visit payments determined under subsection (a) shall not include payments for home health visits furnished to an individual on or after a continuous period of more than 165 days after an individual begins an episode described in subsection (c)(1)(D) (if such period is not interrupted by the beginning of a new episode).

"(ii) REQUIREMENT OF CERTIFICATION.—Clause (i) shall not apply if the agency has not obtained a physician's certification with respect to the individual requiring such visits that includes a statement that the individual requires such continued visits, the reason for the need for such visits, and a description of such services furnished during such visits.

"(C) SHARE OF SAVINGS.—

"(i) BONUS PAYMENTS.—If a home health agency has received aggregate per

visit payments under subsection (a) for a fiscal year in an amount less than the amount determined under paragraph (1) with respect to such home health agency for such fiscal year, the Secretary shall pay such home health agency a bonus payment equal to 50 percent of the difference between such amounts in the following fiscal year, except that the bonus payment may not exceed 5 percent of the aggregate per visit payments made to the agency for the prior year without regard to clause (ii).

"(ii) INSTALLMENT BONUS PAYMENTS.—The Secretary may make installment payments during a fiscal year to a home health agency based on the estimated bonus payment that the agency would be eligible to receive with respect to such fiscal year.

"(d) MEDICAL REVIEW PROCESS.—

"(1) IN GENERAL.—The Secretary shall implement a medical review process (with a particular emphasis on fiscal years 1997 and 1998) for the system of payments described in this section that shall provide an assessment of the pattern of care fur-

nished to individuals receiving home health services for which payments are made under this section to ensure that such individuals receive appropriate home health services. Such review process shall focus on low-cost cases described in subsection (e)(3) and cases described in subsection (c)(2)(B) and shall require recertification by intermediaries at 30, 60, 90, 120, and 165 days into an episode described in subsection (c)(1)(D).

"(2) USING OF ORGANIZATIONS TO CONDUCT REVIEWS.—The Secretary may use public or private organizations to conduct medical reviews in accordance with this subsection.

"(e) ADJUSTMENT OF PAYMENTS TO AVOID CIRCUMVENTION OF LIMITS.—

"(1) IN GENERAL.—The Secretary shall provide for appropriate adjustments to payments to home health agencies under this section to ensure that agencies do not circumvent the purpose of this section by—

"(A) discharging patients to another home health agency or similar provider;

"(B) altering corporate structure or name to avoid being subject to this section or for the

purpose of increasing payments under this title; or

"(C) undertaking other actions considered unnecessary for effective patient care and intended to achieve maximum payments under this title.

"(2) TRACKING OF PATIENTS THAT SWITCH HOME HEALTH AGENCIES DURING EPISODE.—

"(A) DEVELOPMENT OF SYSTEM.—The Secretary shall develop a system that tracks home health patients that receive home health services described in subsection (a)(2) from more than 1 home health agency during an episode described in subsection (c)(1)(D).

"(B) ADJUSTMENT OF PAYMENTS.—The Secretary shall adjust payments under this section to each home health agency that furnishes an individual with a type of home health service described in subsection (a)(2) to ensure that aggregate payments on behalf of such individual during such episode do not exceed the amount that would be paid under this section if the individual received such services from a single home health agency.

"(3) LOW-COST CASES.—

"(A) IN GENERAL.—The Secretary shall develop and implement a system designed to adjust payments to a home health agency for a fiscal year to eliminate any increase in growth of the percentage distribution of low-cost episodes for which home health services are furnished by the agency over such percentage distribution determined for the agency under subparagraph (B).

"(B) DISTRIBUTION.—The Secretary shall profile each home health agency to determine the distribution of all episodes by length of stay for each agency during the agency's first 12-month cost reporting period beginning during fiscal year 1994. The Secretary shall calculate the 25th percentile distribution for each agency for low-cost episodes.

"(C) LOW-COST EPISODE.—For purposes of this paragraph, the Secretary shall define a low-cost episode in a manner that provides that a home health agency has an incentive to be cost efficient in delivering home health services and that the volume of such services does not increase as a result of factors other than patient needs.

"(f) REPORT BY PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.—During the first 3 years in which payments are made under this section, the Prospective Payment Assessment Commission shall annually submit a report to Congress on the effectiveness of the payment methodology established under this section that shall include recommendations regarding the following:

"(1) Case-mix and volume increases.

"(2) Quality monitoring of home health agency practices.

"(3) Whether a capitated payment for home care patients receiving care during a continuous period exceeding 165 days is warranted.

"(4) Whether public providers of service are adequately reimbursed.

"(5) On the adequacy of the exemptions and exceptions to the limits provided under subsection (c)(1)(E).

"(6) The appropriateness of the methods provided under this section to adjust the per episode limits and annual payment updates to reflect changes in the mix of services, number of visits, and assignment to case categories to reflect changing patterns of home health care.

"(7) The geographic areas used to determine the per episode limits.".

(b) PAYMENT FOR PROSTHETICS AND ORTHOTICS UNDER PART A.—Section 1814(k) (42 U.S.C. 1395f(k)) is amended—

(1) by inserting "and prosthetics and orthotics" after "durable medical equipment"; and

(2) by inserting "and 1834(h), respectively" after "1834(a)(1)".

(c) CONFORMING AMENDMENTS.—

(1) PAYMENTS UNDER PART A.—Section 1814(b) (42 U.S.C. 1395f(b)), as amended by section 7032(b), is amended in the matter preceding paragraph (1) by striking "1888 and 1888A" and inserting "1888, 1888A, and 1893".

(2) TREATMENT OF ITEMS AND SERVICES PAID UNDER PART B.—

(A) PAYMENTS UNDER PART B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) by amending subparagraph (A) to read as follows:

"(A) with respect to home health services—

"(i) that are a type of home health service described in section 1893(a)(2), and which are furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, the amount determined under section 1893;

"(ii) that are not described in clause (i) (other than a covered osteoporosis drug) (as defined in section 1861(kk)), the lesser of—

"(I) the reasonable cost of such services, as determined under section 1861(v), or

"(II) the customary charges with respect to such services;".

(ii) by striking "and" at the end of subparagraph (E);

(iii) by adding "and" at the end of subparagraph (F); and

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

"(G) with respect to items and services described in section 1861(s)(10)(A), the lesser of—

"(i) the reasonable cost of such services, as determined under section 1861(v), or

"(ii) the customary charges with respect to such services,

or, if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this provision), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);".

(B) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO AGENCY.—

(i) IN GENERAL.—The first sentence of section 1842(b)(6), as amended by section 7035(a)(1), (42 U.S.C. 1395u(b)(6)) is amended—

(I) by striking "and (E)" and inserting "(E)"; and

(II) by striking the period at the end and inserting the following: ", and (F) in the case of types of home

health services described in section 1893(a)(2) furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, payment shall be made to the agency (without regard to whether or not the item or service was furnished by the agency, by others under arrangement with them made by the agency, or when any other contracting or consulting arrangement, or otherwise).''.

(ii) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking ''(2);'' and inserting ''(2) and section 1842(b)(6)(F);''.

(C) EXCLUSIONS FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 7035(a)(2)(C), is amended—

(i) by striking ''or'' at the end of paragraph (15);

(ii) by striking the period at the end of paragraph (16) and inserting ''or''; and

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

"(17) where such expenses are for home health services furnished to an individual who is under a plan of care of the home health agency if the claim for payment for such services is not submitted by the agency.".

(3) SUNSET OF REASONABLE COST LIMITATIONS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clause:

"(iv) This subparagraph shall apply only to services furnished by home health agencies during cost reporting periods ending on or before September 30, 1996.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to cost reporting periods beginning on or after October 1, 1996.

SEC. 7062. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR HOME HEALTH SERVICES.

(a) BASING UPDATES TO PER VISIT COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by adding at the end the following sentence: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the costs of the provision of services furnished by home health agencies

with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.''.

(b) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subsection (a) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act.

SEC. 7063. EXTENSION OF WAIVER OF PRESUMPTION OF LACK OF KNOWLEDGE OF EXCLUSION FROM COVERAGE FOR HOME HEALTH AGENCIES.

Section 9305(g)(3) of OBRA—1986, as amended by section 426(d) of the Medicare Catastrophic Coverage Act of 1988 and section 4207(b)(3) of the OBRA—1990 (as renumbered by section 160(d)(4) of the Social Security Act Amendments of 1994), is amended by striking ''December 31, 1995'' and inserting ''September 30, 1996.''.

CHAPTER 5—RURAL AREAS

SEC. 7071. MEDICARE-DEPENDENT, SMALL, RURAL HOSPITAL PAYMENT EXTENSION.

(a) SPECIAL TREATMENT EXTENDED.—

(1) PAYMENT METHODOLOGY.—Section 1886(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking ''October 1, 1994,'' and inserting ''October 1, 1994, or be-

ginning on or after September 1, 1995, and before October 1, 2000,''; and

(B) in clause (ii)(II), by striking ''October 1, 1994'' and inserting ''October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,''.

(2) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(A) in the matter preceding clause (i), by striking ''September 30, 1994,'' and inserting ''September 30, 1994, and for cost reporting periods beginning on or after September 1, 1995, and before October 1, 2000,'';

(B) in clause (ii), by striking ''and'' at the end;

(C) in clause (iii), by striking the period at the end and inserting '', and''; and

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

''(iv) with respect to discharges occurring during September 1995 through fiscal year 1999, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).''.

(3) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13501(e)(2) of OBRA–93 (42 U.S.C. 1395ww note) is amended by striking ''or fiscal year 1994'' and inserting '', fiscal year 1994, fiscal year 1995, fiscal year 1996, fiscal year 1997, fiscal year 1998, or fiscal year 1999''.

(4) TECHNICAL CORRECTION.—Section 1886(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)(i)), as in effect before the amendment made by paragraph (1), is amended by striking all that follows the first period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to discharges occurring on or after September 1, 1995.

SEC. 7072. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 (42 U.S.C. 1395i–4) is amended to read as follows:

''MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

''SEC. 1820. (a) PURPOSE.—The purpose of this section is to—

''(1) ensure access to health care services for rural communities by allowing hospitals to be designated as critical access hospitals if such hospitals

limit the scope of available inpatient acute care services;

"(2) provide more appropriate and flexible staffing and licensure standards;

"(3) enhance the financial security of critical access hospitals by requiring that medicare reimburse such facilities on a reasonable cost basis; and

"(4) promote linkages between critical access hospitals designated by the State under this section and broader programs supporting the development of and transition to integrated provider networks.

"(b) ESTABLISHMENT.—Any State that submits an application in accordance with subsection (c) may establish a medicare rural hospital flexibility program described in subsection (d).

"(c) APPLICATION.—A State may establish a medicare rural hospital flexibility program described in subsection (d) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of one or more rural health networks (as defined in subsection (e)) in the State,

"(ii) promotes regionalization of rural health services in the State, and

"(iii) improves access to hospital and other health services for rural residents of the State;

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

"(3) such other information and assurances as the Secretary may require.

"(d) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—

"(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (c), may establish a medicare rural hospital flexibility program that provides that—

"(A) the State shall develop at least one rural health network (as defined in subsection (e)) in the State; and

"(B) at least one facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

"(2) STATE DESIGNATION OF FACILITIES.—

"(A) IN GENERAL.—A State may designate one or more facilities as a critical access hospital in accordance with subparagraph (B).

"(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—

"(i) is located in a county (or equivalent unit of local government) in a rural

area (as defined in section 1886(d)(2)(D)) that—

"(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection, or

"(II) is certified by the State as being a necessary provider of health care services to residents in the area;

"(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

"(iii) provides not more than 6 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 72 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 72-hour restriction on a case-by-case basis;

"(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

"(II) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off-site basis under arrangements as defined in section 1861(w)(1), and

"(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

"(v) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).

"(e) RURAL HEALTH NETWORK DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital, and

"(B) at least 1 hospital that furnishes acute care services.

"(2) AGREEMENTS.—

"(A) IN GENERAL.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with

at least 1 hospital that is a member of the network.

"(B) ITEMS DESCRIBED.—The items described in this subparagraph are the following:

"(i) Patient referral and transfer.

"(ii) The development and use of communications systems including (where feasible)—

"(I) telemetry systems, and

"(II) systems for electronic sharing of patient data.

"(iii) The provision of emergency and non-emergency transportation among the facility and the hospital.

"(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least 1—

"(i) hospital that is a member of the network;

"(ii) peer review organization or equivalent entity; or

"(iii) other appropriate and qualified entity identified in the State rural health care plan.

"(f) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

"(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (d);

"(2) is designated as a critical access hospital by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(g) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a State from designating or the Secretary from certifying a facility as a critical access hospital solely because, at the time the facility applies to the State for designation as a critical access hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed 12 beds (minus the number of inpatient beds used for providing inpatient care in the fa-

cility pursuant to subsection (d)(2)(B)(iii)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a critical access hospital.

"(h) GRANTS.—

"(1) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—The Secretary may award grants to States that have submitted applications in accordance with subsection (c) for—

"(A) engaging in activities relating to planning and implementing a rural health care plan;

"(B) engaging in activities relating to planning and implementing rural health networks; and

"(C) designating facilities as critical access hospitals.

"(2) RURAL EMERGENCY MEDICAL SERVICES.—

"(A) IN GENERAL.—The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for the establishment or expansion of a pro-

gram for the provision of rural emergency medical services.

"(B) APPLICATION.—An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii), (A)(iii), and (B) of subsection (c)(1) and paragraph (3) of such subsection.

"(i) TREATMENT OF RURAL PRIMARY CARE HOSPITALS.—A rural primary care hospital designated by the Secretary under this section prior to the date of the enactment of the Balanced Budget Reconciliation Act of 1995 shall receive payment under this title in the same manner and amount as critical access hospital certified by the Secretary under subsection (f) receives payment for such services.

"(j) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for making grants to all

States under subsection (h), $25,000,000 in each of the fiscal years 1996 through 2000.''.

(b) REPORT ON ALTERNATIVE TO 72-HOUR RULE.—Not later than January 1, 1996, the Administrator of the Health Care Financing Administration shall submit to the Congress a report on the feasibility of, and administrative requirements necessary to establish an alternative for certain medical diagnoses (as determined by the Administrator) to the 72-hour limitation for inpatient care in critical access hospitals required by section 1820(d)(2)(B)(iii).

(c) CONTINUATION OF MAF'S.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall extend the Montana Medical Assistance Facility Demonstration Project until December 31, 2002. The demonstration project shall provide that new medical assistance facilities may be designated and that all medical assistance facilities shall receive reasonable cost reimbursement under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for services provided to medicare beneficiaries.

(d) PART A AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—

(1) DEFINITIONS.—Section 1861(mm) (42 U.S.C. 1395x(mm)) is amended to read as follows:

"CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS HOSPITAL SERVICES

"(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(f).

"(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".

(2) COVERAGE AND PAYMENT.—(A) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by striking "or inpatient rural primary care hospital services" and inserting "or inpatient critical access hospital services".

(B) Sections 1813(a) and section 1813(b)(3)(A) (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient rural primary care hospital services" each place it appears, and inserting "inpatient critical access hospital services".

(C) Section 1813(b)(3)(B) (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services".

(D) Section 1814 (42 U.S.C. 1395f) is amended—

(i) in subsection (a)(8) by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''; and

(ii) in subsection (b), by striking ''other than a rural primary care hospital providing inpatient rural primary care hospital services,'' and inserting ''other than a critical access hospital providing inpatient critical access hospital services,''; and

(iii) by amending subsection (*l*) to read as follows:

''(*l*) PAYMENT FOR INPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.''.

(3) TREATMENT OF CRITICAL ACCESS HOSPITALS AS PROVIDERS OF SERVICES.—(A) Section 1861(u) (42 U.S.C. 1395x(u)) is amended by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(B) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking ''a rural

primary care hospital'' and inserting ''a critical access hospital''.

(4) CONFORMING AMENDMENTS.—(A) Section 1128A(b)(1) (42 U.S.C. 1320a–7a(b)(1)) is amended by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''.

(B) Section 1128B(c) (42 U.S.C. 1320a–7b(c)) is amended by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(C) Section 1134 (42 U.S.C. 1320b–4) is amended by striking ''rural primary care hospitals'' each place it appears and inserting ''critical access hospitals''.

(D) Section 1138(a)(1) (42 U.S.C. 1320b–8(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking ''rural primary care hospital'' and inserting ''critical access hospital''; and

(ii) in the matter preceding clause (i) of subparagraph (A), by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(E) Section 1816(c)(2)(C) (42 U.S.C. 1395h(c)(2)(C)) is amended by striking ''rural pri-

mary care hospital'' and inserting ''critical access hospital''.

(F) Section 1833 (42 U.S.C. 1395*l*) is amended—

(i) in subsection (h)(5)(A)(iii), by striking ''rural primary care hospital'' and inserting ''critical access hospital'';

(ii) in subsection (i)(1)(A), by striking ''rural primary care hospital'' and inserting ''critical access hospital'';

(iii) in subsection (i)(3)(A), by striking ''rural primary care hospital services'' and inserting ''critical access hospital services'';

(iv) in subsection (*l*)(5)(A), by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''; and

(v) in subsection (*l*)(5)(B), by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''.

(G) Section 1835(c) (42 U.S.C. 1395n(c)) is amended by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''.

(H) Section 1842(b)(6)(A)(ii) (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(I) Section 1861 (42 U.S.C. 1395x) is amended—

(i) in subsection (a)—

(I) in paragraph (1), by striking ''inpatient rural primary care hospital services'' and inserting ''inpatient critical access hospital services''; and

(II) in paragraph (2), by striking ''rural primary care hospital'' and inserting ''critical access hospital'';

(ii) in the last sentence of subsection (e), by striking ''rural primary care hospital'' and inserting ''critical access hospital'';

(iii) in subsection (v)(1)(S)(ii)(III), by striking ''rural primary care hospital'' and inserting ''critical access hospital'';

(iv) in subsection (w)(1), by striking ''rural primary care hospital'' and inserting ''critical access hospital''; and

(v) in subsection (w)(2), by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''.

(J) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking ''rural primary care hospital'' each place it appears and inserting ''critical access hospital''.

(K) Section 1866(a)(1) (42 U.S.C 1395cc(a)(1)) is amended—

(i) in subparagraph (F)(ii), by striking ''rural primary care hospitals'' and inserting ''critical access hospitals'';

(ii) in subparagraph (H), in the matter preceding clause (i), by striking ''rural primary care hospitals'' and ''rural primary care hospital services'' and inserting ''critical access hospitals'' and ''critical access hospital services'', respectively;

(iii) in subparagraph (I), in the matter preceding clause (i), by striking ''rural primary care hospital'' and inserting ''critical access hospital''; and

(iv) in subparagraph (N)—

(I) in the matter preceding clause (i), by striking ''rural primary care hospitals''

and inserting ''critical access hospitals'', and

(II) in clause (i), by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(L) Section 1866(a)(3) (42 U.S.C 1395cc(a)(3)) is amended—

(i) by striking ''rural primary care hospital'' each place it appears in subparagraphs (A) and (B) and inserting ''critical access hospital''; and

(ii) in subparagraph (C)(ii)(II), by striking ''rural primary care hospitals'' each place it appears and inserting ''critical access hospitals''.

(M) Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking ''rural primary care hospital'' and inserting ''critical access hospital''.

(e) PAYMENT CONTINUED TO DESIGNATED EACHS.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(1) in clause (iii)(III), by inserting ''as in effect on September 30, 1995'' before the period at the end; and

(2) in clause (v)—

(A) by inserting ''as in effect on September 30, 1995'' after ''1820(i)(1)''; and

(B) by striking ''1820(g)'' and inserting ''1820(e)''.

(f) PART B AMENDMENTS RELATING TO CRITICAL ACCESS HOSPITALS.—

(1) COVERAGE.—(A) Section 1861(mm) (42 U.S.C. 1395x(mm)) as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

''(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.''.

(B) Section 1832(a)(2)(H) (42 U.S.C. 1395k(a)(2)(H)) is amended by striking ''rural primary care hospital services'' and inserting ''critical access hospital services''.

(2) PAYMENT.—(A) Section 1833(a) (42 U.S.C. 1395*l*(a)) is amended in paragraph (6), by striking ''outpatient rural primary care hospital services'' and inserting ''outpatient critical access hospital services''.

(B) Section 1834(g) (42 U.S.C. 1395m(g)) is amended to read as follows—

"(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 7073. ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services

"(oo)(1) The term 'rural emergency access care hospital' means, for a fiscal year, a facility with respect to which the Secretary finds the following:

"(A) The facility is located in a rural area (as defined in section 1886(d)(2)(D)).

"(B) The facility was a hospital under this title at any time during the 5-year period that ends on the date of the enactment of this subsection.

"(C) The facility is in danger of closing due to low inpatient utilization rates and operating losses,

and the closure of the facility would limit the access to emergency services of individuals residing in the facility's service area.

''(D) The facility has entered into (or plans to enter into) an agreement with a hospital with a participation agreement in effect under section 1866(a), and under such agreement the hospital shall accept patients transferred to the hospital from the facility and receive data from and transmit data to the facility.

''(E) There is a practitioner who is qualified to provide advanced cardiac life support services (as determined by the State in which the facility is located) on-site at the facility on a 24-hour basis.

''(F) A physician is available on-call to provide emergency medical services on a 24-hour basis.

''(G) The facility meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

''(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on

a 24-hour basis under subparagraphs (E) and (F); and

"(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, or radiological technologist on a part-time, off-site basis.

"(H) The facility meets the requirements applicable to clinics and facilities under subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of such paragraph (or, in the case of the requirements of subparagraph (E), (F), or (J) of such paragraph, would meet the requirements if any reference in such subparagraph to a 'nurse practitioner' or to 'nurse practitioners' were deemed to be a reference to a 'nurse practitioner or nurse' or to 'nurse practitioners or nurses'); except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).

"(2) The term 'rural emergency access care hospital services' means the following services provided by a rural

emergency access care hospital and furnished to an individual over a continuous period not to exceed 24 hours (except that such services may be furnished over a longer period in the case of an individual who is unable to leave the hospital because of inclement weather):

"(A) An appropriate medical screening examination (as described in section 1867(a)).

"(B) Necessary stabilizing examination and treatment services for an emergency medical condition and labor (as described in section 1867(b))."."

(b) REQUIRING RURAL EMERGENCY ACCESS CARE HOSPITALS TO MEET HOSPITAL ANTI-DUMPING REQUIREMENTS.—Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "1861(mm)(1))" and inserting "1861(mm)(1)) and a rural emergency access care hospital (as defined in section 1861(oo)(1))".

(c) COVERAGE AND PAYMENT FOR SERVICES.—

(1) COVERAGE.—Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (I);

(B) by striking the period at the end of subparagraph (J) and inserting "; and"; and

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

"(K) rural emergency access care hospital services (as defined in section 1861(oo)(2)).".

(2) PAYMENT BASED ON PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—

(A) IN GENERAL.—Section 1833(a)(6) (42 U.S.C. 1395l(a)(6)), as amended by section 7072(f)(2), is amended by striking "services," and inserting "services and rural emergency access care hospital services,".

(B) PAYMENT METHODOLOGY DESCRIBED.—Section 1834(g) (42 U.S.C. 1395m(g)), as amended by section 7072(f)(2)(B), is amended—

(i) in the heading, by striking "SERVICES" and inserting "SERVICES AND RURAL EMERGENCY ACCESS CARE HOSPITAL SERVICES"; and

(ii) by adding at the end the following new sentence: "The amount of payment for rural emergency access care hospital services provided during a year shall be determined using the applicable method provided under this subsection for determining payment for outpatient rural primary care hospital services during the year.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning on or after October 1, 1995.

SEC. 7074. ADDITIONAL PAYMENTS FOR PHYSICIANS' SERVICES FURNISHED IN SHORTAGE AREAS.

(a) INCREASE IN AMOUNT OF ADDITIONAL PAYMENT.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking ''10 percent'' and inserting ''20 percent''.

(b) RESTRICTION TO PRIMARY CARE SERVICES.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by inserting after ''physicians' services'' the following: ''consisting of primary care services (as defined in section 1842(i)(4))''.

(c) EXTENSION OF PAYMENT FOR FORMER SHORTAGE AREAS.—

(1) IN GENERAL.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking ''area,'' and inserting ''area (or, in the case of an area for which the designation as a health professional shortage area under such section is withdrawn, in the case of physicians' services furnished to such an individual during the 3-year period beginning on the effective date of the withdrawal of such designation),''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to physicians' services

furnished in an area for which the designation as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act is withdrawn on or after January 1, 1996.

(d) REQUIRING CARRIERS TO REPORT ON SERVICES PROVIDED.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(1) by striking ''and'' at the end of subparagraph (I); and

(2) by inserting after subparagraph (I) the following new subparagraph:

''(J) will provide information to the Secretary (on such periodic basis as the Secretary may require) on the types of providers to whom the carrier makes additional payments for certain physicians' services pursuant to section 1833(m), together with a description of the services furnished by such providers; and''.

(e) STUDY.—

(1) IN GENERAL.—The Physician Payment Review Commission shall conduct a study analyzing the effectiveness of the provision of additional payments under part B of the medicare program for physicians' services provided in health professional short-

age areas in recruiting physicians to provide services in such areas.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under paragraph (1), and shall include in the report such recommendations as the Secretary considers appropriate.

(f) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (d) shall apply to physicians' services furnished on or after October 1, 1995.

SEC. 7075. PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS FOR SERVICES FURNISHED IN OUTPATIENT OR HOME SETTINGS.

(a) COVERAGE IN OUTPATIENT OR HOME SETTINGS FOR PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS.—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (i)—

(A) by striking ''or'' at the end of subclause (II); and

(B) by inserting ''or (IV) in an outpatient or home setting as defined by the Secretary'' following ''shortage area,''; and

(2) in clause (ii)—

(A) by striking ''in a skilled'' and inserting ''in (I) a skilled''; and

(B) by inserting '', or (II) in an outpatient or home setting (as defined by the Secretary),'' after ''(as defined in section 1919(a))''.

(b) PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) IN GENERAL.—Section 1833(r)(1) (42 U.S.C. 1395*l*(r)(1)) is amended—

(A) by inserting ''services described in section 1861(s)(2)(K)(ii)(II) (relating to nurse practitioner services furnished in outpatient or home settings), and services described in section 1861(s)(2)(K)(i)(IV) (relating to physician assistant services furnished in an outpatient or home setting'' after ''rural area),''; and

(B) by striking ''or clinical nurse specialist'' and inserting ''clinical nurse specialist, or physician assistant''.

(2) CONFORMING AMENDMENT.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended by striking ''clauses (i), (ii), or (iv)'' and inserting ''subclauses (I), (II), or (III) of clause (i), clause (ii)(I), or clause (iv)''.

(c) PAYMENT UNDER THE FEE SCHEDULE TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) PHYSICIAN ASSISTANTS.—Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by adding at the end the following new subparagraph:

''(C) With respect to services described in clauses (i)(IV), (ii)(II), and (iv) of section 1861(s)(2)(K) (relating to physician assistants and nurse practitioners furnishing services in outpatient or home settings)—

''(i) payment under this part may only be made on an assignment-related basis; and

''(ii) the amounts paid under this part shall be equal to 80 percent of (I) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848 for the same service provided by a physician who is not a specialist; or (II) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery.''.

(2) CONFORMING AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is

amended in the matter preceding clause (i) by striking ''(i), (ii),'' and inserting ''subclauses (I), (II), or (III) of clause (i), or subclause (I) of clause (ii)''.

(3) TECHNICAL AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking ''a physician assistants'' and inserting ''physician assistants''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 7076. DEMONSTRATION PROJECTS TO PROMOTE TELEMEDICINE.

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

(1) RURAL HEALTH CARE PROVIDER.—The term ''rural health care provider'' means any public or private health care provider located in a rural area.

(2) NONHEALTH CARE ENTITY.—The term ''nonhealth care entity'' means any entity that is not involved in the provision of health care, including a business, educational institution, library, and prison.

(b) ESTABLISHMENT.—The Secretary, acting through the Office of Rural Health, shall award grants to eligible entities to establish demonstration projects

under which an eligible entity establishes a rural-based consortium that enables members of the consortium to utilize the telecommunications network—

(1) to strengthen the delivery of health care services in the rural area through the use of telemedicine;

(2) to provide for consultations involving transmissions of detailed data about the patient that serves as a reasonable substitute for face-to-face interaction between the patient and consultant; and

(3) to make outside resources or business interaction more available to the rural area.

(c) ELIGIBLE ENTITY.—To be eligible to receive a grant under this section an applicant entity shall propose a consortium that includes as members at least—

(1) one rural health care provider; and

(2) one nonhealth care entity located in the same rural area as the rural health care provider described in paragraph (1).

The Secretary may waive the membership requirement under paragraph (2) if the members described in paragraph (1) are unable to locate a nonhealth care entity located in the same rural area to participate in the demonstration project.

(d) APPLICATION.—To be eligible to receive a grant under this section, an eligible entity described in subsection (c) shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the use to which the eligible entity would apply any amounts received under such grant, the source and amount of non-Federal funds the entity would pledge for the project, and a showing of the long-term sustainability of the project.

(e) GRANTS.—Grants under this section shall be distributed in accordance with the following requirements:

(1) GRANT LIMIT.—The Secretary may not make a grant to an eligible entity under this section in excess of $500,000 for each fiscal year in which an eligible entity conducts a project under this section.

(2) MATCHING FUNDS.—

(A) IN GENERAL.—The Secretary may not make a grant to an eligible entity under this section unless the eligible entity agrees to provide non-Federal funds in an amount equal to not less than 20 percent of the total amount to be expended by the eligible entity in any fiscal

year for the purpose of conducting the project under this section.

(B) ADJUSTMENTS.—The Secretary shall make necessary adjustments to the amount that an eligible entity may receive in a subsequent fiscal year if the eligible entity does not meet the requirements of subparagraph (A) in the preceding fiscal year.

(f) USE OF GRANT AMOUNTS.—

(1) IN GENERAL.—Amounts received under a grant awarded under this section shall be utilized for the development and operation of telemedicine systems that serve rural areas. All such grant funds must be used to further the provision of health services to rural areas.

(2) RULES OF USE.—

(A) PERMISSIBLE USAGES.—Grant funds awarded under this section—

(i) shall primarily be used to support the costs of establishing and operating a telemedicine system that provides specialty consultations to rural communities;

(ii) may be used to demonstrate the application of telemedicine for preceptorship of medical students, residents, and

other health professions students in rural training sites;

(iii) may be used for transmission costs, salaries, maintenance of equipment, and compensation of specialists and referring practitioners;

(iv) may be used to pay the fees of consultants, but only to the extent that the total of such fees does not exceed 5 percent of the amount of the grant;

(v) may be used to demonstrate the use of telemedicine to facilitate collaboration between nonphysician primary care practitioners (including physician assistants, nurse practitioners, certified nurse-midwives, and clinical nurse specialists) and physicians; and

(vi) may be used to test reimbursement methodologies under the medicare program under title XVIII of the Social Security Act for practitioners participating in telemedicine activities.

(B) PROHIBITED USE OF FUNDS.—Grant funds shall not be used by members of a rural-based consortium for any of the following:

(i) Expenditures to purchase or lease equipment.

(ii) In the case of a member of a consortium that is an isolated rural facility, purchase of high-cost telecommunications technologies for the furnishing of telemedicine services that—

(I) incur high cost per minute of usage charges; or

(II) require consultants to be available at the same time as the patient and the referring physician.

(iii) Purchase or installation of transmission equipment or establishment or operation of a telecommunications common carrier network.

(iv) Expenditures for indirect costs (as determined by the Secretary) to the extent the expenditures would exceed more than 20 percent of the total grant funds.

(v) Construction (except for minor renovations related to the installation of equipment), or the acquisition or building of real property.

(g) MAINTENANCE OF EFFORT.—Any funds available for the activities covered by a demonstration project conducted under this section shall supplement, and shall not supplant, funds that are expended for similar purposes under any State, regional, or local program.

(h) EVALUATIONS.—Each eligible entity that conducts a demonstration project under this section shall submit to the Secretary such information and interim evaluations as the Secretary may require.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for each of the fiscal years 1996 through 1998.

SEC. 7077. PROPAC RECOMMENDATIONS ON URBAN MEDICARE DEPENDENT HOSPITALS.

Section 1886(e)(3)(A) (42 U.S.C. 1395ww(e)(3)(A)) is amended by adding at the end the following new sentence: ''The Commission shall, beginning in 1996, report its recommendations to Congress on an appropriate update to be used for urban hospitals with a high proportion of medicare patient days and on actions to ensure that medicare beneficiaries served by such hospitals retain the same access and quality of care as medicare beneficiaries nationwide.''.

CHAPTER 6—HEALTH CARE FRAUD AND ABUSE PREVENTION

SEC. 7100. SHORT TITLE.

This chapter may be cited as the ''Health Care Fraud and Abuse Prevention Act of 1995''.

Subchapter A—Fraud and Abuse Control Program

SEC. 7101. FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

''FRAUD AND ABUSE CONTROL PROGRAM

''SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—Not later than January 1, 1996, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

''(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

''(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

"(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse, and

"(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 1128D.

"(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

"(B) INFORMATION GUIDELINES.—

"(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Sec-

retary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

"(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

"(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

"(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

"(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

"(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payer, or otherwise.

"(2) CREDITING.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

"(c) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' means a plan or program

that provides health benefits, whether directly, through insurance, or otherwise, and includes—

"(1) a policy of health insurance;

"(2) a contract of a service benefit organization; and

"(3) a membership agreement with a health maintenance organization or other prepaid health plan.".

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

"(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

"(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

"(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

"(i) such gifts and bequests as may be made as provided in subparagraph (B);

"(ii) such amounts as may be deposited in the Trust Fund as provided in sections 7141(b) and 7142(c) of the Balanced Budget Reconciliation Act of 1995, and title XI; and

"(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

"(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

"(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

"(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

"(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XXI, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

"(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

"(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

"(3) APPROPRIATED AMOUNTS TO ACCOUNT.—

"(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (B), to be

available without further appropriation, in an amount—

"(i) with respect to activities of the Office of the Inspector General of the Department of Health and Human Services and the Federal Bureau of Investigations in carrying out such purposes, not less than—

"(I) for fiscal year 1996, $110,000,000,

"(II) for fiscal year 1997, $140,000,000,

"(III) for fiscal year 1998, $160,000,000,

"(IV) for fiscal year 1999, $185,000,000,

"(V) for fiscal year 2000, $215,000,000,

"(VI) for fiscal year 2001, $240,000,000, and

"(VII) for fiscal year 2002, $270,000,000; and

"(ii) with respect to all activities (including the activities described in clause

(i)) in carrying out such purposes, not more than—

"(I) for fiscal year 1996, $200,000,000, and

"(II) for each of the fiscal years 1997 through 2002, the limit for the preceding fiscal year, increased by 15 percent; and

"(iii) for each fiscal year after fiscal year 2002, within the limits for fiscal year 2002 as determined under clauses (i) and (ii).

"(B) USE OF FUNDS.—The purposes described in this subparagraph are as follows:

"(i) GENERAL USE.—To cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

"(I) prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(II) investigations;

"(III) financial and performance audits of health care programs and operations;

"(IV) inspections and other evaluations; and

"(V) provider and consumer education regarding compliance with the provisions of title XI.

"(ii) USE BY STATE MEDICAID FRAUD CONTROL UNITS FOR INVESTIGATION REIMBURSEMENTS.—To reimburse the various State medicaid fraud control units upon request to the Secretary for the costs of the activities authorized under section 2134(b).

"(4) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.".

SEC. 7102. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH PROGRAMS.

(a) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B (42 U.S.C. 1320a–7b) is amended as follows:

(A) In the heading, by striking ''MEDICARE OR STATE HEALTH CARE PROGRAMS'' and inserting ''FEDERAL HEALTH CARE PROGRAMS''.

(B) In subsection (a)(1), by striking ''a program under title XVIII or a State health care program (as defined in section 1128(h))'' and inserting ''a Federal health care program''.

(C) In subsection (a)(5), by striking ''a program under title XVIII or a State health care program'' and inserting ''a Federal health care program''.

(D) In the second sentence of subsection (a)—

(i) by striking ''a State plan approved under title XIX'' and inserting ''a Federal health care program'', and

(ii) by striking ''the State may at its option (notwithstanding any other provision of that title or of such plan)'' and inserting ''the administrator of such program may at its option (notwithstanding any other provision of such program)''.

(E) In subsection (b), by striking ''title XVIII or a State health care program'' each place it appears and inserting ''a Federal health care program''.

(F) In subsection (c), by inserting ''(as defined in section 1128(h))'' after ''a State health care program''.

(G) By adding at the end the following new subsection:

''(f) For purposes of this section, the term 'Federal health care program' means—

''(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded, in whole or in part, by the United States Government; or

''(2) any State health care program, as defined in section 1128(h).''.

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B (42 U.S.C. 1320a–7b) is further amended by adding at the end the following new subsection:

''(g) The Secretary may—

''(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court

may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 7103. HEALTH CARE FRAUD AND ABUSE GUIDANCE.

Title XI (42 U.S.C. 1301 et seq.), as amended by section 7101, is amended by inserting after section 1128C the following new section:

"HEALTH CARE FRAUD AND ABUSE GUIDANCE

"SEC. 1128D. (a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

"(1) IN GENERAL.—

"(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1996, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

"(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and

Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

"(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) and shall not serve as the basis for an exclusion under section 1128(b)(7);

"(iii) interpretive rulings to be issued pursuant to subsection (b); and

"(iv) special fraud alerts to be issued pursuant to subsection (c).

"(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

"(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the 'Inspector General') shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

"(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

"(A) An increase or decrease in access to health care services.

"(B) An increase or decrease in the quality of health care services.

"(C) An increase or decrease in patient freedom of choice among health care providers.

"(D) An increase or decrease in competition among health care providers.

"(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

"(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f)).

"(G) An increase or decrease in the potential overutilization of health care services.

"(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

"(i) whether to order a health care item or service; or

"(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

"(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud

and abuse in Federal health care programs (as so defined).

"(b) INTERPRETIVE RULINGS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B (in this section referred to as an 'interpretive ruling').

"(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

"(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling not later than 90 days after receiving a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this clause shall be published in the

Federal Register or otherwise made available for public inspection.

"(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision not later than 60 days after receiving such a request and shall identify the reasons for such decision.

"(2) CRITERIA FOR INTERPRETIVE RULINGS.—

"(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

"(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

"(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rul-

ings, or whether the request would require a substantive ruling (as defined in section 552 of title 5, United States Code) not authorized under this subsection.

"(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

"(c) SPECIAL FRAUD ALERTS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) (in this subsection referred to as a 'special fraud alert').

"(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appro-

priate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

"(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

"(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

"(B) the volume and frequency of the conduct that would be identified in the special fraud alert.".

Subchapter B—Revisions to Current Sanctions for Fraud and Abuse

SEC. 7111. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

''(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud and Abuse Prevention Act of 1995, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.''.

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a–7(b)) is amended to read as follows:

''(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud and Abuse Prevention Act of 1995, under Federal or State law—

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud and Abuse Prevention Act of 1995, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 7112. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 7113. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—Any individual who has a direct or indirect ownership or control interest of 5 percent

or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity—

"(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

"(B) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 7114. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c–5(b)(2)) is amended by striking "shall remain" and inserting "shall (sub-

ject to the minimum period specified in the second sentence of paragraph (1)) remain''.

(b) REPEAL OF ''UNWILLING OR UNABLE'' CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended—

(1) in the second sentence, by striking ''and determines'' and all that follows through ''such obligations,''; and

(2) by striking the third sentence.

SEC. 7115. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking ''the Secretary may terminate'' and all that follows and inserting ''in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

''(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9)

during which the deficiency that is the basis of a determination under paragraph (1) exists.

''(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.''.

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

''(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

''(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

''(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as

whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

SEC. 7116. CLARIFICATION OF AND ADDITIONS TO EXCEPTIONS TO ANTI-KICKBACK PENALTIES.

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) by striking ''and'' at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting ''; and''; and

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

''(F) any amounts paid to a provider in connection with an item or service furnished to an individual, any discount or reduction in price given by the provider for such an item or service, or any other remuneration if the item or service is provided through a medicare choice plan.''.

(b) VOLUME AND COMBINATION DISCOUNTS.—

(1) STUDY.—The Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') shall conduct a study evaluating the benefits of volume and combination discounts to the medicare program under title XVIII of the Social Security Act.

(2) CONTENTS OF STUDY.—

(A) IN GENERAL.—The Secretary, in consultation with health care providers and manufacturers, shall specifically examine the issues associated with the discounting or other reductions in price (including reductions in price applied to combinations of items or services or both, and reductions made available as part of capitation, risk sharing, decrease management or similar programs) obtained by a provider of services or other entity under title XVIII of the Social Security Act or a State health care program (as defined in section 1128(h) of such Act).

(B) SPECIFIC EVALUATION AND IDENTIFICATION.—The Secretary shall evaluate the provision of discounts on the medicare program under title XVIII of the Social Security Act and specifically identify mechanisms to assure that the medicare program benefits from such discounts.

(3) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall report the findings of the study to the Committees on Finance and the Judiciary of the Senate and

the Committees on Ways and Means, Commerce, and the Judiciary of the House of Representatives.

(4) REGULATIONS.—The Secretary shall develop regulations regarding the acceptability of such discounts based on the findings of the study described in this subsection. Such regulations shall not become effective unless such regulations are budget neutral.

SEC. 7117. EFFECTIVE DATE.

The amendments made by this subchapter shall take effect January 1, 1996.

Subchapter C—Administrative and Miscellaneous Provisions

SEC. 7121. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.), as amended by sections 7101 and 7103, is amended by inserting after section 1128D the following new section:

"HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM

"SEC. 1128E. (a) GENERAL PURPOSE.—Not later than January 1, 1996, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practi-

tioners as required by subsection (b), with access as set forth in subsection (c).

"(b) REPORTING OF INFORMATION.—

"(1) IN GENERAL.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

"(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

"(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

"(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

"(C) The nature of the final adverse action and whether such action is on appeal.

"(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the

Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

"(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

"(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

"(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

"(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

"(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or

practitioner, the Secretary shall, by regulation, provide for—

"(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

"(B) procedures in the case of disputed accuracy of the information.

"(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

"(d) ACCESS TO REPORTED INFORMATION.—

"(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

"(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee shall be sufficient to recover the full costs of operating the database. Such fees

shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

"(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

"(1) FINAL ADVERSE ACTION.—

"(A) IN GENERAL.—The term 'final adverse action' includes:

"(i) Civil judgments against a health care provider, supplier, or practitioner in Federal or State court related to the delivery of a health care item or service.

"(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

"(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, sup-

pliers, and licensed health care practitioners, including—

"(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

"(II) any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or

"(III) any other negative action or finding by such Federal or State agency that is publicly available information.

"(iv) Exclusion from participation in Federal or State health care programs.

"(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

"(B) EXCEPTION.—The term does not include any action with respect to a malpractice claim.

"(2) PRACTITIONER.—The terms 'licensed health care practitioner', 'licensed practitioner', and 'practitioner' mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

"(3) HEALTH CARE PROVIDER.—The term 'health care provider' means a provider of services as defined in section 1861(u), and any entity, including a health maintenance organization, group medical practice, or any other individual or entity listed by the Secretary in regulation, that provides health care services.

"(4) SUPPLIER.—The term 'supplier' means a supplier of health care items and services described in subsections (a) and (b) of section 1819 and section 1861.

"(5) GOVERNMENT AGENCY.—The term 'Government agency' shall include:

"(A) The Department of Justice.

"(B) The Department of Health and Human Services.

"(C) Any other Federal agency that either administers or provides payment for the deliv-

ery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

"(D) State law enforcement agencies.

"(E) State medicaid fraud control units.

"(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

"(6) HEALTH PLAN.—The term 'health plan' has the meaning given such term by section 1128C(c).

"(7) DETERMINATION OF CONVICTION.—For purposes of paragraph (1), the existence of a conviction shall be determined under paragraph (4) of section 1128(j).".

(b) IMPROVED PREVENTION IN ISSUANCE OF MEDICARE PROVIDER NUMBERS.—Section 1842(r) (42 U.S.C. 1395u(r)) is amended by adding at the end the following new sentence: "Under such system, the Secretary may impose appropriate fees on such physicians to cover the costs of investigation and recertification activities with respect to the issuance of the identifiers.".

Subchapter D—Civil Monetary Penalties

SEC. 7131. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A (42 U.S.C. 1320a–7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking ''programs under title XVIII'' and inserting ''Federal health care programs (as defined in section 1128B(f)(1))''.

(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 section 1128B(f)), 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 amounts attributable to the amounts recovered under this section by reason of the amendments made by the Health Care Fraud and Abuse Prevention Act of 1995 (as estimated by the Secretary) shall be deposited into the Federal Hospital

Insurance Trust Fund pursuant to section 1817(k)(2)(C).''.

(3) In subsection (i)—

(A) in paragraph (2), by striking ''title V, XVIII, XIX, or XX of this Act'' and inserting ''a Federal health care program (as defined in section 1128B(f))'',

(B) in paragraph (4), by striking ''a health insurance or medical services program under title XVIII or XIX of this Act'' and inserting ''a Federal health care program (as so defined)'', and

(C) in paragraph (5), by striking ''title V, XVIII, XIX, or XX'' and inserting ''a Federal health care program (as so defined)''.

(4) By adding at the end the following new subsection:

''(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be

deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking ''or'' at the end of paragraph (1)(D);

(2) by striking '', or'' at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting ''; or''; and

(4) by inserting after paragraph (3) the following new paragraph:

''(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;''.

(c) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking ''$2,000'' and inserting ''$10,000'';

(2) by inserting ''; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs'' after ''false or misleading information was given''; and

(3) by striking ''twice the amount'' and inserting ''3 times the amount''.

(d) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (A) by striking ''claimed,'' and inserting ''claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or has reason to know will result in a greater payment to the person than the code the person knows or has reason to know is applicable to the item or service actually provided,'';

(2) in subparagraph (C), by striking ''or'' at the end;

(3) in subparagraph (D), by striking ''; or'' and inserting '', or''; and

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

''(E) is for a medical or other item or service that a person knows or has reason to know is not medically necessary; or''.

(e) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(b) (42 U.S.C. 1320a–7a(a)) is amended by adding the following new paragraph:

''(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a pur-

pose other than one proscribed by section 1128B(b).''.

(f) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) (42 U.S.C. 1320c–5(b)(3)) is amended by striking ''the actual or estimated cost'' and inserting ''up to $10,000 for each instance''.

(g) PROCEDURAL PROVISIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)), as amended by section 7115(a)(2), is amended by adding at the end the following new subparagraph:

''(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (B)(i) or (C)(i) in the same manner as such provisions apply to a civil money penalty or proceeding under section 1128A(a).''.

(h) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking ''or'' at the end of paragraph (1)(D);

(B) by striking '', or'' at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;".

(2) REMUNERATION DEFINED.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payers, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Health Care Fraud and Abuse Prevention Act of 1995; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.".

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1996.

Subchapter E—Amendments to Criminal Law

SEC. 7141. HEALTH CARE FRAUD.

(a) IN GENERAL.—

(1) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1347. Health care fraud

"(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 1128C(c) of the Social Security Act.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

(b) CRIMINAL FINES DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—The Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 7101(b), an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. 7142. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act; and

"(iii) sections 287, 371, 664, 666, 669, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud.".

(b) CONFORMING AMENDMENT.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting "or (a)(6)" after "(a)(1)".

(c) PROPERTY FORFEITED DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—After the payment of the costs of asset forfeiture has been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added

by section 7101(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) COSTS OF ASSET FORFEITURE.—For purposes of paragraph (1), the term ''payment of the costs of asset forfeiture'' means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services,

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures

made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

SEC. 7143. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

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

(2) by inserting ''or'' at the end of subparagraph (B); and

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

''(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);''.

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting ''or a Federal health care offense (as defined in section 982(a)(6)(B))'' after ''title)''.

SEC. 7144. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

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

"(c) A person who is privy to grand jury information concerning a Federal health care offense (as defined in section 982(a)(6)(B))—

"(1) received in the course of duty as an attorney for the Government; or

"(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the Government to use in any investigation or civil proceeding relating to health care fraud.".

SEC. 7145. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1033. False statements relating to health care matters

"(a) Whoever, in any matter involving a health plan, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 1128C(c) of the Social Security Act.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, in amended by adding at the end the following:

"1033. False statements relating to health care matters.".

SEC. 7146. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1518. Obstruction of criminal investigations of Federal health care offenses

"(a) Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.

"(c) As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to con-

duct or engage in investigations for prosecutions for violations of health care offenses.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:

''1518. Obstruction of Criminal Investigations of Federal Health Care Offenses.''.

SEC. 7147. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 669. Theft or embezzlement in connection with health care

''(a) Whoever willfully embezzles, steals, or otherwise willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health plan, shall be fined under this title or imprisoned not more than 10 years, or both.

''(b) As used in this section the term 'health plan' has the same meaning given such term in section 1128C(c) of the Social Security Act.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or Embezzlement in Connection with Health Care.".

SEC. 7148. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.".

SEC. 7149. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

"§ 3486. Authorized investigative demand procedures

"(a)(1)(A) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control.

"(B) A custodian of records may be required to give testimony concerning the production and authentication of such records.

"(C) The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served.

"(D) Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(E) A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

"(A) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control or, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services.

"(b)(1) A subpoena issued under this section may be served by any person designated in the subpoena to serve it.

"(2) Service upon a natural person may be made by personal delivery of the subpoena to such person.

"(3) Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

"(4) The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c)(1) In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or

in which such person carries on business or may be found, to compel compliance with the subpoena.

"(2) The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony required under subsection (a)(1)(B).

"(3) Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(4) All process in any such case may be served in any judicial district in which such person may be found.

"(d) Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e)(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or

action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefore.

''(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

''(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

''(f) As used in this section the term 'health plan' has the same meaning given such term in section 1128C(c) of the Social Security Act.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3405 the following new item:

''§ 3486. Authorized investigative demand procedures''.

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting ''or a Department of Justice subpoena (issued under section 3486),'' after ''subpoena''.

Subchapter F—State Health Care Fraud Control Units

SEC. 7151. STATE HEALTH CARE FRAUD CONTROL UNITS.

(a) EXTENSION OF CONCURRENT AUTHORITY TO INVESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL PROGRAMS.—Paragraph (3) of section 2134(b), as added by section 7191(a) of this Act, is amended—

(1) by inserting ''(A)'' after ''in connection with''; and

(2) by striking ''plan.'' and inserting ''plan; and (B) upon the approval of the relevant Federal agency, any aspect of the provision of health care services and activities of providers of such services under any Federal health care program (as defined in section 1128B(f)(1)).''.

(b) EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE PATIENT ABUSE IN NON-MEDICAID BOARD AND CARE FACILITIES.—Paragraph (4) of section 2134(b), as added by section 7191(a) of this Act, is amended to read as follows:

''(4)(A) The entity has—

''(i) procedures for reviewing complaints of abuse or neglect of patients in health care facilities which receive payments under the medicaid plan under this title;

"(ii) at the option of the entity, procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities; and

"(iii) where appropriate, procedures for acting upon such complaints under the criminal laws of the State or for referring such complaints to other State agencies for action.

"(B) For purposes of this paragraph, the term 'board and care facility' means a residential setting which receives payment from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:

"(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.

"(ii) Personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.".

CHAPTER 7—OTHER PROVISIONS FOR TRUST FUND SOLVENCY

Subchapter A—General Provisions

SEC. 7171. CONFORMING AGE FOR ELIGIBILITY UNDER MEDICARE TO RETIREMENT AGE FOR SOCIAL SECURITY BENEFITS.

(a) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—Section 226 (42 U.S.C. 426) is amended by striking ''age 65'' each place such term appears and inserting ''retirement age''.

(b) HOSPITAL INSURANCE BENEFITS FOR THE AGED.—Section 1811 (42 U.S.C. 1395c) is amended by striking ''age 65'' each place such term appears and inserting ''retirement age (as such term is defined in section 216(*l*)(1))''.

(c) HOSPITAL INSURANCE BENEFITS FOR UNINSURED ELDERLY INDIVIDUALS NOT OTHERWISE ELIGIBLE.—Section 1818 (42 U.S.C. 1395i–2) is amended—

(1) in subsection (a)(1), by striking ''age of 65'' and inserting ''retirement age (as such term is defined in section 216(*l*)(1))'';

(2) in subsection (d)(1), by striking ''age 65'' and inserting ''retirement age (as such term is defined in section 216(*l*)(1))''; and

(3) in subsection (d)(3), by striking ''65'' and inserting ''retirement age (as such term is defined in section 216(*l*)(1))''.

(d) HOSPITAL INSURANCE BENEFITS FOR DISABLED INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLEMENT.—Section 1818A(a)(1) (42 U.S.C. 1395i–2a(a)(1)) is amended by striking ''the age of 65'' and inserting ''retirement age (as such term is defined in section 216(*l*)(1))''.

(e) ELIGIBILITY FOR PART B BENEFITS.—

(1) IN GENERAL.—Section 1836 (42 U.S.C. 1395o) is amended by striking ''age 65'' each place such term appears and inserting ''retirement age (as such term is defined in section 216(*l*)(1))''.

(2) ENROLLMENT PERIODS.—Section 1837 (42 U.S.C. 1395p) is amended by striking ''age 65'' and ''the age of 65'' each place such terms appear and inserting ''retirement age (as such term is defined in section 216(*l*)(1))''.

(3) COVERAGE PERIOD.—Section 1838(c) (42 U.S.C. 1395q(c)) is amended by striking ''the age of 65'' and inserting ''retirement age (as such term is defined in section 216(*l*)(1))''.

(4) AMOUNTS OF PREMIUMS.—Section 1839 (42 U.S.C. 1395r) is amended by striking ''age 65''

and ''the age of 65'' each place such terms appear and inserting ''retirement age (as such term is defined in section 216(*l*)(1))''.

(f) APPROPRIATIONS TO COVER GOVERNMENT CONTRIBUTIONS AND CONTINGENCY RESERVE.—Section 1844(a)(1) (42 U.S.C. 1395w) is amended by striking ''age 65'' each place such term appears and inserting ''retirement age''.

(g) MEDICARE SECONDARY PAYER.—Section 1862(b) (42 U.S.C. 1395y(b)) is amended by striking ''age 65'' each place such term appears and inserting ''retirement age (as such term is defined in section 216(*l*)(1))''.

(h) MEDICARE SUPPLEMENTAL POLICIES.—Section 1882(s)(2)(A) (42 U.S.C. 1395ss(s)(2)(A)) is amended by striking ''65 years of age'' and inserting ''retirement age (as such term is defined in section 216(*l*)(1))''.

SEC. 7172. NONDISCHARGEABILITY OF CERTAIN MEDICARE DEBTS.

Section 523(a) of title 11, United States Code, is amended—

(1) by striking ''; or'' at the end of paragraph (12);

(2) by inserting ''or'' at the end of paragraph (15)(B);

(3) by striking the period at the end of paragraph (16) and inserting ''or''; and

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

''(17) for an overpayment to a provider or supplier made from the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund.''.

SEC. 7173. TRANSFERS OF CERTAIN PART B SAVINGS TO HOSPITAL INSURANCE TRUST FUND.

Section 1841 (42 U.S.C. 1395t) is amended by adding at the end the following new subsection:

''(j) There are hereby appropriated for each fiscal year to the Federal Hospital Insurance Trust Fund amounts equal to the estimated savings to the general fund of the Treasury for such year resulting from the amendments made by sections 7051 (relating to the part B deductible), 7052 (relating to the part B premium), and 7053 (relating to the part B premium for high-income individuals) of the Balanced Budget Reconciliation Act of 1995. The Secretary of the Treasury shall from time to time transfer from the general fund of the Treasury to the Federal Hospital Insurance Trust Fund amounts equal to such estimated savings in the form of public-debt

obligations issued exclusively to the Federal Hospital Insurance Trust Fund.''.

Subchapter B—Budget Expenditure Limiting Tool

SEC. 7175. BUDGET EXPENDITURE LIMITING TOOL.

(a) IN GENERAL.—Title XVIII is amended by adding at the end the following new section:

''BUDGET EXPENDITURE LIMITING TOOL

''SEC. 1893. (a) IMPLEMENTATION OF MEDICARE BUDGET COMPLIANCE ORDERS.—

''(1) IN GENERAL.—If a medicare budget compliance order is issued with respect to a fiscal year, then, notwithstanding any other provision of this title, the Secretary shall make the adjustments to applicable payment rates specified in the order.

''(2) EFFECT OF ADJUSTMENTS.—

''(A) ITEMS ADJUSTED.—Any adjustment under paragraph (1) shall apply solely for purposes of determining—

''(i) the applicable payment rates actually paid during the fiscal year, and

''(ii) the amount of any premium or coinsurance an individual is required to pay under this title.

''(B) ADJUSTMENTS NOT TO OTHERWISE APPLY.—Any adjustment under paragraph (1)

shall not apply for any other purpose not described in subparagraph (A), including for purposes of determining—

"(i) in the case of a scheduled rate increase described in subsection (c)(3), the rate in effect for a fiscal year in determining the amount of the increase for any subsequent fiscal year, and

"(ii) the rate to which an adjustment under this section applies for a subsequent fiscal year.

"(b) MEDICARE BUDGET COMPLIANCE ORDERS.—In this section—

"(1) DOWNWARD ADJUSTMENTS IN RATES.—A medicare budget compliance order is an order issued by the President under subsection (e)(5) or (e)(6)(B) which sets forth (in the manner described in subsection (c)) the adjustments in applicable payment rates for fee-for-service expenditures as are necessary—

"(A) in the case of an order under subsection (e)(5), to eliminate the medicare outlay deficit estimated for the fiscal year in the OMB final report under subsection (e)(4), and

"(B) in the case of an order under subsection (e)(6)(B), to eliminate any increase in such deficit in the OMB updated report under subsection (e)(6)(A).

"(2) UPWARD ADJUSTMENT IN RATES.—A medicare budget compliance order is an order issued by the President under subsection (e)(6)(C) which sets forth (in the manner described in subsection (c)) increases in the applicable payment rates for fee-for-service expenditures for the portion of the fiscal year specified in the order as are necessary to correct any reduction of the medicare outlay deficit estimated for the fiscal year in the OMB updated report under subsection (e)(6)(A).

"(3) APPLICABLE PAYMENT RATES.—The term 'applicable payment rate' means the rate (determined without regard to this section) at which payment is made under parts A and B for fee-for-service expenditures for items and services covered under parts A and B.

"(c) METHODS FOR MAKING ADJUSTMENTS.—

"(1) RATE REDUCTIONS.—Except as provided in paragraph (3), a medicare budget compliance order described in subsection (b)(1) shall provide the following adjustments in the following order:

"(A) First, a uniform percentage reduction in each of the scheduled rate increases specified in paragraph (4) as is necessary to reduce medicare outlays by the amount of the medicare outlay deficit for the fiscal year.

"(B) Second, if the medicare outlay deficit exceeds the reduction in outlays resulting from an elimination of the scheduled rate increases, a uniform percentage reduction in each of the applicable payment rates as is necessary to reduce medicare outlays by the amount of that excess.

"(2) RATE INCREASES.—Except as provided in paragraph (3), a medicare budget compliance order described in subsection (b)(2) shall provide—

"(A) a uniform percentage increase in each of the applicable payment rates described in paragraph (1)(B) as is necessary to increase medicare outlays for such payments by the lesser of the estimated reduction in the medicare outlay deficit or the amount of reductions under paragraph (1)(B), and

"(B) a uniform percentage increase in rates for which scheduled increases were reduced under paragraph (1)(B) to the extent of

the lesser of the remainder of the reduction in the medicare outlay deficit or the amount of the reduction in such scheduled increases.

"(3) GEOGRAPHICAL ADJUSTMENTS.—

"(A) ADJUSTMENTS TO PERCENTAGES.—

"(i) IN GENERAL.—Unless Congress provides otherwise, beginning with fiscal years on or after October 1, 1999, the Secretary may, based on the analysis under subparagraph (B) and to the extent the Secretary determines necessary, adjust the percentage changes to the applicable payment rates required by this section in a manner designed to reflect an appropriate and equitable variation in rates of growth in per capita spending across medicare payment areas. Such variation shall be reasonably related to measurable geographic differences in medicare payment areas and the degree to which such patterns of rates of growth in per capita spending contribute to a medicare outlay deficit.

"(ii) BUDGET NEUTRALITY.—If the Secretary takes action under clause (i), the Secretary shall adjust the applicable pay-

ment rates in a manner that ensures that total outlays for a fiscal year are not greater or less than total outlays under this section would have been but for the application of clause (i).

"(B) ANALYSIS.—The Secretary, in consultation with interested parties, shall conduct an analysis of the measurable differences in rates of growth of spending across medicare payment areas using measurable variables as identified by the Secretary.

"(C) NOTICE.—If the Secretary decides to take action under subparagraph (A), the Secretary shall provide notice to Congress 1 year before the effective date of the action as to the variables the Secretary will use to determine variations in rates of growth in per capita spending and a preliminary assessment regarding how these variations may impact a medicare budget compliance order.

"(4) SCHEDULED RATE INCREASES.—For purposes of paragraph (1), a scheduled rate increase is any increase in an applicable payment which is made pursuant to an automatic adjustment required by part A or part B.

"(5) SPECIAL RULES FOR TIMING OF REDUCTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any reduction in applicable payment rates pursuant to a medicare budget compliance order shall be applied to payments for services furnished during the fiscal year. For purposes of the preceding sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

"(B) PAYMENT ON THE BASIS OF COST REPORTING PERIODS.—In applying subsection (a) for a fiscal year with respect to items and services for which payment is made under part A or B on the basis of costs incurred for items and services in a cost reporting period, the medicare budget compliance order shall provide for the payment adjustment under such subsection for a fiscal year through the appropriate percentage reduction in the payment for costs for such items and services incurred at any time during each cost reporting period any part of which occurs during the fiscal year involved,

but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs during the fiscal year involved.

"(6) TIMING OF UPDATED ADJUSTMENTS.—Any increase or decrease in applicable payment rates pursuant to a medicare budget compliance order under subsection (e)(6) shall be made in the same manner as provided under paragraph (5), but shall only apply for the portion of the fiscal year occurring on and after March 1.

"(7) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES.—If a reduction in payment amounts is made under subsection (a) for services for which payment under part B of title XVIII of the Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1), of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

"(d) MEDICARE OUTLAY DEFICITS AND RELATED TERMS.—In this section:

"(1) MEDICARE OUTLAY DEFICIT.—

"(A) IN GENERAL.—The term 'medicare outlay deficit' means the excess (if any) of—

"(i) the outlays with respect to items and services for which payment is made under part A or B, over

"(ii) the baseline medicare outlays.

"(B) SPECIFIC FISCAL YEAR.—The medicare outlay deficit for any fiscal year is the sum of—

"(i) the amount determined under subparagraph (A) for the fiscal year (without regard to this section), plus

"(ii) the amount determined under subparagraph (A) for the preceding fiscal year (determined after application of this section).

"(C) AMOUNTS BASED ON ESTIMATES.—The medicare outlay deficit for any fiscal year shall be determined on the basis of the OMB final and updated reports under subsection (e).

"(2) MEDICARE BASELINE OUTLAYS.—The medicare baseline outlays shall be determined in accordance with the following table:

"In the case of fiscal year:	The baseline is (in billions):
1996	$193.3
1997	$206.5
1998	$219.7
1999	$233.5
2000	$249.6
2001	$266.9
2002	$285.6

"(3) OUTLAYS.—The term 'outlays' has the meaning given such term by section 3 of the Congressional Budget and Impoundment Control Act of 1974.

"(4) OMB.—The term 'OMB' means the Director of the Office of Management and Budget.

"(5) CBO.—The term 'CBO' means the Director of the Congressional Budget Office.

"(e) REPORTS AND ORDERS.—

"(1) TIMETABLE.—The timetable for the calendar year in which a fiscal year begins is as follows:

"Date:	Action to be completed:
August 15	Initial CBO/OMB snapshot
October 10	CBO final report
October 15	OMB final report/order
November 15	GAO compliance report
March 1 of next year	OMB/CBO updated report/order
April 1 of next year	GAO compliance report.

"(2) SUBMISSION AND AVAILABILITY.—Each report required by this section shall be submitted to

the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the President, and in the case of OMB and CBO, to each other. On the following day, a notice of the report shall be printed in the Federal Register.

"(3) SNAPSHOT.—CBO and OMB shall each prepare an estimate of the medicare outlay deficit for the fiscal year beginning October 1.

"(4) FINAL REPORTS.—

"(A) IN GENERAL.—The final reports of CBO and OMB shall each include—

"(i) an estimate of the medicare outlay deficit (if any) for the fiscal year beginning October 1, and

"(ii) the percentage reductions described in subsection (c)(1) necessary to offset the deficit.

"(B) DIFFERENCES.—Each OMB report shall explain any differences between the CBO and OMB estimates of the medicare outlay deficit and any required percentage reduction.

"(5) PRESIDENTIAL ORDER.—On the date specified in paragraph (1), if in its final report OMB estimates a medicare outlay deficit for the fiscal year

beginning October 1, the President shall issue an order fully implementing without change all percentage reductions required by the OMB calculations set forth in the report. The order shall be effective on issuance.

"(6) OMB AND CBO UPDATED REPORTS; ORDER.—

"(A) REPORTS.—The updated reports of OMB and CBO shall include—

"(i) an estimate of the differences between its current estimate of the medicare outlay deficit for the fiscal year and the estimate included in its final report,

"(ii) if a medicare budget compliance order is in effect for the fiscal year and if the estimate finds the deficit to be greater than that included in the OMB or CBO final report, the percentage decreases specified in subsection (c)(1) or (c)(3) necessary to offset the increase over the remainder of the fiscal year, and

"(iii) if the estimate finds the deficit to be less than that included in the final report, the percentage increases described

in subsection (c)(2) or (c)(3) necessary to offset the reduction.

"(B) ORDER IMPLEMENTING DECREASES.—The President shall issue an order fully implementing without change the percentage decreases described in the OMB updated report under subparagraph (A)(ii).

"(C) ORDER IMPLEMENTING INCREASES.—The President shall issue an order fully implementing without change the percentage increases described in the OMB updated report under subparagraph (A)(iii).

"(7) REPORTS BASED ON CBO.—Any report required by this subsection shall be based on the economic and technical assumptions used by the CBO in its initial snapshot under paragraph (3).

"(8) GAO COMPLIANCE REPORTS.—On the dates specified in paragraph (1), the Comptroller General shall submit to the Congress and the President a report on—

"(A) the extent to which each order issued by the President under this section complies with all of the requirements contained in this section, either certifying that the order fully and accurately complies with such requirements

or indicating the respects in which it does not; and

"(B) the extent to which each report issued by OMB or CBO under this section complies with all of the requirements contained in this section, either certifying that the report fully and accurately complies with such requirements or indicating the respects in which it does not.

"(f) MODIFICATION OF PRESIDENTIAL ORDER.—

"(1) IN GENERAL.—At any time after the OMB final report or updated report is issued under subsection (e), but before the close of the 20th calendar day of the session of Congress beginning after the issuance of either such report, the Majority Leader of either House of Congress may introduce a joint resolution, which contains provisions directing the President to modify the Presidential order issued under subsection (e)(5) or (e)(6)(B) in connection with either such report or to provide an alternative to reduce the medicare outlay deficit for the fiscal year for which such order was issued. After the introduction of the first such joint resolution in either House of Congress with respect to any final report or updated report, then no other joint resolution is-

sued with respect to such order shall be subject to the procedures set forth in this subsection.

"(2) PROCEDURES.—Except as provided in paragraph (3), the procedures under section 258A of the Balanced Budget and Emergency Deficit Control Act of 1985 shall apply to a joint resolution under paragraph (1).

"(3) DECREASE IN AMOUNT OF MEDICARE OUTLAY DEFICIT REDUCTION REQUIRES THREE-FIFTHS VOTE.—It shall not be in order in either the House of Representatives or the Senate to consider any provision which would have the effect of—

"(A) decreasing the medicare baseline outlay for any fiscal year, or

"(B) decreasing medicare outlay reductions for any fiscal year below the amount of the medicare outlay deficit specified in the OMB final or updated report,

unless at least three-fifths of the Members of that House agree to the consideration of the joint resolution, amendment, or conference report.

"(4) RULEMAKING AUTHORITY.—The provisions of paragraphs (2) and (3) are enacted by the Congress—

"(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of joint resolutions described in paragraph (1), and they supersede other rules only to the extent they are inconsistent therewith, and

"(B) with full recognition of the constitutional right of either House to change the rules relating to the procedure of that House at any time, in the same manner, and to the same extent as in the case of any other rule of that House."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fiscal years 1996 through 2002.

Subtitle B—Transformation of the Medicaid Program

SEC. 7190. SHORT TITLE.

This subtitle may be cited as the "Medicaid Transformation Act of 1995".

1 **SEC. 7191. TRANSFORMATION OF MEDICAID PROGRAM.**

2 (a) IN GENERAL.—The Social Security Act is amend-
3 ed by adding at the end the following new title:

4 "TITLE XXI—MEDICAID PROGRAM FOR LOW-
5 INCOME INDIVIDUALS AND FAMILIES

6 "TABLE OF CONTENTS OF TITLE

"Sec. 2100. Purpose; State medicaid plans.

"PART A—OBJECTIVES, GOALS, AND PERFORMANCE UNDER STATE PLANS

"Sec. 2101. Description of strategic objectives and performance goals.
"Sec. 2102. Annual reports.
"Sec. 2103. Periodic, independent evaluations.
"Sec. 2104. Description of process for medicaid plan development.
"Sec. 2105. Consultation in medicaid plan development.
"Sec. 2106. Medicaid Task Force.

"PART B—ELIGIBILITY, BENEFITS, AND SET-ASIDES

"Sec. 2111. Eligibility and benefits.
"Sec. 2112. Set-asides of funds for population groups.
"Sec. 2113. Premiums and cost-sharing.
"Sec. 2114. Description of process for developing capitation payment rates.
"Sec. 2115. Construction.
"Sec. 2116. Causes of action.
"Sec. 2117. Treatment of income and resources for certain institutionalized spouses.

"PART C—PAYMENTS TO STATES

"Sec. 2121. Allotment of funds among States.
"Sec. 2122. Payments to States.
"Sec. 2123. Limitation on use of funds; disallowance.
"Sec. 2124. Grant program for community health centers and rural health clinics.

"PART D—PROGRAM INTEGRITY AND QUALITY

"Sec. 2131. Use of audits to achieve fiscal integrity.
"Sec. 2132. Fraud prevention program.
"Sec. 2133. Information concerning sanctions taken by State licensing authorities against health care practitioners and providers.
"Sec. 2134. State medicaid fraud control units.
"Sec. 2135. Recoveries from third parties and others.
"Sec. 2136. Assignment of rights of payment.
"Sec. 2137. Quality assurance standards for nursing facilities.
"Sec. 2138. Other provisions promoting program integrity.

"PART E—ESTABLISHMENT AND AMENDMENT OF MEDICAID PLANS

"Sec. 2151. Submittal and approval of medicaid plans.
"Sec. 2152. Submittal and approval of plan amendments.
"Sec. 2153. Sanctions for substantial noncompliance.
"Sec. 2154. Secretarial authority.

"PART F—GENERAL PROVISIONS

"Sec. 2171. Definitions.
"Sec. 2172. Treatment of territories.
"Sec. 2173. Description of treatment of Indian health programs.
"Sec. 2174. Application of certain general provisions.

"SEC. 2100. PURPOSE; STATE MEDICAID PLANS.

"(a) PURPOSE.—The purpose of this title is to provide funds to States to enable them to provide medical assistance to low-income individuals and families in a more effective, efficient, and responsive manner.

"(b) STATE PLAN REQUIRED.—A State is not eligible for payment under section 2122 of this title unless the State has submitted to the Secretary under part E a plan (in this title referred to as a 'medicaid plan') that—

"(1) sets forth how the State intends to use the funds provided under this title to provide medical assistance to needy individuals and families consistent with the provisions of this title; and

"(2) is approved under such part.

"(c) CONTINUED APPROVAL.—An approved medicaid plan shall continue in effect unless and until—

"(1) the State amends the plan under section 2152;

"(2) the State terminates participation under this title; or

"(3) the Secretary finds substantial noncompliance of the plan with the requirements of this title under section 2153.

"(d) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under part C.

"PART A—OBJECTIVES, GOALS, AND PERFORMANCE UNDER STATE PLANS

"SEC. 2101. DESCRIPTION OF STRATEGIC OBJECTIVES AND PERFORMANCE GOALS.

"(a) DESCRIPTION.—A medicaid plan shall include a description of the strategic objectives and performance goals the State has established for providing health care services to low-income populations under this title, including a general description of the manner in which the plan is designed to meet these objectives and goals.

"(b) CERTAIN OBJECTIVES AND GOALS REQUIRED.—A medicaid plan shall include strategic objectives and performance goals relating to—

"(1) rates of childhood immunizations;

"(2) reductions in infant mortality and morbidity; and

"(3) standards of care and access to services for children with special health care needs as defined by the State.

"(c) CONSIDERATIONS.—In specifying these objectives and goals the State may consider factors such as the following:

"(1) The State's priorities with respect to providing assistance to low-income populations.

"(2) The State's priorities with respect to the general public health and the health status of individuals eligible for assistance under the medicaid plan.

"(3) The State's financial resources, the particular economic conditions in the State, and relative adequacy of the health care infrastructure in different regions of the State.

"(d) PERFORMANCE MEASURES.—To the extent practicable—

"(1) one or more performance goals shall be established by the State for each strategic objective identified in the medicaid plan; and

"(2) the medicaid plan shall describe how program performance will be—

"(A) measured through objective, independently verifiable means, and

"(B) compared against performance goals, in order to determine the State's performance under this title.

"(e) PERIOD COVERED.—

"(1) STRATEGIC OBJECTIVES.—The strategic objectives shall cover a period of not less than 5 years and shall be updated and revised at least every 3 years.

"(2) PERFORMANCE GOALS.—The performance goals shall be established for dates that are not more than 3 years apart.

"SEC. 2102. ANNUAL REPORTS.

"(a) IN GENERAL.—In the case of a State with a medicaid plan that is in effect for part or all of a fiscal year, no later than March 31 following such fiscal year (or March 31, 1998, in the case of fiscal year 1996) the State shall prepare and submit to the Secretary and the Congress a report on program activities and performance under this title for such fiscal year.

"(b) CONTENTS.—Each annual report under this section for a fiscal year shall include the following:

"(1) EXPENDITURE AND BENEFICIARY SUMMARY.—

"(A) INITIAL SUMMARY.—For the report for fiscal year 1997 (and, if applicable, fiscal

year 1996), a summary of all expenditures under the medicaid plan during the fiscal year (and during any portions of fiscal year 1996 during which the medicaid plan was in effect under this title) as follows:

"(i) Aggregate medical assistance expenditures, disaggregated to the extent required to determine compliance with the set-aside requirements of subsections (a) through (c) of section 2112 and to compute the case mix index under section 2121(d)(3).

"(ii) For each general category of eligible individuals specified in subsection (c)(1), aggregate medical assistance expenditures and the total and average number of eligible individuals under the medicaid plan.

"(iii) By each general category of eligible individuals, total expenditures for each of the categories of health care items and services specified in subsection (c)(2) which are covered under the medicaid plan and provided on a fee-for-service basis.

"(iv) By each general category of eligible individuals, total expenditures for payments to capitated health care organizations (as defined in section 2114(c)(1)).

"(v) Total administrative expenditures.

"(B) SUBSEQUENT SUMMARIES.—For reports for each succeeding fiscal year, a summary of—

"(i) all expenditures under the medicaid plan consistent with the reporting format specified by the Medicaid Task Force under section 2106(d)(1); and

"(ii) the total and average number of eligible individuals under the medicaid plan for each general category of eligible individuals.

"(2) UTILIZATION SUMMARY.—

"(A) INITIAL SUMMARY.—For the report for fiscal year 1997 (and, if applicable, fiscal year 1996), summary statistics on the utilization of health care services under the medicaid plan during the year (and during any portions of fiscal year 1996 during which the medicaid plan was in effect under this title) as follows:

"(i) For each general category of eligible individuals and for each of the categories of health care items and services which are covered under the medicaid plan and provided on a fee-for-service basis, the number and percentage of persons who received such a type of service or item during the period covered by the report.

"(ii) Summary of health care utilization data reported to the State by capitated health care organizations.

"(B) SUBSEQUENT SUMMARIES.—For reports for each succeeding fiscal year, summary statistics on the utilization of health care services under the medicaid plan consistent with the reporting format specified by the Medicaid Task Force under section 2106(d)(1).

"(3) ACHIEVEMENT OF PERFORMANCE GOALS.—With respect to each performance goal established under section 2101 and applicable to the year involved—

"(A) a brief description of the goal;

"(B) a description of the methods to be used to measure the attainment of such goal;

"(C) data on the actual performance with respect to the goal;

"(D) a review of the extent to which the goal was achieved, based on such data; and

"(E) if a performance goal has not been met—

"(i) why the goal was not met, and

"(ii) actions to be taken in response to such performance, including adjustments in performance goals or program activities for subsequent years.

"(4) PROGRAM EVALUATIONS.—A summary of the findings of evaluations under section 2103 completed during the fiscal year covered by the report.

"(5) FRAUD AND ABUSE AND QUALITY CONTROL ACTIVITIES.—A general description of the State's activities under part D to detect and deter fraud and abuse and to assure quality of services provided under the program.

"(6) PLAN ADMINISTRATION.—

"(A) A description of the administrative roles and responsibilities of entities in the State responsible for administration of this title.

"(B) Organizational charts for each entity in the State primarily responsible for activities under this title.

"(C) An estimate of the percentage of expenditures to be used for plan administration.

"(D) A brief description of each interstate compact (if any) the State has entered into with other States with respect to activities under this title.

"(E) General citations to the State statutes and administrative rules governing the State's activities under this title.

"(7) INPATIENT HOSPITAL PAYMENTS.—With respect to inpatient hospital services provided under the medicaid plan on a fee-for-service basis, a description of the average amount paid per discharge in the fiscal year compared either to the average charge for such services or to the State's estimate of the average amount paid per discharge by commercial health insurers in the State.

"(c) SPECIAL RULES.—For purposes of this section:

"(1) IDENTIFICATION OF GENERAL CATEGORIES OF INDIVIDUALS.—Each of the following is a general category of eligible individuals:

"(A) Pregnant women.

"(B) Children.

"(C) Blind or disabled adults under retirement age.

"(D) Persons who have attained retirement age.

"(E) Other adults.

"(2) TREATMENT OF HEALTH CARE ITEMS AND SERVICES.—The health care items and services described in each subparagraph of section 2171(a)(1) shall be considered a separate category of health care items and services.

"SEC. 2103. PERIODIC, INDEPENDENT EVALUATIONS.

"(a) IN GENERAL.—During fiscal year 1998 and every third fiscal year thereafter, each State shall provide for an evaluation of the operation of its medicaid plan approved under this title.

"(b) INDEPENDENT.—Each such evaluation with respect to an activity under the medicaid plan shall be conducted by an entity that is neither responsible under State law for the submission of the State plan (or part thereof) nor responsible for administering (or supervising the administration of) the activity. If consistent with the previous sentence, such an entity may be a college or university, a State agency, a legislative branch agency in a State, or an independent contractor.

"(c) RESEARCH DESIGN.—Each such evaluation shall be conducted in accordance with a research design that is based on generally accepted models of survey design and sampling and statistical analysis.

"SEC. 2104. DESCRIPTION OF PROCESS FOR MEDICAID PLAN DEVELOPMENT.

"Each medicaid plan shall include a description of the process under which the plan shall be developed and implemented in the State (consistent with section 2105).

"SEC. 2105. CONSULTATION IN MEDICAID PLAN DEVELOPMENT.

"(a) PUBLIC PROCESS.—

"(1) IN GENERAL.—Before submitting a medicaid plan or a plan amendment described in paragraph (3) to the Secretary under part E, a State shall provide—

"(A) public notice respecting the submittal of the proposed plan or amendment, including a general description of the plan or amendment;

"(B) a means for the public to inspect or obtain a copy (at reasonable charge) of the proposed plan or amendment; and

"(C) an opportunity for submittal and consideration of public comments on the proposed plan or amendment.

The previous sentence shall not apply to a revision of a medicaid plan (or revision of an amendment to a plan) made by a State under section 2153(c)(1) or to a plan amendment withdrawal described in section 2153(c)(4).

"(2) CONTENTS OF NOTICE.—A notice under paragraph (1)(A) for a proposed plan or amendment shall include a description of—

"(A) the general purpose of the proposed plan or amendment, including applicable effective dates;

"(B) where the public may inspect the proposed plan or amendment;

"(C) how the public may obtain a copy of the proposed plan or amendment and the applicable charge (if any) for the copy; and

"(D) how the public may submit comments on the proposed plan or amendment, including any deadlines applicable to consideration of such comments.

"(3) AMENDMENTS DESCRIBED.—An amendment to a medicaid plan described in this paragraph is an amendment which makes a material and substantial change in eligibility under the medicaid plan or the benefits provided under the plan.

"(4) PUBLICATION.—Notices under this subsection may be published (as selected by the State) in one or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules.

"(5) COMPARABLE PROCESS.—A separate notice, or notices, shall not be required under this subsection for a State if notice of the medicaid plan or an amendment to the plan will be provided under a process specified in State law that is substantially equivalent to the notice process specified in this subsection.

"(b) ADVISORY COMMITTEE.—

"(1) IN GENERAL.—Each State with a medicaid plan shall establish and maintain an advisory committee.

"(2) CONSULTATION.—The State shall periodically consult with the advisory committee in the development, revision, and monitoring the performance of the medicaid plan, including—

"(A) the development of strategic objectives and performance goals under section 2101;

"(B) the annual report under section 2102; and

"(C) the research design under section 2103(c).

"(3) GEOGRAPHIC DIVERSITY.—The composition of the advisory committee shall be chosen in a manner that assures some representation on the advisory committee of the different general geographic regions of the State. Nothing in the previous sentence shall be construed as requiring proportional representation of geographic areas in a State.

"(4) CONSTRUCTION.—Nothing in this title shall be construed as preventing a State from establishing more than 1 advisory committee, including specialized advisory committees that focus on specific population groups, provider groups, or geographic areas.

"SEC. 2106. MEDICAID TASK FORCE.

"(a) IN GENERAL.—The Secretary shall provide for the establishment of a Medicaid Task Force (in this section referred to as the 'Task Force').

"(b) COMPOSITION.—The Task Force shall consist of 6 members appointed by the chair of the National Governors Association and 6 members appointed by the vice chair of the National Governors Association.

"(c) ADVISORY GROUP FOR TASK FORCE.—The Secretary shall provide for the establishment of an advisory

group to assist the Task Force in carrying out its duties under this section, consisting of 1 representative appointed by each of the following associations:

"(1) National Committee for Quality Assurance.

"(2) Joint Commission for the Accreditation of Healthcare Organizations.

"(3) Group Health Association of America.

"(4) American Managed Care and Review Association.

"(5) Association of State and Territorial Health Officers.

"(6) American Medical Association.

"(7) American Hospital Association.

"(8) American College of Gerontology.

"(9) American Health Care Association.

"(10) National Healthcare Anti-Fraud Association.

"(11) National Association of Health Data Organizations.

"(12) American Academy of Actuaries.

"(13) National Association of State Medicaid Directors.

"(14) An association identified by the Secretary as representing the interests of disabled individuals.

"(15) An association identified by the Secretary as representing the interests of children.

"(16) An association identified by the Secretary as representing the interests of the elderly.

"(17) An association identified by the Secretary as representing the interests of mentally ill individuals.

Any reference in this subsection to a particular group shall be deemed a reference to any successor to such group.

"(d) DUTIES.—

"(1) FORMAT FOR EXPENDITURE AND UTILIZATION SUMMARIES.—The Task Force shall specify, by not later than December 31, 1996, the format of expenditure summaries and utilization summaries required under section 2102. Such format may provide for the reporting of different information from that required under section 2102(b), but shall include the reporting of at least the information described in section 2102(b)(1)(A)(i).

"(2) MODELS AND SUGGESTIONS.—The Task Force shall study and report to Congress and the States, by not later than April 1, 1997, recommendations on the following:

"(A) Recommended models for strategic objectives and performance goals for consider-

ation by States in the development of such objectives and goals under section 2102, including alternative models for each of the objectives and goals described in section 2101(b).

"(B) For each suggested model for a strategic objective or performance goal suggested methodologies for States to consider in measuring and verifying the objective or goal.

"(C) An assessment of the potential usefulness to States of quality assurance safeguards, utilization data sets, and accreditation programs that are used or under development in the private sector.

"(D) Recommended designs and evaluation methodologies for consideration by States in providing for independent evaluations under section 2103.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State to adopt any of the strategic objectives or performance goals suggested under paragraph (2).

"(e) ADMINISTRATIVE ASSISTANCE.—Administrative support for the Task Force shall be provided by the Agency for Health Care Policy and Research (or, in the absence of such Agency, the Secretary).

"PART B—ELIGIBILITY, BENEFITS, AND SET-ASIDES

"SEC. 2111. ELIGIBILITY AND BENEFITS.

"(a) IN GENERAL.—Each medicaid plan shall—

"(1) be designed to serve all political subdivisions in the State;

"(2) provide for making medical assistance available (subject to the State flexibility described in section 2115) to any pregnant woman or child under the age of 13 whose family income does not exceed 100 percent of the poverty line applicable to a family of the size involved;

"(3) provide for making medical assistance available (subject to the State flexibility described in section 2115) to any individual with a disability (as defined by the State); and

"(4) describe how the State will provide medical assistance to any other population group.

"(b) DESCRIPTION OF GENERAL ELEMENTS.—Each medicaid plan shall include a description (consistent with this title) of the following:

"(1) ELEMENTS RELATING TO ELIGIBILITY.—The general eligibility standards of the plan, including—

"(A) any limitations as to the duration of eligibility;

"(B) any eligibility standards relating to age, income and resources (including any standards relating to spenddowns), residency, disability status, immigration status, or employment status of individuals;

"(C) methods of establishing and continuing eligibility and enrollment, including the methodology for computing family income;

"(D) the eligibility standards in the plan that protect the income and resources of a married individual who is living in the community and whose spouse is residing in an institution in order to prevent the impoverishment of the community spouse; and

"(E) any other standards relating to eligibility for medical assistance under the plan.

"(2) SCOPE OF ASSISTANCE.—The amount, duration, and scope of health care services and items covered under the plan, including differences among different eligible population groups.

"(3) DELIVERY METHOD.—The State's approach to delivery of medical assistance, including a general description of—

"(A) the use (or intended use) of vouchers, fee-for-service, or managed care arrangements

(such as capitated health care plans, case management, and case coordination); and

"(B) utilization control systems.

"(4) FEE-FOR-SERVICE BENEFITS.—To the extent that medical assistance is furnished on a fee-for-service basis—

"(A) how the State determines the qualifications of health care providers eligible to provide such assistance; and

"(B) how the State determines rates of reimbursement for providing such assistance.

"(5) COST-SHARING.—Beneficiary cost-sharing (if any), including variations in such cost-sharing by population group or type of service and financial responsibilities of parents of recipients under 19 years of age and the spouses of recipients.

"(6) UTILIZATION INCENTIVES.—Incentives or requirements (if any) to encourage the appropriate utilization of services.

"(7) SUPPORT FOR CERTAIN HOSPITALS.—

"(A) IN GENERAL.—With respect to hospitals described in subparagraph (B) located in the State, as reported to the State by the Secretary, the medicaid plan shall include a description of the extent to which provisions have

been made for expenditures for items and services furnished by such hospitals and covered under the plan.

"(B) HOSPITALS DESCRIBED.—

"(i) IN GENERAL.—Except as provided in clause (iii), a hospital described in this subparagraph is a hospital determined to be eligible for purposes of this title in accordance with the criteria described in clause (ii) and such procedures as the Secretary may require, including such reporting requirements as the Secretary determines necessary to ensure continuing eligibility.

"(ii) CRITERIA FOR ELIGIBILITY.—A hospital meets the criteria described in this clause if the hospital is a short-term acute care general hospital or a children's hospital and the hospital's low-income utilization rate exceeds the lesser of—

"(I) 1 standard deviation above the mean low-income utilization rate for hospitals receiving payments under a medicaid plan in the State in which such hospital is located; or

"(II) 1¼ standard deviation above the mean low-income utilization rate for hospitals receiving such payments in all States.

"(iii) SPECIAL ELIGIBILITY.—A hospital not described in clause (i) may be eligible for purposes of this title, if upon application to the Secretary, such hospital is determined by the Secretary to be a hospital which provides essential access to vulnerable populations, offers special services to such populations, or meets other criteria consistent with this title as determined by the Secretary.

"(iv) LOW-INCOME UTILIZATION RATE.—For purposes of clause (i), the term 'low-income utilization rate' means, for a hospital, a fraction (expressed as a percentage), the numerator of which is the hospital's number of patient days attributable to patients who (for such days) were eligible for medical assistance under a medicaid plan or were uninsured in a period, and the denominator of which is the

total number of the hospital's patient days in that period.

"(v) PATIENT DAYS.—For purposes of clause (iv), the term 'patient day' includes each day in which—

"(I) an individual, including a newborn, is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere; or

"(II) an individual makes one or more outpatient visits to the hospital.

"(c) IMMUNIZATIONS FOR CHILDREN.—The medicaid plan shall provide medical assistance for immunizations for children eligible for any medical assistance under the medicaid plan, in accordance with a schedule for immunizations established by the Health Department of the State in consultation with the individuals and entities in the State responsible for the administration of the plan.

"(d) FAMILY PLANNING SERVICES.—The medicaid plan shall provide prepregnancy planning services and supplies as specified by the State.

"(e) PREEXISTING CONDITION EXCLUSIONS.—Notwithstanding any other provision of this title—

"(1) a medicaid plan may not deny or exclude coverage of any item or service for an eligible individual for benefits under the medicaid plan for such item or service on the basis of a preexisting condition; and

"(2) if a State contracts or makes other arrangements (through the eligible individual or through another entity) with a capitated health care organization, insurer, or other entity, for the provision of items or services to eligible individuals under the medicaid plan and the State permits such organization, insurer, or other entity to exclude coverage of a covered item or service on the basis of a preexisting condition, the State shall provide, through its medicaid plan, for such coverage (through direct payment or otherwise) for any such covered item or service denied or excluded on the basis of a preexisting condition.

"(f) MENTAL HEALTH SERVICES.—A medicaid plan shall not impose treatment limits or financial requirements on mental illness services which are not imposed on services for other illnesses or diseases. The plan may require pre-admission screening, prior authorization of

services, or other mechanisms limiting coverage of mental illness services to services that are medically necessary.

"SEC. 2112. SET-ASIDES OF FUNDS FOR POPULATION GROUPS.

"(a) FOR TARGETED LOW-INCOME FAMILIES.—

"(1) IN GENERAL.—Subject to subsection (e), a medicaid plan shall provide that the amount of funds expended under the plan for medical assistance for targeted low-income families (as defined in paragraph (3)) for a fiscal year shall be not less than the minimum low-income-family amount specified in paragraph (2).

"(2) MINIMUM LOW-INCOME-FAMILY AMOUNT.—The minimum low-income-family amount specified in this paragraph for a State is equal to 85 percent of the expenditures under title XIX for medical assistance in the State during Federal fiscal year 1995 which were attributable to expenditures for medical assistance for mandated benefits (as defined in subsection (h)) furnished to individuals—

"(A) who (at the time of furnishing the assistance) were under 65 years of age;

"(B) whose coverage (at such time) under a State plan under title XIX was required under Federal law; and

"(C) whose eligibility for such coverage (at such time) was not on a basis directly related to disability status, including being blind.

"(3) TARGETED LOW-INCOME FAMILY DEFINED.—For purposes of this subsection, the term 'targeted low-income family' means a family (which may be an individual)—

"(A) which includes a child or a pregnant woman; and

"(B) the income of which does not exceed 185 percent of the poverty line applicable to a family of the size involved.

"(b) FOR LOW-INCOME ELDERLY.—

"(1) IN GENERAL.—Subject to subsection (e), a medicaid plan shall provide that the amount of funds expended under the plan for medical assistance for eligible low-income individuals who have attained retirement age for a fiscal year shall be not less than the minimum low-income-elderly amount specified in paragraph (2).

"(2) MINIMUM LOW-INCOME-ELDERLY AMOUNT.—The minimum low-income-elderly amount specified in this subparagraph for a State is equal to 85 percent of the expenditures under title XIX for medical assistance in the State during Federal

fiscal year 1995 which were attributable to expenditures for medical assistance for mandated benefits furnished to individuals—

"(A) whose eligibility for such assistance was based on their being 65 years of age or older; and

"(B)(i) whose coverage (at such time) under a State plan under title XIX was required under Federal law, or (ii) who (at such time) were residents of a nursing facility.

"(c) FOR LOW-INCOME DISABLED PERSONS.—

"(1) IN GENERAL.—Subject to subsection (e), a medicaid plan shall provide that the amount of funds expended under the plan for medical assistance for eligible low-income individuals who have not attained retirement age and are eligible for such assistance on the basis of a disability, including being blind, for a fiscal year is not less than the minimum low-income-disabled amount specified in paragraph (2).

"(2) MINIMUM LOW-INCOME-DISABLED AMOUNT.—The minimum low-income-disabled amount specified in this paragraph for a State is equal to 85 percent of the expenditures under title XIX for medical assistance in the State during Fed-

eral fiscal year 1995 which were attributable to expenditures for medical assistance for mandated benefits furnished to individuals—

"(A) whose coverage (at such time) under a State plan under title XIX was required under Federal law; and

"(B) whose coverage (at such time) was on a basis directly related to disability status, including being blind, and not to age status.

"(d) USE OF RESIDUAL FUNDS.—

"(1) IN GENERAL.—Subject to limitations on payment under section 2123, any funds not required to be expended under the set-asides under the previous subsections may only be expended under the medicaid plan for any of the following:

"(A) ADDITIONAL MEDICAL ASSISTANCE.—Medical assistance for eligible low-income individuals (as defined in section 2171(b)), in addition to any medical assistance made available under a previous subsection.

"(B) MEDICALLY-RELATED SERVICES.—Payment for medically-related services (as defined in paragraph (2)).

"(C) ADMINISTRATION.—Payment for the administration of the medicaid plan.

"(2) MEDICALLY-RELATED SERVICES DEFINED.—For purposes of this title, the term 'medically-related services' means services reasonably related to, or in direct support of, the State's attainment of one or more of the strategic objectives and performance goals established under section 2101, but does not include items and services included on the list under section 2171(a)(1) (relating to the definition of medical assistance).

"(e) COMPUTATIONS.—

"(1) MINIMUM AMOUNTS.—States shall calculate the minimum amounts under subsections (a)(2), (b)(2), and (c)(2) in a reasonable manner consistent with reports submitted to the Secretary for the fiscal years involved.

"(2) EXCLUSION OF PAYMENTS FOR CERTAIN ALIENS.—For purposes of this section, medical assistance attributable to the exception provided under section 1903(v)(2) shall not be considered to be expenditures for medical assistance.

"(f) BENEFITS INCLUDED FOR PURPOSES OF COMPUTING SET ASIDES.—For purposes of this section, the term 'mandated benefits'—

"(1) means medical assistance for items and services described in section 1905(a) to the extent

such assistance with respect to such items and services was required to be provided under title XIX; and

"(2) does not include expenditures attributable to disproportionate share payment adjustments described in section 1923.

"SEC. 2113. PREMIUMS AND COST-SHARING.

"(a) IN GENERAL.—Subject to subsection (b), if any charges are imposed under the medicaid plan for cost-sharing (as defined in subsection (d)), such cost-sharing shall be pursuant to a public cost-sharing schedule.

"(b) LIMITATION ON PREMIUM AND CERTAIN COST-SHARING FOR LOW-INCOME FAMILIES INCLUDING CHILDREN OR PREGNANT WOMEN.—

"(1) IN GENERAL.—In the case of a family described in paragraph (2)—

"(A) the plan shall not impose any premium; and

"(B) the plan shall not (except as provided in subsection (c)(1)) impose any cost-sharing with respect to primary and preventive care services (as defined by the State) covered under the medicaid plan for children or pregnant women unless such cost-sharing is nominal in nature.

"(2) FAMILY DESCRIBED.—A family described in this paragraph is a family (which may be an individual) which—

"(A) includes a child or a pregnant woman;

"(B) is made eligible for medical assistance under the medicaid plan; and

"(C) the income of which does not exceed 100 percent of the poverty line applicable to a family of the size involved.

"(c) CERTAIN COST-SHARING PERMITTED.—Nothing in this section shall be construed as preventing a medicaid plan (consistent with subsection (b))—

"(1) from imposing cost-sharing to discourage the inappropriate use of emergency medical services delivered through a hospital emergency room, a medical transportation provider, or otherwise;

"(2) from imposing premiums and cost-sharing differentially in order to encourage the use of primary and preventive care and discourage unnecessary or less economical care;

"(3) from scaling cost-sharing in a manner that reflects economic factors, employment status, and family size;

"(4) from scaling cost-sharing based on the availability to the individual or family of other health insurance coverage; or

"(5) from scaling cost-sharing based on participation in employment training program, drug or alcohol abuse treatment, counseling programs, or other programs promoting personal responsibility.

"(d) COST-SHARING DEFINED.—For purposes of this section, the term 'cost-sharing' includes copayments, deductibles, coinsurance, and other charges for the provision of health care services.

"SEC. 2114. DESCRIPTION OF PROCESS FOR DEVELOPING CAPITATION PAYMENT RATES.

"(a) IN GENERAL.—If a State contracts (or intends to contract) with a capitated health care organization (as defined in subsection (c)(1)) under which the State makes a capitation payment (as defined in subsection (c)(2)) to the organization for providing or arranging for the provision of medical assistance under the medicaid plan for a group of services, including at least inpatient hospital services and physicians' services, the plan shall include a description of the following:

"(1) USE OF ACTUARIAL SCIENCE.—The extent and manner in which the State uses actuarial science—

"(A) to analyze and project health care expenditures and utilization for individuals enrolled (or to be enrolled) in such an organization under the medicaid plan; and

"(B) to develop capitation payment rates, including a brief description of the general methodologies used by actuaries.

"(2) QUALIFICATIONS OF ORGANIZATIONS.—The general qualifications, including any accreditation, State licensure or certification, or provider network standards, required by the State for participation of capitated health care organizations under the medicaid plan.

"(3) DISSEMINATION PROCESS.—The process used by the State under subsection (b) and otherwise to disseminate, before entering into contracts with capitated health care organizations, actuarial information to such organizations on the historical fee-for-service costs (or, if not available, other recent financial data associated with providing covered services) and utilization associated with individuals described in paragraph (1)(A).

"(4) IDENTIFICATION OF ENROLLEES IN CAPITATED HEALTH CARE ORGANIZATIONS.—The method used by the State by which hospitals may

identify enrollees in capitated health care organizations for the purposes of qualifying and billing for disproportionate share payments under the medicaid plan approved under this title as described in section 2111(b)(7).

"(b) PUBLIC NOTICE AND COMMENT.—Under the medicaid plan the State shall provide a process for providing, before the beginning of each contract year—

"(1) public notice of—

"(A) the amounts of the capitation payments (if any) made under the plan for the contract year preceding the public notice, and

"(B)(i) the information described under subsection (a)(1) with respect to capitation payments for the contract year involved or (ii) the amounts of the capitation payments the State expects to make for the contract year involved, unless such information is designated as proprietary and not subject to public disclosure under State law; and

"(2) an opportunity for receiving public comment on the amounts and information for which notice is provided under paragraph (1).

"(c) DEFINITIONS.—For purposes of this title:

"(1) CAPITATED HEALTH CARE ORGANIZATION.—The term 'capitated health care organization' means a health maintenance organization or any other entity (including a health insuring organization, managed care organization, prepaid health plan, integrated service network, or similar entity) which under State law is permitted to accept capitation payments for providing (or arranging for the provision of) a group of items and services including at least inpatient hospital services and physicians' services.

"(2) CAPITATION PAYMENT.—The term 'capitation payment' means, with respect to payment, payment on a prepaid capitation basis or any other risk basis to an entity for the entity's provision (or arranging for the provision) of a group of items and services, including at least inpatient hospital services and physicians' services.

"SEC. 2115. CONSTRUCTION.

"(a) STATE FLEXIBILITY IN BENEFITS, PROVIDER PAYMENTS, GEOGRAPHICAL COVERAGE AREA, AND SELECTION OF PROVIDERS.—Nothing in this title (other than subsections (c) and (d) of section 2111) shall be construed as requiring a State—

"(1) to provide medical assistance for any particular items or services;

"(2) to provide for any payments with respect to any specific health care providers or any level of payments for any services;

"(3) to provide for the same medical assistance in all geographical areas or political subdivisions of the State;

"(4) to provide that the medical assistance made available to any individual eligible for medical assistance must not be less in amount, duration, or scope than the medical assistance made available to any other such individual; or

"(5) to provide that any individual eligible for medical assistance with respect to an item or service may choose to obtain such assistance from any institution, agency, or person qualified to provide the item or service.

"(b) STATE FLEXIBILITY WITH RESPECT TO MANAGED CARE.—Nothing in this title shall be construed—

"(1) to limit a State's ability to contract with, on a capitated basis or otherwise, health care plans or individual health care providers for the provision or arrangement of medical assistance;

"(2) to limit a State's ability to contract with health care plans or other entities for case management services or for coordination of medical assistance; or

"(3) to restrict a State from establishing capitation rates on the basis of competition among health care plans or negotiations between the State and one or more health care plans.

"SEC. 2116. CAUSES OF ACTION.

"(a) IN GENERAL.—No person, including an applicant, beneficiary, provider, or health plan, shall have a cause of action under this title against a State in relation to a State's compliance or failure to comply with the provisions of this title or with the provisions of a medicaid plan. Nothing in this title shall affect any cause of action under any other provision of Federal law in relation to a State's compliance (or failure to comply) with this title or with the provisions of a medicaid plan.

"(b) APPLICATION OF CERTAIN LAWS.—

"(1) IN GENERAL.—No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this title.

"(2) FINDING OF NONCOMPLIANCE; REFERRAL.—

"(A) IN GENERAL.—Whenever the Secretary finds that a State, or an entity that has received a payment from an allotment to a State under this title, has failed to comply with paragraph (1), the Secretary shall notify the chief executive officer of the State and shall request such officer to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(i) refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted; or

"(ii) take such other action as may be provided by law.

"(B) AUTHORITY OF ATTORNEY GENERAL; CIVIL ACTIONS.—When a matter is referred to the Attorney General pursuant to this paragraph, or whenever the Attorney General has reason to believe that the entity is engaged in a pattern or practice in violation of paragraph (1), the Attorney General may bring a civil ac-

tion in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

"(c) NO EFFECT ON STATE LAW.—Nothing in subsection (a) or (b) may be construed as affecting any actions brought under State law.

"SEC. 2117. TREATMENT OF INCOME AND RESOURCES FOR CERTAIN INSTITUTIONALIZED SPOUSES.

"(a) SPECIAL TREATMENT FOR INSTITUTIONALIZED SPOUSES.—

"(1) SUPERSEDES OTHER PROVISIONS.—In determining the eligibility for medical assistance of an institutionalized spouse (as defined in subsection (h)(1)), the provisions of this section supersede any other provision of this title which is inconsistent with them.

"(2) NO COMPARABLE TREATMENT REQUIRED.—Any different treatment provided under this section for institutionalized spouses shall not require such treatment for other individuals.

"(3) DOES NOT AFFECT CERTAIN DETERMINATIONS.—Except as this section specifically provides, this section does not apply to—

"(A) the determination of what constitutes income or resources; or

"(B) the methodology and standards for determining and evaluating income and resources.

"(b) RULES FOR TREATMENT OF INCOME.—

"(1) SEPARATE TREATMENT OF INCOME.—During any month in which an institutionalized spouse is in the institution, except as provided in paragraph (2), no income of the community spouse shall be deemed available to the institutionalized spouse.

"(2) ATTRIBUTION OF INCOME.—In determining the income of an institutionalized spouse or community spouse for purposes of the post-eligibility income determination described in subsection (d), except as otherwise provided in this section and regardless of any State laws relating to community property or the division of marital property, the following rules apply:

"(A) NON-TRUST PROPERTY.—Subject to subparagraphs (C) and (D), in the case of income not from a trust, unless the instrument providing the income otherwise specifically provides—

"(i) if payment of income is made solely in the name of the institutionalized spouse or the community spouse, the in-

come shall be considered available only to that respective spouse;

"(ii) if payment of income is made in the names of the institutionalized spouse and the community spouse, ½ of the income shall be considered available to each of them; and

"(iii) if payment of income is made in the names of the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, ½ of the joint interest shall be considered available to each spouse).

"(B) TRUST PROPERTY.—In the case of a trust—

"(i) except as provided in clause (ii), income shall be attributed in accordance with the provisions of this title; and

"(ii) income shall be considered available to each spouse as provided in the

trust, or, in the absence of a specific provision in the trust—

"(I) if payment of income is made solely to the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse,

"(II) if payment of income is made to both the institutionalized spouse and the community spouse, ½ of the income shall be considered available to each of them, and

"(III) if payment of income is made to the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, ½ of the joint interest shall be considered available to each spouse).

"(C) PROPERTY WITH NO INSTRUMENT.—In the case of income not from a trust in which

there is no instrument establishing ownership, subject to subparagraph (D), ½ of the income shall be considered to be available to the institutionalized spouse and ½ to the community spouse.

"(D) REBUTTING OWNERSHIP.—The rules of subparagraphs (A) and (C) are superseded to the extent that an institutionalized spouse can establish, by a preponderance of the evidence, that the ownership interests in income are other than as provided under such subparagraphs.

"(c) RULES FOR TREATMENT OF RESOURCES.—

"(1) COMPUTATION OF SPOUSAL SHARE AT TIME OF INSTITUTIONALIZATION.—

"(A) TOTAL JOINT RESOURCES.—There shall be computed (as of the beginning of the first continuous period of institutionalization (beginning on or after September 30, 1989) of the institutionalized spouse)—

"(i) the total value of the resources to the extent either the institutionalized spouse or the community spouse has an ownership interest; and

"(ii) a spousal share which is equal to ½ of such total value.

"(B) ASSESSMENT.—At the request of an institutionalized spouse or community spouse, at the beginning of the first continuous period of institutionalization (beginning on or after September 30, 1989) of the institutionalized spouse and upon the receipt of relevant documentation of resources, the State shall promptly assess and document the total value described in subparagraph (A)(i) and shall provide a copy of such assessment and documentation to each spouse and shall retain a copy of the assessment for use under this section. If the request is not part of an application for medical assistance under a medicaid plan approved under this title, the State may, at its option as a condition of providing the assessment, require payment of a fee not exceeding the reasonable expenses of providing and documenting the assessment. At the time of providing the copy of the assessment, the State shall include a notice indicating that the spouse will have a right to a fair hearing under subsection (e)(2).

"(2) ATTRIBUTION OF RESOURCES AT TIME OF INITIAL ELIGIBILITY DETERMINATION.—In determining the resources of an institutionalized spouse

at the time of application for benefits under a medicaid plan approved under this title, regardless of any State laws relating to community property or the division of marital property—

"(A) except as provided in subparagraph (B), all the resources held by either the institutionalized spouse, community spouse, or both, shall be considered to be available to the institutionalized spouse; and

"(B) resources shall be considered to be available to an institutionalized spouse, but only to the extent that the amount of such resources exceeds the amount computed under subsection (f)(2)(A) (as of the time of application for benefits).

"(3) ASSIGNMENT OF SUPPORT RIGHTS.—The institutionalized spouse shall not be ineligible by reason of resources determined under paragraph (2) to be available for the cost of care where—

"(A) the institutionalized spouse has assigned to the State any rights to support from the community spouse;

"(B) the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment but the State has the

right to bring a support proceeding against a community spouse without such assignment; or

"(C) the State determines that denial of eligibility would work an undue hardship.

"(4) SEPARATE TREATMENT OF RESOURCES AFTER ELIGIBILITY FOR BENEFITS ESTABLISHED.—During the continuous period in which an institutionalized spouse is in an institution and after the month in which an institutionalized spouse is determined to be eligible for benefits under a medicaid plan approved under this title, no resources of the community spouse shall be deemed available to the institutionalized spouse.

"(5) RESOURCES DEFINED.—For purposes of this section, the term 'resources' does not include—

"(A) resources excluded under subsection (a) or (d) of section 1613; and

"(B) resources that would be excluded under section 1613(a)(2)(A) but for the limitation on total value described in such section.

"(d) PROTECTING INCOME FOR COMMUNITY SPOUSE.—

"(1) ALLOWANCES TO BE OFFSET FROM INCOME OF INSTITUTIONALIZED SPOUSE.—After an institutionalized spouse is determined or redeter-

mined to be eligible for medical assistance under a medicaid plan approved under this title, in determining the amount of the spouse's income that is to be applied monthly to payment for the costs of care in the institution, there shall be deducted from the spouse's monthly income the following amounts in the following order:

"(A) A personal needs allowance (described in paragraph (2)(A)), in an amount not less than the amount specified in paragraph (2)(B).

"(B) A community spouse monthly income allowance (as defined in subparagraph (3)), but only to the extent income of the institutionalized spouse is made available to, or for the benefit of, the community spouse.

"(C) A family allowance, for each family member, equal to at least ⅓ of the amount by which the amount described in paragraph (4)(A)(i) exceeds the amount of the monthly income of that family member.

"(D) Amounts for incurred expenses for medical or remedial care for the institutionalized spouse as provided under paragraph (6).

For purposes of subparagraph (C), the term 'family member' only includes minor or dependent children,

dependent parents, or dependent siblings of the institutionalized or community spouse who are residing with the community spouse.

"(2) PERSONAL NEEDS ALLOWANCE.—

"(A) IN GENERAL.—For purposes of this section, the term 'personal needs allowance' means an allowance—

"(i) which is reasonable in amount for clothing and other personal needs of the individual (or couple) while in an institution; and

"(ii) which is not less (and may be greater) than the minimum monthly personal needs allowance described in subparagraph (B).

"(B) MINIMUM MONTHLY PERSONAL NEEDS ALLOWANCE.—The minimum monthly personal needs allowance described in this subparagraph is $30 for an institutionalized individual and $60 for an institutionalized couple (if both are aged, blind, or disabled, and their incomes are considered available to each other in determining eligibility).

"(3) COMMUNITY SPOUSE MONTHLY INCOME ALLOWANCE DEFINED.—

"(A) IN GENERAL.—For purposes of this section (except as provided in subparagraph (B)), the community spouse monthly income allowance for a community spouse is an amount by which—

"(i) except as provided in subsection (e), the minimum monthly maintenance needs allowance (established under and in accordance with paragraph (4)) for the spouse; exceeds

"(ii) the amount of monthly income otherwise available to the community spouse (determined without regard to such an allowance).

"(B) COURT ORDERED SUPPORT.—If a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse monthly income allowance for the spouse shall be not less than the amount of the monthly income so ordered.

"(4) ESTABLISHMENT OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—

"(A) IN GENERAL.—Each State shall establish a minimum monthly maintenance needs

allowance for each community spouse which, subject to subparagraph (C), is equal to or exceeds—

"(i) the applicable percent (described in subparagraph (B)) of 1/12 of the poverty line applicable to a family unit of 2 members); plus

"(ii) an excess shelter allowance (as defined in paragraph (5)).

A revision of the poverty line referred to in clause (i) shall apply to medical assistance furnished during and after the second calendar quarter that begins after the date of publication of the revision.

"(B) APPLICABLE PERCENT.—For purposes of subparagraph (A)(i), the applicable percent described in this paragraph, effective as of July 1, 1992, is 150 percent.

"(C) CAP ON MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—The minimum monthly maintenance needs allowance established under subparagraph (A) may not exceed $1,500 (subject to adjustment under subsections (e) and (g)).

"(5) EXCESS SHELTER ALLOWANCE DEFINED.—For purposes of paragraph (4)(A)(ii), the term 'excess shelter allowance' means, for a community spouse, the amount by which the sum of—

"(A) the spouse's expenses for rent or mortgage payment (including principal and interest), taxes and insurance and, in the case of a condominium or cooperative, required maintenance charge, for the community spouse's principal residence; and

"(B) the standard utility allowance (used by the State under section 5(e) of the Food Stamp Act of 1977) or, if the State does not use such an allowance, the spouse's actual utility expenses,

exceeds 30 percent of the amount described in paragraph (4)(A)(i), except that, in the case of a condominium or cooperative, for which a maintenance charge is included under subparagraph (A), any allowance under subparagraph (B) shall be reduced to the extent the maintenance charge includes utility expenses.

"(6) INCURRED EXPENSES.—For purposes of this section, with respect to the post-eligibility treatment of income of individuals who are institutional-

ized or who would otherwise require institutionalization but for the provision of home or community-based services, there shall be disregarded reparation payments made by the Federal Republic of Germany and, there shall be taken into account amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including—

"(A) medicare and other health insurance premiums, deductibles, or coinsurance; and

"(B) necessary medical or remedial care recognized under State law but not covered under the medicaid plan approved under this title, subject to reasonable limits the State may establish on the amount of these expenses.

"(e) NOTICE AND FAIR HEARING.—

"(1) NOTICE.—Upon—

"(A) a determination of eligibility for medical assistance under a medicaid plan approved under this title of an institutionalized spouse; or

"(B) a request by either the institutionalized spouse, or the community spouse, or a representative acting on behalf of either spouse;

each State shall notify both spouses (in the case described in subparagraph (A)) or the spouse making

the request (in the case described in subparagraph (B)) of the amount of the community spouse monthly income allowance (described in subsection (d)(1)(B)), of the amount of any family allowances (described in subsection (d)(1)(C)), of the method for computing the amount of the community spouse resources allowance permitted under subsection (f), and of the spouse's right to a fair hearing under this subsection respecting ownership or availability of income or resources, and the determination of the community spouse monthly income or resource allowance.

"(2) FAIR HEARING.—

"(A) IN GENERAL.—If either the institutionalized spouse or the community spouse is dissatisfied with a determination of—

"(i) the community spouse monthly income allowance;

"(ii) the amount of monthly income otherwise available to the community spouse (as applied under subsection (d)(2)(B));

"(iii) the computation of the spousal share of resources under subsection (c)(1);

"(iv) the attribution of resources under subsection (c)(2); or

"(v) the determination of the community spouse resource allowance (as determined under subsection (f)(2));

such spouse is entitled to a fair hearing with respect to such determination if an application for benefits under a medicaid plan approved under this title has been made on behalf of the institutionalized spouse. Any such hearing respecting the determination of the community spouse resource allowance shall be held within 30 days of the date of the request for the hearing.

"(B) REVISION OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—If either such spouse establishes that the community spouse needs income, above the level otherwise provided by the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, there shall be substituted, for the minimum monthly maintenance needs allowance in subsection (d)(2)(A), an amount adequate to provide such additional income as is necessary.

"(C) REVISION OF COMMUNITY SPOUSE RESOURCE ALLOWANCE.—If either such spouse establishes that the community spouse resource allowance (in relation to the amount of income generated by such an allowance) is inadequate to raise the community spouse's income to the minimum monthly maintenance needs allowance, there shall be substituted, for the community spouse resource allowance under subsection (f)(2), an amount adequate to provide such a minimum monthly maintenance needs allowance.

"(f) PERMITTING TRANSFER OF RESOURCES TO COMMUNITY SPOUSE.—

"(1) IN GENERAL.—An institutionalized spouse may transfer an amount equal to the community spouse resource allowance (as determined under paragraph (2)), but only to the extent the resources of the institutionalized spouse are transferred to, or for the sole benefit of, the community spouse. The transfer under the preceding sentence shall be made as soon as practicable after the date of the initial determination of eligibility, taking into account such time as may be necessary to obtain a court order under paragraph (3).

"(2) COMMUNITY SPOUSE RESOURCE ALLOWANCE DETERMINED.—For purposes of paragraph (1), the community spouse resource allowance for a community spouse is an amount (if any) by which—

"(A) the greatest of—

"(i) $12,000 (subject to adjustment under subsection (g)), or, if greater (but not to exceed the amount specified in clause (ii)(II)) an amount specified under the State plan,

"(ii) the lesser of (I) the spousal share computed under subsection (c)(1), or (II) $60,000 (subject to adjustment under subsection (g)),

"(iii) the amount established under subsection (e)(2); or

"(iv) the amount transferred under a court order under paragraph (3);

exceeds

"(B) the amount of the resources otherwise available to the community spouse (determined without regard to such an allowance).

"(g) INDEXING DOLLAR AMOUNTS.—For services furnished during a calendar year after 1989, the dollar amounts specified in subsections (d)(3)(C), (f)(2)(A)(i),

and (f)(2)(A)(ii)(II) shall be increased by the same percentage as the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the calendar year involved.

"(h) DEFINITIONS.—For purposes of this section:

"(1) INSTITUTIONALIZED SPOUSE.—The term 'institutionalized spouse' means an individual who is in a medical institution or nursing facility and is married to a spouse who is not in a medical institution or nursing facility. The term does not include any such individual who is not likely to meet the requirements of the preceding sentence for at least 30 consecutive days.

"(2) COMMUNITY SPOUSE.—The term 'community spouse' means the spouse of an institutionalized spouse.

"PART C—PAYMENTS TO STATES

"SEC. 2121. ALLOTMENT OF FUNDS AMONG STATES.

"(a) ALLOTMENTS.—

"(1) COMPUTATION.—The Secretary shall provide for the computation of State obligation and outlay allotments in accordance with this section for each fiscal year beginning with fiscal year 1996.

"(2) LIMITATION ON OBLIGATIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall not enter into obligations with any State under this title for a fiscal year in excess of the obligation allotment for that State for the fiscal year under paragraph (4). The sum of such obligation allotments for all States in any fiscal year (excluding amounts carried over under subparagraph (B) and excluding changes in allotments effected under paragraph (4)(D)) shall not exceed the aggregate limit on new obligation authority specified in paragraph (3) for that fiscal year.

"(B) ADJUSTMENTS.—

"(i) CARRYOVER OF ALLOTMENT PERMITTED.—If the amount of obligations entered into under this part with a State for quarters in a fiscal year is less than the amount of the obligation allotment under this section to the State for the fiscal year, the amount of the difference shall be added to the amount of the State obligation allotment otherwise provided under this section for the succeeding fiscal year.

"(ii) REDUCTION FOR POST-ENACTMENT NEW OBLIGATIONS UNDER TITLE

XIX IN FISCAL YEAR 1996.—The amount of the obligation allotment otherwise provided under this section for fiscal year 1996 for a State shall be reduced by the amount of the obligations entered into with respect to the State under section 1903(a) after the date of the enactment of this title.

"(3) AGGREGATE LIMIT ON NEW OBLIGATION AUTHORITY.—

"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (C), the aggregate limit on new obligation authority, for a fiscal year, is the pool amount under subsection (b) for the fiscal year, divided by the payout adjustment factor (described in subparagraph (B)) for the fiscal year.

"(B) PAYOUT ADJUSTMENT FACTOR.—For purposes of this subsection, the payout adjustment factor—

"(i) for fiscal year 1996 is .950;

"(ii) for fiscal year 1997 is .986; and

"(iii) for a subsequent fiscal year is .998.

"(C) TRANSITIONAL ADJUSTMENT FOR PRE-ENACTMENT-OBLIGATION OUTLAYS.—In

order to account for pre-enactment-obligation outlays described in paragraph (4)(C)(iv), in determining the aggregate limit on new obligation authority under subparagraph (A) for fiscal year 1996, the pool amount for such fiscal year is equal to—

"(i) the pool amount for such year; reduced by

"(ii) $24.624 billion.

"(4) OBLIGATION ALLOTMENTS.—

"(A) GENERAL RULE FOR 50 STATES AND THE DISTRICT OF COLUMBIA.—Except as provided in this paragraph, the obligation allotment for any of the 50 States or the District of Columbia for a fiscal year (beginning with fiscal year 1997) is an amount that bears the same ratio to the outlay allotment under subsection (c)(2) for such State or District (not taking into account any adjustment due to an election under paragraph (4)) for the fiscal year as the ratio of—

"(i) the aggregate limit on new obligation authority (less the total of the obligation allotments under subparagraph (B)) for the fiscal year; to

"(ii) the pool amount (less the sum of the outlay allotments for the territories) for such fiscal year.

"(B) TERRITORIES.—The obligation allotment for each of the Commonwealths and territories for a fiscal year is the outlay allotment for such Commonwealth or territory (as determined under subsection (c)(5)) for the fiscal year divided by the payout adjustment factor for the fiscal year (as defined in paragraph (3)(B)).

"(C) TRANSITIONAL RULE FOR FISCAL YEAR 1996.—

"(i) IN GENERAL.—The obligation amount for fiscal year 1996 for any State, including the District of Columbia, a Commonwealth, or territory, is determined according to the formula: A=(B-C)/D, where—

"(I) 'A' is the obligation amount for such State;

"(II) 'B' is the outlay allotment of such State for fiscal year 1996 (as determined under subsection (c));

"(III) 'C' is the amount of the pre-enactment-obligation outlays (as established for such State under clause (ii)); and

"(IV) 'D' is the payout adjustment factor for such fiscal year (as defined in paragraph (3)(B)).

"(ii) PRE-ENACTMENT-OBLIGATION OUTLAY AMOUNTS.—Within 30 days after the date of the enactment of this title, the Secretary shall estimate (based on the best data available) and publish in the Federal Register the amount of the pre-enactment-obligation outlays (as defined in clause (iv)) for each State, including the District of Columbia, Commonwealths, and territories. The total of such amounts shall equal the dollar amount specified in paragraph (3)(C)(ii).

"(iii) AGREEMENT.—The submission of a medicaid plan by a State under this title is deemed to constitute the State's acceptance of the obligation allotment limitations under this subsection, including the

formula for computing the amount of such obligation allotment.

"(iv) PRE-ENACTMENT-OBLIGATION OUTLAYS DEFINED.—For purposes of this subsection, the term 'pre-enactment-obligation outlays' means, for a State, the outlays of the Federal Government that result from obligations that have been incurred under title XIX with respect to the State before the date of the enactment of this title, but for which payments to States have not been made as of such date of enactment.

"(D) ADJUSTMENT TO REFLECT ADOPTION OF ALTERNATIVE GROWTH FORMULA.—Any State that has elected an alternative growth formula under subsection (c)(4) which increases or decreases the dollar amount of an outlay allotment for a fiscal year is deemed to have increased or decreased, respectively, its obligation amount for such fiscal year by the amount of such increase or decrease.

"(b) POOL OF AVAILABLE FUNDS.—

"(1) IN GENERAL.—For purposes of this section and subject to section 2124, the pool amount under this subsection for—

"(A) fiscal year 1996 is $94.104 billion;

"(B) fiscal year 1997 is $100.451 billion;

"(C) fiscal year 1998 is $104.880 billion;

"(D) fiscal year 1999 is $109.501 billion;

"(E) fiscal year 2000 is $114.338 billion;

"(F) fiscal year 2001 is $119.393 billion;

"(G) fiscal year 2002 is $124.673 billion; and

"(H) each subsequent fiscal year is the pool amount under this paragraph for the previous fiscal year increased by the lesser of 4 percent or the annual percentage increase in the gross domestic product for the 12-month period ending in June before the beginning of that subsequent fiscal year.

"(2) NATIONAL MEDICAID GROWTH PERCENTAGE.—For purposes of this section for a fiscal year (beginning with fiscal year 1997), the national medicaid growth percentage is the percentage by which—

"(A) the pool amount under paragraph (1) for the fiscal year; exceeds

"(B) such pool amount for the previous fiscal year.

"(c) STATE OUTLAY ALLOTMENTS.—

"(1) FISCAL YEAR 1996.—

"(A) IN GENERAL.—Except as provided in paragraph (6), for each of the 50 States and the District of Columbia, the amount of the State outlay allotment under this subsection for fiscal year 1996 is, subject to paragraph (4), equal to—

"(i) the greater of—

"(I) the total amount of Federal expenditures (minus the excess DSH amount) made to such State or District under title XIX for the 4 quarters in fiscal year 1995, or

"(II) the total amount of Federal expenditures made to such State or District under title XIX for the 4 quarters in fiscal year 1994; increased by

"(ii) 7.25 percent; and multiplied by

"(iii) the scalar factor described in subparagraph (E).

"(B) COMPUTATION OF EXPENDITURES.—The amount of Federal expenditures described in subparagraph (A)(i) shall be computed, using data reported for the appropriate fiscal year on line 11 of the HCFA Form 64.

"(C) LIMITATION ON ADJUSTMENT.—The amount computed under subparagraph (B) shall not be subject to adjustment (based on any subsequent disallowances or otherwise).

"(D) EXCESS DSH AMOUNT.—For purposes of subparagraph (A)(i)(I), the term 'excess DSH amount' means, for each of the 50 States and the District of Columbia, the excess of—

"(i) the total amount of Federal expenditures made with respect to such State or District under section 1923 for calendar quarters in fiscal year 1995; over

"(ii) 9 percent of the total amount of Federal expenditures made to such State or District under title XIX for such calendar quarters.

"(E) SCALAR FACTOR.—The scalar factor under this subparagraph for fiscal year 1996 is such proportion so that, when it is applied

under subparagraph (A)(iii) for the fiscal year, the total of the outlay allotments under this paragraph for all the 50 States and the District of Columbia for the fiscal year (not taking into account any increase or decrease in an outlay allotment for a fiscal year attributable to the election of an alternative growth formula under paragraph (4)) is equal to the amount by which (i) the pool amount for the fiscal year (as determined under subsection (b)), exceeds (ii) the sum of the outlay allotments provided under paragraph (5) for the Commonwealths and territories for the fiscal year.

''(2) COMPUTATION OF STATE OUTLAY ALLOTMENTS.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, the amount of the State outlay allotment under this subsection for each of the 50 States and the District of Columbia for a fiscal year (beginning with fiscal year 1997) is equal to the product of—

''(i) the needs-based amount determined under subparagraph (B) for such State or District for the fiscal year; and

"(ii) the scalar factor described in subparagraph (C) for the fiscal year.

"(B) NEEDS-BASED AMOUNT.—The needs-based amount under this subparagraph for a State or the District of Columbia for a fiscal year is equal to the product of—

"(i) the State's or District's aggregate expenditure need for the fiscal year (as determined under subsection (d)); and

"(ii) the State's or District's Federal medical assistance percentage (as determined under section 2122(c) (without regard to paragraph (3)(A)(i) thereof)) for the previous fiscal year (or, in the case of fiscal year 1997, the Federal medical assistance percentage determined under section 1905(b) for fiscal year 1996).

"(C) SCALAR FACTOR.—The scalar factor under this subparagraph for a fiscal year is such proportion so that, when it is applied under subparagraph (A)(ii) for the fiscal year (taking into account the floors and ceilings under paragraph (3)), the total of the outlay allotments under this subsection for all the 50 States and the District of Columbia for the fis-

cal year (not taking into account any increase or decrease in an outlay allotment for a fiscal year attributable to the election of an alternative growth formula under paragraph (4)) is equal to the amount by which (i) the pool amount for the fiscal year (as determined under subsection (b)), exceeds (ii) the sum of the outlay allotments provided under paragraph (5) for the Commonwealths and territories for the fiscal year.

"(3) FLOORS AND CEILINGS.—

"(A) FLOOR.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be less than the greater of—

"(i) 102 percent of the amount of the State outlay allotment under this subsection for the previous fiscal year; or

"(ii) .21 percent of the pool amount for such fiscal year.

"(B) CEILING.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be greater than the product of—

"(i) the State outlay allotment under this subsection for the State or the District of Columbia for the preceding fiscal year; and

"(ii) 125 percent of the national medicaid growth percentage (as determined under subsection (b)(2)) for the fiscal year involved; or

"(4) ELECTION OF ALTERNATIVE GROWTH FORMULA.—

"(A) ELECTION.—In order to reduce variations in increases or decreases in outlay allotments over time, any of the 50 States or the District of Columbia may elect (by notice provided to the Secretary by not later than April 1, 1996) to adopt an alternative growth rate formula under this paragraph for the determination of such State's or District's outlay allotment in fiscal year 1996 and for the increase or decrease in the amount of such allotment in subsequent fiscal years.

"(B) FORMULA.—The alternative growth formula under this paragraph may be any formula under which—

"(i) a portion of the State outlay allotment for fiscal year 1996 under paragraph (1) is deferred and applied to increase the amount of its outlay allotment for one or more subsequent fiscal years, so long as the total amount of such increases for all such subsequent fiscal years does not exceed the amount of the outlay allotment deferred from fiscal year 1996; or

"(ii) a portion of the State outlay allotment for one or more of the 3 fiscal years immediately following fiscal year 1996 under paragraph (2) is applied to increase the amount of its outlay allotment for fiscal year 1996, so long as the total amount of such increase does not exceed 25 percent of the amount of the outlay allotment for fiscal year 1996 otherwise determined under paragraph (1).

"(5) COMMONWEALTHS AND TERRITORIES.—The outlay allotment for each of the Commonwealths and territories for a fiscal year is the maximum amount that could have been certified under section 1108(c) with respect to the Commonwealth or territory for the fiscal year with respect to title XIX, if

the national medicaid growth percentage (as determined under subsection (b)(2)) for the fiscal year had been substituted (beginning with fiscal year 1997) for the percentage increase referred to in section 1108(c)(1)(B).

"(6) SPECIAL RULE.—

"(A) IN GENERAL.—Notwithstanding the preceding paragraphs of this subsection, the State outlay allotment for—

"(i) New Hampshire for each of the fiscal years 1996 through 2000, is $360,000,000; and

"(ii) Louisiana for each of the fiscal years 1996 through 2000, is $2.622 billion.

"(B) EXCEPTION.—A State described in subparagraph (A) may apply to the Secretary for use of the State outlay allotment otherwise determined under this subsection for any fiscal year, if such State notifies the Secretary not later than March 1 preceding such fiscal year that such State will be able to expend sufficient State funds in such fiscal year to qualify for such allotment.

"(d) AGGREGATE EXPENDITURE NEED DETERMINED.—

"(1) IN GENERAL.—For purposes of subsection (c), the aggregate expenditure need for a State or the District of Columbia for a fiscal year is equal to the product of the following 4 factors:

"(A) RESIDENTS IN POVERTY.—The average annual number of residents in poverty of such State or District with respect to the fiscal year (as determined under paragraph (2)).

"(B) CASE MIX INDEX.—The average of the case mix indexes for such State or District (as determined under paragraph (3)) for the 3 most recent fiscal years for which data are available.

"(C) INPUT COST INDEX.—The average of the input cost indexes for such State or District (as determined under paragraph (4)) for the 3 most recent fiscal years for which data are available.

"(D) NATIONAL AVERAGE SPENDING PER RESIDENT IN POVERTY.—The national average spending per resident in poverty (as determined under paragraph (5)).

"(2) RESIDENTS IN POVERTY.—For purposes of this section:

"(A) IN GENERAL.—The term 'average annual number of residents in poverty' means, with respect to a State or the District of Columbia and a fiscal year, the average annual number of residents in poverty (as defined in subparagraph (B)) in such State or District (based on data made generally available by the Bureau of the Census from the Current Population Survey) for the most recent 3-calendar-year period (ending before the fiscal year) for which such data are available.

"(B) RESIDENT IN POVERTY DEFINED.—The term 'resident in poverty' means an individual described in section 1614(a)(1)(B)(i) whose family income does not exceed 100 percent of the poverty line for the year involved applicable to a family of the size involved threshold.

"(3) CASE MIX INDEX.—

"(A) IN GENERAL.—For purposes of this subsection, the case mix index for a State or the District of Columbia for a fiscal year is equal to—

"(i) the sum of—

"(I) the per recipient expenditures with respect to elderly individuals in such State or District for the fiscal year (determined under subparagraph (B)),

"(II) the per recipient expenditures with respect to the blind and disabled individuals in such State or District for the fiscal year (determined under subparagraph (C)), and

"(III) the per recipient expenditures with respect to other individuals in such State or District (determined under subparagraph (D));

divided by—

"(ii) the national average spending per recipient determined under subparagraph (E) for the fiscal year involved.

"(B) PER RECIPIENT EXPENDITURES FOR THE ELDERLY.—For purposes of subparagraph (A)(I)(i), the per recipient expenditures with respect to elderly individuals in a State or the District of Columbia for a fiscal year is equal to the product of—

"(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who have attained retirement age; and

"(ii) the proportion, of all individuals who received medical assistance under this title in such State or District in the most recent fiscal year referred to in clause (i), that were individuals described in such clause.

"(C) PER RECIPIENT EXPENDITURES FOR THE BLIND AND DISABLED.—For purposes of subparagraph (A)(i)(II), the per recipient expenditures with respect to blind and disabled individuals in a State or the District of Columbia for a fiscal year is equal to the product of—

"(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who are eligible for medical assistance because such indi-

viduals are blind or disabled and under retirement age; and

"(ii) the proportion, of all individuals who received medical assistance under this title in such State or District in the most recent fiscal year referred to in clause (i), that were individuals described in such clause.

"(D) PER RECIPIENT EXPENDITURES FOR OTHER INDIVIDUALS.—For purposes of subparagraph (A)(i)(III), the per recipient expenditures with respect to other individuals in a State or the District of Columbia for a fiscal year is equal to the product of—

"(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who are not described in subparagraph (B)(i) or (C)(i); and

"(ii) the proportion, of all individuals who received medical assistance under this title in such State or District in the most recent fiscal year referred to in clause (i),

that were individuals described in such clause.

"(E) NATIONAL AVERAGE SPENDING PER RECIPIENT.—For purposes of this paragraph, the national average expenditures per recipient for a fiscal year is equal to the sum of—

"(i) the product of (I) the national average described in subparagraph (B)(i), and (II) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph;

"(ii) the product of (I) the national average described in subparagraph (C)(i), and (II) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph; and

"(iii) the product of (I) the national average described in subparagraph (D)(i), and (II) the proportion, of all individuals

who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph.

"(F) DETERMINATION OF NATIONAL AVERAGES AND PROPORTIONS.—

"(i) IN GENERAL.—The national averages per recipient and the proportions referred to in clauses (i) and (ii), respectively, of subparagraphs (B), (C), and (D) and subparagraph (E) shall be determined by the Secretary using the most recent data available.

"(ii) USE OF MEDICAID DATA.—If for a fiscal year there is inadequate data to compute such averages and proportions based on expenditures and numbers of individuals receiving medical assistance under this title, the Secretary may compute such averages based on expenditures and numbers of such individuals under title XIX for the most recent fiscal year for which data are available and, for this purpose—

"(I) any reference in subparagraph (B)(i) to 'individuals who have attained retirement age' is deemed a reference to 'individuals whose eligibility for medical assistance is based on having attained retirement age';

"(II) the reference in subparagraph (C)(i) to 'and under retirement age' shall be considered to be deleted; and

"(III) individuals whose basis for eligibility for medical assistance was reported as unknown shall not be counted as individuals under subparagraph (D)(i).

"(iii) EXPENDITURE DEFINED.—For purposes of this paragraph, the term 'expenditure' means expenditures for medical assistance under the medicaid plan, other than medical assistance attributable to disproportionate share payment adjustments described in section 2111(b)(7) (or section 1923, in the case of fiscal year 1995).

"(4) INPUT COST INDEX.—

"(A) IN GENERAL.—For purposes of this section, the input cost index for a State or the District of Columbia for a fiscal year is the sum of—

"(i) 0.15; and

"(ii) 0.85 multiplied by the ratio of (I) the annual average wages for hospital employees in such State or District for the fiscal year (as determined under subparagraph (B)), to (II) the annual average wages for hospital employees in the 50 States and the District of Columbia for such year (as determined under such subparagraph).

"(B) DETERMINATION OF ANNUAL AVERAGE WAGES OF HOSPITAL EMPLOYEES.—The Secretary shall provide for the determination of annual average wages for hospital employees in a State or the District of Columbia and, collectively, in the 50 States and the District of Columbia for a fiscal year based on the area wage data applicable to hospitals under 1886(d)(2)(E) (or, if such data no longer exists, comparable data of hospital wages) for the fiscal year involved.

"(5) NATIONAL AVERAGE SPENDING PER RESIDENT IN POVERTY.—For purposes of this subsection, the national average spending per resident in poverty—

"(A) for fiscal year 1997 is equal to—

"(i) the sum (for each of the 50 States and the District of Columbia) of the total of the Federal and State expenditures under title XIX for medical assistance for calendar quarters in fiscal year 1995 (other than such expenditures under section 1923), increased by the percentage specified in subsection (c)(1)(A)(ii), divided by

"(ii) the average of the sum of the number of residents in poverty (as defined in paragraph (2)(A)) for all of the 50 States and the District of Columbia for the 3 most recent fiscal years for which data are available, and increased by

"(iii) the national medicaid growth percentage (as defined in subsection (b)(2)) for fiscal year 1997;

"(B) for a succeeding fiscal year is equal to the national average spending per resident in

poverty under this paragraph for the preceding fiscal year increased by the national medicaid growth percentage (as so defined) for the fiscal year involved.

"(e) PUBLICATION OF OBLIGATION AND OUTLAY ALLOTMENTS.—

"(1) NOTICE OF PRELIMINARY ALLOTMENTS.—Not later than April 1 before the beginning of each fiscal year (beginning with fiscal year 1997), the Secretary shall initially compute and publish in the Federal Register notice of the proposed obligation and outlay allotments for each State and the District of Columbia under this section (not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of the methodology and data used in deriving such allotments for the year.

"(2) REVIEW BY GAO.—The Comptroller General shall submit to Congress by not later than May 15 of each such fiscal year, a report analyzing such allotments and the extent to which such allotments comply with the precise requirements of this section.

"(3) NOTICE OF FINAL ALLOTMENTS.—Not later than July 1 before the beginning of each such fiscal year, the Secretary, taking into consideration

the analysis contained in the report of the Comptroller General under paragraph (2), shall compute and publish in the Federal Register notice of the final allotments under this section (both taking into account and not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of any changes in such allotments from the initial allotments published under paragraph (1) for the fiscal year and the reasons for such changes. Once published under this paragraph, the Secretary is not authorized to change such allotments.

"(4) GAO REPORT ON FINAL ALLOTMENTS.—The Comptroller General shall submit to Congress by not later than August 1 of each such fiscal year, a report analyzing the final allotments under paragraph (3) and the extent to which such allotments comply with the precise requirements of this section.

"SEC. 2122. PAYMENTS TO STATES.

"(a) AMOUNT OF PAYMENT.—From the allotment of a State under section 2121 for a fiscal year, subject to the succeeding provisions of this title, the Secretary shall pay to each State which has a medicaid plan approved under part E, for each quarter in the fiscal year—

"(1) an amount equal to the Federal medical assistance percentage (as defined in subsection (c)) of the total amount expended during such quarter as medical assistance under the plan; plus

"(2) an amount equal to the Federal medical assistance percentage of the total amount expended during such quarter for medically-related services (as defined in section 2112(d)(2)); plus

"(3) an amount equal to—

"(A) 90 percent of the amounts expended during such quarter for the design, development, and installation of information systems and for providing incentives to promote the enforcement of medical support orders, plus

"(B) 75 percent of the amounts expended during such quarter for medical personnel, administrative support of medical personnel, operation and maintenance of information systems, modification of information systems, quality assurance activities, utilization review, medical and peer review, anti-fraud activities, independent evaluations, coordination of benefits, and meeting reporting requirements under this title, plus

"(C) 50 percent of so much of the remainder of the amounts expended during such quarter as are expended by the State in the administration of the State plan.

"(b) PAYMENT PROCESS.—

"(1) QUARTERLY ESTIMATES.—Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

"(2) PAYMENT.—

"(A) IN GENERAL.—The Secretary shall then pay to the State, in such installments as the Secretary may determine and in accordance with section 6503(a) of title 31, United States

Code, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section (or section 1903) to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection (or under section 1903(d)).

"(B) TREATMENT AS OVERPAYMENTS.—Expenditures for which payments were made to the State under subsection (a) shall be treated as an overpayment to the extent that the State or local agency administering such plan has been reimbursed for such expenditures by a third party pursuant to the provisions of its plan in compliance with section 2135.

"(C) RECOVERY OF OVERPAYMENTS.—For purposes of this subsection, when an overpayment is discovered, which was made by a State to a person or other entity, the State shall have a period of 60 days in which to recover or attempt to recover such overpayment before adjustment is made in the Federal payment to such State on account of such overpayment. Except as otherwise provided in subparagraph

(D), the adjustment in the Federal payment shall be made at the end of the 60 days, whether or not recovery was made.

"(D) NO ADJUSTMENT FOR UNCOLLECTABLES.—In any case where the State is unable to recover a debt which represents an overpayment (or any portion thereof) made to a person or other entity on account of such debt having been discharged in bankruptcy or otherwise being uncollectable, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or portion thereof).

"(3) FEDERAL SHARE OF RECOVERIES.—The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to medical assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.

"(4) TIMING OF OBLIGATION OF FUNDS.—Upon the making of any estimate by the Secretary under this subsection, any appropriations available

for payments under this section shall be deemed obligated.

"(5) DISALLOWANCES.—In any case in which the Secretary estimates that there has been an overpayment under this section to a State on the basis of a claim by such State that has been disallowed by the Secretary under section 1116(d), and such State disputes such disallowance, the amount of the Federal payment in controversy shall, at the option of the State, be retained by such State or recovered by the Secretary pending a final determination with respect to such payment amount. If such final determination is to the effect that any amount was properly disallowed, and the State chose to retain payment of the amount in controversy, the Secretary shall offset, from any subsequent payments made to such State under this title, an amount equal to the proper amount of the disallowance plus interest on such amount disallowed for the period beginning on the date such amount was disallowed and ending on the date of such final determination at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day treasury bill auction rates during such period.

"(c) FEDERAL MEDICAL ASSISTANCE PERCENTAGE DEFINED.—

"(1) IN GENERAL.—For purposes of this section, except as provided in subsection (f), the Federal medical assistance percentage, with respect to each of the 50 States or the District of Columbia, is 100 percent less the State percentage.

"(2) STATE PERCENTAGE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the State percentage is that percentage which bears the same ratio to 45 percent as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii.

"(B) EXCEPTION.—For purposes of this title only, for Alaska, the State percentage is that percentage which bears the same ratio to 45 percent as the square of the adjusted per capita income of such State bears to the square of the per capita income of the continental United States. For purposes of the preceding sentence, the adjusted per capita income for Alaska shall be determined by dividing the State's most recent 3-year average per capita

by the input cost index for such State (as determined in section 2121(d)(4)).

"(3) LIMITATION ON RANGE.—In no case shall the Federal medical assistance percentage be—

"(A) less than—

"(i) 60 percent, or

"(ii) 50 percent, in the case of any other provision of law other than this title; or

"(B) more than 83 percent.

"(4) PROMULGATION.—The Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of section 1101(a)(8)(B).

"(d) PROVIDER-RELATED DONATIONS AND HEALTH CARE RELATED TAXES.—

"(1) GENERAL LIMITATIONS.—

"(A) REDUCTION IN MEDICAL ASSISTANCE EXPENDITURES.—Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State (as defined in paragraph (5)(D)) under this section for quarters in any fiscal year, the total amount expended during such fiscal year as medical assistance under the medicaid plan (as deter-

mined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during the fiscal year—

"(i) from provider-related donations (as defined in paragraph (2)(A)), other than—

"(I) bona fide provider-related donations (as defined in paragraph (2)(B)), and

"(II) donations described in paragraph (2)(C);

"(ii) from health care related taxes (as defined in paragraph (3)(A)), other than broad-based health care related taxes (as defined in paragraph (3)(B)); or

"(iii) from a broad-based health care related tax, if there is in effect a hold harmless provision (described in paragraph (4)) with respect to the tax.

"(B) REDUCTION IN ADMINISTRATIVE EXPENDITURES.—Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State under this section for all quarters in a Federal fiscal

year (beginning with fiscal year 1996), the total amount expended during the fiscal year for administrative expenditures under the medicaid plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during such quarters from donations described in paragraph (2)(C), to the extent the amount of such donations exceeds 10 percent of the amounts expended under the medicaid plan approved under this title during the fiscal year for purposes described in subsection (a)(3).

"(2) PROVIDER-RELATED DONATIONS.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'provider-related donation' means any donation or other voluntary payment (whether in cash or in kind) made (directly or indirectly) to a State or unit of local government by—

"(i) a health care provider (as defined in paragraph (5)(B));

"(ii) an entity related to a health care provider (as defined in paragraph (5)(C)); or

"(iii) an entity providing goods or services under the State plan for which payment is made to the State under subsection (a)(3).

"(B) BONA FIDE PROVIDER-RELATED DONATIONS.—For purposes of paragraph (1)(A)(i)(I), the term 'bona fide provider-related donation' means a provider-related donation that has no direct or indirect relationship (as determined by the Secretary) to payments made under this title to that provider, to providers furnishing the same class of items and services as that provider, or to any related entity, as established by the State to the satisfaction of the Secretary. The Secretary may by regulation specify types of provider-related donations described in the previous sentence that will be considered to be bona fide provider-related donations.

"(C) DONATIONS DESCRIBED.—For purposes of paragraph (1)(A)(i)(II), donations described in this subparagraph are funds expended by a hospital, clinic, or similar entity for the direct cost (including costs of training and of preparing and distributing outreach mate-

rials) of State or local agency personnel who are stationed at the hospital, clinic, or entity to determine the eligibility of individuals for medical assistance under a medicaid plan approved under this title and to provide outreach services to eligible or potentially eligible individuals.

"(3) HEALTH CARE RELATED TAXES.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'health care related tax' means a tax (as defined in paragraph (5)(F)) that—

"(i) is related to health care items or services, or to the provision of, the authority to provide, or payment for, such items or services; or

"(ii) is not limited to such items or services but provides for treatment of individuals or entities that are providing or paying for such items or services that is different from the treatment provided to other individuals or entities.

In applying clause (i), a tax is considered to relate to health care items or services if at least 85 percent of the burden of such tax falls on health care providers.

"(B) BROAD-BASED HEALTH CARE RELATED TAX.—For purposes of this subsection, the term 'broad-based health care related tax' means a health care related tax which is imposed with respect to a class of health care items or services (as described in paragraph (5)(A)) or with respect to providers of such items or services and which, except as provided in subparagraphs (D) and (E)—

"(i) is imposed at least with respect to all items or services in the class furnished by all non-Federal, nonpublic providers in the State (or, in the case of a tax imposed by a unit of local government, the area over which the unit has jurisdiction) or is imposed with respect to all non-Federal, nonpublic providers in the class; and

"(ii) is imposed uniformly (in accordance with subparagraph (C)).

"(C) UNIFORM IMPOSITION OF TAX.—

"(i) IN GENERAL.—Subject to clause (ii), for purposes of subparagraph (B)(ii), a tax is considered to be imposed uniformly if—

"(I) in the case of a tax consisting of a licensing fee or similar tax on a class of health care items or services (or providers of such items or services), the amount of the tax imposed is the same for every provider providing items or services within the class;

"(II) in the case of a tax consisting of a licensing fee or similar tax imposed on a class of health care items or services (or providers of such services) on the basis of the number of beds (licensed or otherwise) of the provider, or the number of patient days or other unit of service, the amount of the tax is the same for each bed, or each unit of service, of each provider of such items or services in the class;

"(III) in the case of a tax based on revenues or receipts with respect to a class of items or services (or providers of items or services) the tax is imposed at a uniform rate for all items and services (or providers of such

items of services) in the class on all the gross revenues or receipts, or net operating revenues, relating to the provision of all such items or services (or all such providers) in the State (or, in the case of a tax imposed by a unit of local government within the State, in the area over which the unit has jurisdiction); or

"(IV) in the case of any other tax, the State establishes to the satisfaction of the Secretary that the tax is imposed uniformly.

"(ii) DETERMINATION OF NONUNIFORMITY.—Subject to subparagraphs (D) and (E), a tax imposed with respect to a class of health care items and services is not considered to be imposed uniformly if the tax provides for any credits, exclusions, or deductions which have as their purpose or effect the return to providers of all or a portion of the tax paid in a manner that is inconsistent with subclauses (I) and (II) of subparagraph

(E)(ii) or provides for a hold harmless provision described in paragraph (4).

"(D) EXCEPTIONS TO NONUNIFORMITY DETERMINATIONS.—A tax imposed with respect to a class of health care items and services is considered to be imposed uniformly—

"(i) notwithstanding that the tax is not imposed with respect to items or services (or the providers thereof) for which payment is made under a medicaid plan approved under this title or title XVIII; or

"(ii) in the case of a tax described in subparagraph (C)(i)(III), notwithstanding that the tax provides for exclusion (in whole or in part) of revenues or receipts from a medicaid plan approved under this title or title XVIII.

"(E) WAIVER APPLICATION FOR TREATMENTS AS BROAD-BASED TAX.—

"(i) IN GENERAL.—A State may submit an application to the Secretary requesting that the Secretary treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in class (or

all providers of such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of subparagraph (B) or (C). Permissible waivers may include exemptions for rural or sole-community providers.

"(ii) WAIVER APPROVAL REQUIREMENTS.—The Secretary shall approve such an application if the State establishes to the satisfaction of the Secretary that—

"(I) the net impact of the tax and associated expenditures under the medicaid plan approved under this title as proposed by the State is generally redistributive in nature; and

"(II) the amount of the tax is not directly correlated to payments under such plan for items or services with respect to which the tax is imposed.

"(iii) DETERMINATION OF REDISTRIBUTIVE NATURE.—In determining whether a tax for which a waiver is sought

is generally redistributive in nature, the Secretary shall, if requested by the State—

"(I) compare the tax to a tax that meets any of the uniformity requirements of subparagraphs (C) or (D); and

"(II) consider in the aggregate all classes (or providers) of health care items or services that are subject to the same tax.

"(iv) TERM OF WAIVER.—A tax for which the Secretary has approved an application for waiver shall not be subject to the requirements of a further waiver application solely because a change in the rate of tax.

"(F) TREATMENT OF MANAGED CARE PREMIUMS.—No tax on the payment or receipt of premiums or similar periodic payments to health maintenance organizations or health care insurers shall be treated as a health care related tax unless and until the Secretary, after consultation with the States pursuant to section 5(c) of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of

1991, adopts a final regulation specifically subjecting such taxes, or any of such taxes, to the provisions of this subsection.

"(4) HOLD HARMLESS DETERMINATION.—For purposes of paragraph (1)(A)(iii), there is in effect a hold harmless provision with respect to a broad-based health care related tax imposed with respect to a class of items or services if the Secretary determines that any of the following applies:

"(A) The State or other unit of government imposing the tax provides (directly or indirectly) for a payment (other than under a medicaid plan approved under this title) to taxpayers and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of payment under the medicaid plan.

"(B) All or any portion of the payment made under this title to the taxpayer varies based only upon the amount of the total tax paid.

"(C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that

guarantees to hold taxpayers harmless for any portion of the costs of the tax.

Notwithstanding the provisions of this paragraph, no hold harmless shall be found to be in effect with respect to a tax enacted or extended prior to October 1, 1995, because of the existence in the State of a program of financial aid or of tax credits for recipients of health care items or services from providers that are subject to an otherwise valid health care related tax.

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection:

"(A) CLASSES OF HEALTH CARE ITEMS AND SERVICES.—Each of the following shall be considered a separate class of health care items and services:

"(i) Inpatient hospital services.

"(ii) Outpatient hospital services.

"(iii) Nursing facility services (other than services of intermediate care facilities for the mentally retarded).

"(iv) Services of intermediate care facilities for the mentally retarded.

"(v) Physicians' services.

"(vi) Home health care services.

"(vii) Outpatient prescription drugs.

"(viii) Services of health maintenance organizations (and other organizations with contracts under section 2114) not otherwise subject to a tax described in this subsection.

"(ix) Such other classification of health care items and services consistent with this subparagraph as the Secretary may establish by regulation.

"(B) HEALTH CARE PROVIDER.—The term 'health care provider' means an individual or person that receives payments for the provision of health care items or services.

"(C) RELATED ENTITIES.—An entity is considered to be 'related' to a health care provider if the entity—

"(i) is an organization, association, corporation or partnership formed by or on behalf of health care providers;

"(ii) is a person with an ownership or control interest (as defined in section 1124(a)(3)) in the provider;

"(iii) is the employee, spouse, parent, child, or sibling of the provider (or of a person described in clause (ii)); or

"(iv) has a similar, close relationship (as defined in regulations) to the provider.

"(D) STATE.—The term 'State' means only the 50 States and the District of Columbia.

"(E) STATE FISCAL YEAR.—The 'State fiscal year' means, with respect to a specified year, a State fiscal year ending in that specified year.

"(F) TAX.—The term 'tax' includes any licensing fee, assessment, or other mandatory payment, but does not include any fee or charge associated with a State regulatory, authorizing, financial assistance, or other program in which health care providers are eligible to participate, or payment of a criminal or civil fine or penalty (other than a fine or penalty imposed in lieu of or instead of a fee, assessment, or other mandatory payment).

"(G) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' means, with respect to a State, a city, county, special purpose

district, or other governmental unit in the State.

"(6) CERTAIN IMPOSITION OF HEALTH CARE RELATED TAXES PROHIBITED.—No payment may be made to a State under this section with respect to State expenditures attributable to health care related taxes or broad-based health care related taxes imposed on hospitals described in section 501(c)(3) of the Internal Revenue Code of 1986 which do not accept reimbursement under a medicaid plan.

"(e) TREATMENT OF STATE EXPENDITURES.—

"(1) IN GENERAL.—No payment may be made to a State under this section unless such State provides not less than 40 percent of the non-Federal share of the expenditures under the medicaid plan.

"(2) TREATMENT OF CERTAIN EXPENDITURES.—In determining State expenditures under this section:

"(A) TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such expenditures shall not include funding supplanted by transfers from other State and local programs.

"(B) EXCLUSION OF FEDERAL AMOUNTS.—Such expenditures shall not include amounts made available by the Federal Govern-

ment and any State funds which are used to match Federal funds or are expended as a condition of receiving Federal funds under Federal programs other than under this title.

"(f) SPECIAL RULES.—For purposes of this title:

"(1) COMMONWEALTHS AND TERRITORIES.—In the case of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa, the Federal medical assistance percentages are 50 percent.

"(2) INDIAN HEALTH PROGRAMS.—The Federal medical assistance percentages shall be 100 percent with respect to the amounts expended as medical assistance for services which are provided by—

"(A) the Indian Health Service;

"(B) an Indian health program operated by an Indian tribe or tribal organization pursuant to a contract, grant, cooperative agreement, or compact with the Indian Health Service under authority of the Indian Self-Determination Act (25 U.S.C. 450 et seq.); or

"(C) an urban Indian health program operated by an urban Indian organization pursuant to a grant or contract with the Indian Health Service under authority of title V of the

Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(3) NO STATE MATCHING REQUIRED FOR CERTAIN EXPENDITURES.—In applying subsection (a)(1) with respect to medical assistance provided to unlawful aliens pursuant to the exception specified in section 2123(f)(2), payment shall be made for the amount of such assistance without regard to any need for a State match.

"(4) SPECIAL RULE.—

"(A) IN GENERAL.—Notwithstanding subsection (a), in order to receive the full State outlay allotment described in section 2121(c)(6), a State shall expend State funds in a fiscal year under a medicaid plan approved under this title in an amount not less than the adjusted base year State expenditures, plus an applicable percentage of the difference between such expenditures and the amount necessary to qualify for the full State outlay allotment so described in such fiscal year as determined under this section without regard to this paragraph.

"(B) REDUCTION IN ALLOTMENT IF EXPENDITURE LIMIT NOT MET.—In the event a State fails to expend State funds in an amount

required by subparagraph (A) for a fiscal year, the outlay allotment described in section 2121(c)(6) for such year shall be reduced by an amount which bears the same ratio to such outlay allotment as the State funds expended in such fiscal year bears to the amount required by subparagraph (A).

"(C) ADJUSTED BASE YEAR STATE EXPENDITURES.—For purposes of this paragraph, the term 'adjusted base year State expenditures' means—

"(i) for New Hampshire, $203,000,000; and

"(ii) for Louisiana, $355,000,000.

"(D) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage for any fiscal year is specified in the following table:

"Fiscal year:	Applicable Percentage:
1996	20
1997	40
1998	60
1999	80
2000	100.

"(g) AUTHORITY TO USE PORTION OF PAYMENT FOR OTHER PURPOSES.—

"(1) IN GENERAL.—A State may use not more than 30 percent of the amount of the grant made to

the State under this section for a fiscal year to carry out a State program pursuant to a waiver granted under section 1115 which may include waivers of any or all of the following provisions of law:

"(A) Part A of title IV.

"(B) Title V.

"(C) Title XVI.

"(D) Title XVIII.

"(E) Title XX.

"(F) The Food Stamp Act of 1977.

"(2) SUFFICIENT FUNDING DETERMINATION.—Prior to using any amounts received from a payment under this title for a fiscal year to carry out a State program pursuant to any or all of the provisions of law described in paragraph (1), the appropriate State agency shall make a determination that sufficient amounts will remain available for such fiscal year to carry out the medicaid plan approved under this title.

"(3) APPLICABLE RULES.—Any amount paid to the State under this title that is used to carry out a State program pursuant to a provision of law specified in paragraph (1) shall not be subject to the requirements of this title, but shall be subject to the requirements that apply to Federal funds provided

directly under the provision of law to carry out the program.

"(4) EXPEDITED WAIVER PROCESS.—Notwithstanding any other provision of law, the Secretary shall approve or disapprove a waiver described in paragraph (1) and submitted under section 1115 not later than 90 days after the date the completed application is received. Any application for such a waiver which is not approved or disapproved within such 90-day period shall be deemed approved.

"(5) SECRETARIAL ENCOURAGEMENT OF WAIVERS.—The Secretary shall encourage States to operate a waiver described in paragraph (1) and to evaluate, using random sampling and other characteristics of accepted scientific evaluations, the result or effect of such waiver.

"SEC. 2123. LIMITATION ON USE OF FUNDS; DISALLOWANCE.

"(a) IN GENERAL.—Funds provided to a State under this title shall only be used to carry out the purposes of this title.

"(b) DISALLOWANCES FOR EXCLUDED PROVIDERS.—

"(1) IN GENERAL.—No payment shall be made to a State under this part for expenditures for items and services furnished—

"(A) by a provider who was excluded from participation under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, or 1842(j)(2); or

"(B) under the medical direction or on the prescription of a physician who was so excluded, if the provider of the services knew or had reason to know of the exclusion.

"(2) EXCEPTION FOR EMERGENCY SERVICES.—Paragraph (1) shall not apply to emergency items or services, not including hospital emergency room services.

"(c) LIMITATION.—No Federal financial assistance is available for expenditures under the medicaid plan for medically-related services for a quarter to the extent such expenditures exceed 5 percent of the total expenditures under the plan for the quarter.

"(d) TREATMENT OF THIRD PARTY LIABILITY.—No payment shall be made to a State under this part for expenditures for medical assistance provided for an individual under its medicaid plan to the extent that a private insurer (as defined by the Secretary by regulation and in-

1 cluding a group health plan (as defined in section 607(1)
2 of the Employee Retirement Income Security Act of
3 1974), a service benefit plan, and a health maintenance
4 organization) would have been obligated to provide such
5 assistance but for a provision of its insurance contract
6 which has the effect of limiting or excluding such obliga-
7 tion because the individual is eligible for or is provided
8 medical assistance under the plan.

9 "(e) MEDICAID AS SECONDARY PAYER.—Except as
10 otherwise provided by law, no payment shall be made to
11 a State under this part for expenditures for medical assist-
12 ance provided for an individual under its medicaid plan
13 to the extent that payment has been made or can reason-
14 ably be expected to be made promptly (as determined in
15 accordance with regulations) under any other federally op-
16 erated or financed health care program as identified by
17 the Secretary. For purposes of this subsection, rules simi-
18 lar to the rules for overpayments under section 2122(b)
19 shall apply.

20 "(f) LIMITATION ON PAYMENTS TO EMERGENCY
21 SERVICES FOR NONLAWFUL ALIENS.—

22 "(1) IN GENERAL.—Notwithstanding the pre-
23 ceding provisions of this section, except as provided
24 in paragraph (2), no payment shall be made to a
25 State under this part for medical assistance fur-

nished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

"(2) EXCEPTION FOR EMERGENCY SERVICES.—Payment may be made under this section for care and services that are furnished to an alien described in paragraph (1) only if—

"(A) such care and services are necessary for the treatment of an emergency medical condition of the alien;

"(B) such alien otherwise meets the eligibility requirements for medical assistance under the medicaid plan (other than a requirement of the receipt of aid or assistance under title IV, supplemental security income benefits under title XVI, or a State supplementary payment); and

"(C) such care and services are not related to an organ transplant procedure.

"(3) EMERGENCY MEDICAL CONDITION DEFINED.—For purposes of this subsection, the term 'emergency medical condition' means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the ab-

sence of immediate medical attention could reasonably be expected to result in—

"(A) placing the patient's health in serious jeopardy;

"(B) serious impairment to bodily functions; or

"(C) serious dysfunction of any bodily organ or part.

"(g) LIMITATION ON PAYMENT FOR ABORTIONS.—

"(1) IN GENERAL.—No payment shall be made to a State under this part for any amount expended under the medicaid plan to pay for any abortion or to assist in the purchase, in whole or in part, of health benefit coverage that includes coverage of abortion.

"(2) EXCEPTION.—Paragraph (1) shall not apply to an abortion—

"(A) if the pregnancy is the result of an act of rape or incest; or

"(B) in the case where a woman suffers from a physical disorder, illness, or injury that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

"(h) TREATMENT OF ASSISTED SUICIDE.—

"(1) PROHIBITION OF PAYMENT.—No payment shall be made to a State under this part for amounts expended under the medicaid plan to pay for, or to assist in the purchase, in whole or in part, of health benefit coverage that includes payment for any drug, biological product, or service which was furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.

"(2) NO REQUIREMENT THAT HEALTH CARE PROVIDERS INFORM PATIENTS CONCERNING ASSISTED SUICIDE.—No State may require under its medicaid plan that a health care provider or employee of a health care provider be required to inform or counsel a patient regarding assisted suicide, euthanasia, mercy killing, or other services which purposefully causes the death of a person.

"(i) UNAUTHORIZED USE OF FUNDS.—No payment shall be made to a State under this part with respect to State expenditures—

"(1) to purchase or improve land or construct or remodel buildings;

"(2) to pay basic room and board costs, except when provided as part of a temporary, respite care

service in a facility approved by the State which is not a private residence;

"(3) to provide educational services which the State makes generally available to its residents without cost and without regard to income; or

"(4) to provide vocational rehabilitation or other employment training and related services which are available to eligible individuals through other Federal, State or local programs and funding sources.

"SEC. 2124. GRANT PROGRAM FOR COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS.

"(a) IN GENERAL.—From the pool amount determined under section 2121(b)(1) for a fiscal year, the Secretary shall set aside an amount equal to 1 percent of such amount.

"(b) USE OF FUNDS.—Fifty percent of the amount set aside by the Secretary under subsection (a) shall only be used for grants for primary and preventive health care services provided at rural health clinics (as defined in section 1861(aa)(2)) and 50 percent of such amount shall only be used for grants for such services provided at Federally-qualified health centers (as defined in section 1861(aa)(4)).

"(c) GRANT AMOUNTS.—The Secretary shall provide the methodology for determining the amount of each grant made under subsection (b).

"PART D—PROGRAM INTEGRITY AND QUALITY

"SEC. 2131. USE OF AUDITS TO ACHIEVE FISCAL INTEGRITY.

"(a) FINANCIAL AUDITS OF PROGRAM.—

"(1) IN GENERAL.—Each medicaid plan shall provide for an annual audit of the State's expenditures from amounts received under this title, in compliance with chapter 75 of title 31, United States Code.

"(2) VERIFICATION AUDITS.—If, after consultation with the State and the Comptroller General and after a fair hearing, the Secretary determines that a State's audit under paragraph (1) was performed in substantial violation of chapter 75 of title 31, United States Code, the Secretary may—

"(A) require that the State provide for a verification audit in compliance with such chapter; or

"(B) conduct such a verification audit.

"(3) AVAILABILITY OF AUDIT REPORTS.—Within 30 days after completion of each audit or verification audit under this subsection, the State shall—

"(A) provide the Secretary with a copy of the audit report, including the State's response to any recommendations of the auditor; and

"(B) make the audit report available for public inspection in the same manner as proposed medicaid plan amendments are made available under section 2105.

"(b) FISCAL CONTROLS.—

"(1) IN GENERAL.—With respect to the accounting and expenditure of funds under this title, each State shall adopt and maintain such fiscal controls, accounting procedures, and data processing safeguards as the State deems reasonably necessary to assure the fiscal integrity of the State's activities under this title.

"(2) CONSISTENCY WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—Such controls and procedures shall be generally consistent with generally accepted accounting principles as recognized by the Governmental Accounting Standards Board or the Comptroller General.

"(c) AUDITS OF PROVIDERS.—Each medicaid plan shall provide that the records of any entity providing items or services for which payment may be made under the plan

may be audited as necessary to ensure that proper payments are made under the plan.

"SEC. 2132. FRAUD PREVENTION PROGRAM.

"(a) ESTABLISHMENT.—Each medicaid plan shall provide for the establishment and maintenance of an effective program for the detection and prevention of fraud and abuse by beneficiaries, providers, and others in connection with the operation of the program.

"(b) PROGRAM REQUIREMENTS.—The program established pursuant to subsection (a) shall include at least the following requirements:

"(1) DISCLOSURE OF INFORMATION.—Any disclosing entity (as defined in section 1124(a)) receiving payments under the medicaid plan shall comply with the requirements of section 1124.

"(2) SUPPLY OF INFORMATION.—An entity (other than an individual practitioner or a group of practitioners) that furnishes, or arranges for the furnishing of, an item or service under the medicaid plan shall supply upon request specifically addressed to the entity by the Secretary or the State agency the information described in section 1128(b)(9).

"(3) EXCLUSION.—

"(A) IN GENERAL.—The medicaid plan shall exclude any specified individual or entity

from participation in the plan for the period specified by the Secretary when required by the Secretary to do so pursuant to section 1128 or section 1128A, and provide that no payment may be made under the plan with respect to any item or service furnished by such individual or entity during such period.

"(B) AUTHORITY.—In addition to any other authority, a State may exclude any individual or entity for purposes of participating under the medicaid plan for any reason for which the Secretary could exclude the individual or entity from participation in a program under title XVIII or under section 1128, 1128A, or 1866(b)(2).

"(4) NOTICE.—The medicaid plan shall provide that whenever a provider of services or any other person is terminated, suspended, or otherwise sanctioned or prohibited from participating under the plan, the State agency responsible for administering the plan shall promptly notify the Secretary and, in the case of a physician, the State medical licensing board of such action.

"(5) ACCESS TO INFORMATION.—The medicaid plan shall provide that the State will provide infor-

mation and access to certain information respecting sanctions taken against health care practitioners and providers by State licensing authorities in accordance with section 2133.

"SEC. 2133. INFORMATION CONCERNING SANCTIONS TAKEN BY STATE LICENSING AUTHORITIES AGAINST HEALTH CARE PRACTITIONERS AND PROVIDERS.

"(a) INFORMATION REPORTING REQUIREMENT.—The requirement referred to in section 2132(b)(5) is that the State must provide for the following:

"(1) INFORMATION REPORTING SYSTEM.—The State must have in effect a system of reporting the following information with respect to formal proceedings (as defined by the Secretary in regulations) concluded against a health care practitioner or entity by any authority of the State (or of a political subdivision thereof) responsible for the licensing of health care practitioners (or any peer review organization or private accreditation entity reviewing the services provided by health care practitioners) or entities:

"(A) Any adverse action taken by such licensing authority as a result of the proceeding, including any revocation or suspension of a li-

cense (and the length of any such suspension), reprimand, censure, or probation.

"(B) Any dismissal or closure of the proceedings by reason of the practitioner or entity surrendering the license or leaving the State or jurisdiction.

"(C) Any other loss of the license of the practitioner or entity, whether by operation of law, voluntary surrender, or otherwise.

"(D) Any negative action or finding by such authority, organization, or entity regarding the practitioner or entity.

"(2) ACCESS TO DOCUMENTS.—The State must provide the Secretary (or an entity designated by the Secretary) with access to such documents of the authority described in paragraph (1) as may be necessary for the Secretary to determine the facts and circumstances concerning the actions and determinations described in such paragraph for the purpose of carrying out this Act.

"(b) FORM OF INFORMATION.—The information described in subsection (a)(1) shall be provided to the Secretary (or to an appropriate private or public agency, under suitable arrangements made by the Secretary with respect to receipt, storage, protection of confidentiality,

and dissemination of information) in such a form and manner as the Secretary determines to be appropriate in order to provide for activities of the Secretary under this Act and in order to provide, directly or through suitable arrangements made by the Secretary, information—

"(1) to agencies administering Federal health care programs, including private entities administering such programs under contract;

"(2) to licensing authorities described in subsection (a)(1);

"(3) to State agencies administering or supervising the administration of State health care programs (as defined in section 1128(h));

"(4) to utilization and quality control peer review organizations described in part B of title XI and to appropriate entities with contracts under section 1154(a)(4)(C) with respect to eligible organizations reviewed under the contracts;

"(5) to State medicaid fraud control units (as defined in section 2134(b));

"(6) to hospitals and other health care entities (as defined in section 431 of the Health Care Quality Improvement Act of 1986), with respect to physicians or other licensed health care practitioners that have entered (or may be entering) into an employ-

ment or affiliation relationship with, or have applied for clinical privileges or appointments to the medical staff of, such hospitals or other health care entities (and such information shall be deemed to be disclosed pursuant to section 427 of, and be subject to the provisions of, that Act);

"(7) to the Attorney General and such other law enforcement officials as the Secretary deems appropriate; and

"(8) upon request, to the Comptroller General, in order for such authorities to determine the fitness of individuals to provide health care services, to protect the health and safety of individuals receiving health care through such programs, and to protect the fiscal integrity of such programs.

"(c) CONFIDENTIALITY OF INFORMATION PROVIDED.—The Secretary shall provide for suitable safeguards for the confidentiality of the information furnished under subsection (a). Nothing in this subsection shall prevent the disclosure of such information by a party which is otherwise authorized, under applicable State law, to make such disclosure.

"(d) APPROPRIATE COORDINATION.—The Secretary shall provide for the maximum appropriate coordination in the implementation of subsection (a) of this section and

section 422 of the Health Care Quality Improvement Act of 1986 and section 1128E.

"SEC. 2134. STATE MEDICAID FRAUD CONTROL UNITS.

"(a) IN GENERAL.—Each medicaid plan shall provide for a State medicaid fraud control unit that effectively carries out the functions and requirements described in such subsection, unless the State demonstrates to the satisfaction of the Secretary that the effective operation of such a unit in the State would not be cost-effective because minimal fraud exists in connection with the provision of covered services to eligible individuals under the plan, and that beneficiaries under the plan will be protected from abuse and neglect in connection with the provision of medical assistance under the plan without the existence of such a unit.

"(b) UNITS DESCRIBED.—For purposes of this section, the term 'State medicaid fraud control unit' means a single identifiable entity of the State government which meets the following requirements:

"(1) ORGANIZATION.—The entity—

"(A) is a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations;

"(B) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures that—

"(i) assure its referral of suspected criminal violations relating to the program under this title to the appropriate authority or authorities in the State for prosecution, and

"(ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions; or

"(C) has a formal working relationship with the office of the State Attorney General and has formal procedures (including procedures for its referral of suspected criminal violations to such office) which provide effective coordination of activities between the entity and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to the program under this title.

"(2) INDEPENDENCE.—The entity is separate and distinct from any State agency that has prin-

cipal responsibilities for administering or supervising the administration of the medicaid plan.

"(3) FUNCTION.—The entity's function is conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of medical assistance and the activities of providers of such assistance under the medicaid plan.

"(4) REVIEW OF COMPLAINTS.—The entity has procedures for reviewing complaints of the abuse and neglect of patients of health care facilities which receive payments under the medicaid plan approved under this title, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

"(5) OVERPAYMENTS.—

"(A) IN GENERAL.—The entity provides for the collection, or referral for collection to a single State agency, of overpayments that are made under the medicaid plan to health care providers and that are discovered by the entity in carrying out its activities.

"(B) TREATMENT OF CERTAIN OVERPAYMENTS.—If an overpayment is the direct result of the failure of the provider (or the provider's billing agent) to adhere to a change in the State's billing instructions, the entity may recover the overpayment only if the entity demonstrates that the provider (or the provider's billing agent) received reasonable written or electronic notice of the change in the billing instructions before the submission of the claims on which the overpayment is based.

"(6) PERSONNEL.—The entity employs such auditors, attorneys, investigators, and other necessary personnel and is organized in such a manner as is necessary to promote the effective and efficient conduct of the entity's activities.

"SEC. 2135. RECOVERIES FROM THIRD PARTIES AND OTHERS.

"(a) THIRD PARTY LIABILITY.—Each medicaid plan shall provide for reasonable steps—

"(1) to ascertain the legal liability of third parties to pay for care and services available under the plan, including the collection of sufficient information to enable States to pursue claims against third parties; and

"(2) to seek reimbursement for medical assistance provided to the extent legal liability is established if the amount expected to be recovered exceeds the costs of the recovery.

"(b) BENEFICIARY PROTECTION.—

"(1) IN GENERAL.—Each medicaid plan shall provide that in the case of a person furnishing services under the plan for which a third party may be liable for payment—

"(A) the person may not seek to collect from the individual (or financially responsible relative) payment of an amount for the service more than could be collected under the plan in the absence of such third party liability; and

"(B) may not refuse to furnish services to such an individual because of a third party's potential liability for payment for the service.

"(2) PENALTY.—A medicaid plan may provide for a reduction of any payment amount otherwise due with respect to a person who furnishes services under the plan in an amount equal to up to 3 times the amount of any payment sought to be collected by that person in violation of paragraph (1)(A).

"(c) GENERAL LIABILITY.—The State shall prohibit any health insurer, including a group health plan as de-

fined in section 607 of the Employee Retirement Income Security Act of 1974, a service benefit plan, or a health maintenance organization, in enrolling an individual or in making any payments for benefits to the individual or on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance under a medicaid plan for any State.

"(d) ACQUISITION OF RIGHTS OF BENEFICIARIES.—To the extent that payment has been made under a medicaid plan in any case where a third party has a legal liability to make payment for such assistance, the State shall have in effect laws under which, to the extent that payment has been made under the plan for health care items or services furnished to an individual, the State is considered to have acquired the rights of such individual to payment by any other party for such health care items or services.

"(e) ASSIGNMENT OF MEDICAL SUPPORT RIGHTS.—The medicaid plan shall provide for mandatory assignment of rights of payment for medical support and other medical care owed to recipients in accordance with section 2136.

"(f) REQUIRED LAWS RELATING TO MEDICAL CHILD SUPPORT.—

"(1) IN GENERAL.— Each State with a medicaid plan shall have in effect the following laws:

"(A) A law that prohibits an insurer from denying enrollment of a child under the health coverage of the child's parent on the ground that—

"(i) the child was born out of wedlock;

"(ii) the child is not claimed as a dependent on the parent's Federal income tax return; or

"(iii) the child does not reside with the parent or in the insurer's service area.

"(B) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an insurer, a law that requires such insurer—

"(i) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);

"(ii) if such a parent is enrolled but fails to make application to obtain cov-

erage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

"(iii) not to disenroll, or eliminate coverage of, such a child unless the insurer is provided satisfactory written evidence that—

"(I) such court or administrative order is no longer in effect, or

"(II) the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment.

"(C) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the State, a law that requires such employer—

"(i) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage

(without regard to any enrollment season restrictions);

"(ii) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

"(iii) not to disenroll, or eliminate coverage of, any such child unless—

"(I) the employer is provided satisfactory written evidence that such court or administrative order is no longer in effect, or the child is or will be enrolled in comparable health coverage which will take effect not later than the effective date of such disenrollment, or

"(II) the employer has eliminated family health coverage for all of its employees; and

"(iv) to withhold from such employee's compensation the employee's share (if any) of premiums for health coverage (ex-

cept that the amount so withheld may not exceed the maximum amount permitted to be withheld under section 303(b) of the Consumer Credit Protection Act), and to pay such share of premiums to the insurer, except that the Secretary may provide by regulation for appropriate circumstances under which an employer may withhold less than such employee's share of such premiums.

''(D) A law that prohibits an insurer from imposing requirements on a State agency, which has been assigned the rights of an individual eligible for medical assistance under a medicaid plan approved under this title and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

''(E) A law that requires an insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent—

''(i) to provide such information to the custodial parent as may be necessary for

the child to obtain benefits through such coverage;

"(ii) to permit the custodial parent (or provider, with the custodial parent's approval) to submit claims for covered services without the approval of the noncustodial parent; and

"(iii) to make payment on claims submitted in accordance with clause (ii) directly to such custodial parent, the provider, or the State agency.

"(F) A law that permits the State agency under the medicaid plan approved under this title to garnish the wages, salary, or other employment income of, and requires withholding amounts from State tax refunds to, any person who—

"(i) is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under a medicaid plan approved under this title;

"(ii) has received payment from a third party for the costs of such services to such child; but

"(iii) has not used such payments to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services,

to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under this title, but any claims for current or past-due child support shall take priority over any such claims for the costs of such services.

"(2) DEFINITION.—For purposes of this subsection, the term 'insurer' includes a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a health maintenance organization, and an entity offering a service benefit plan.

"(g) ESTATE RECOVERIES AND LIENS PERMITTED.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a State may take such actions as it considers appropriate to adjust or recover from the individual or the individual's estate any amounts paid as medical assistance to or on behalf of the individual under the medicaid plan, including through the im-

position of liens against the property or estate of the individual.

"(2) NO LIEN ON HOMES OR FAMILY FARMS.—For purposes of paragraph (1), a State may not impose a lien on the principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986) of moderate value or the family farm owned by the individual as a condition of the spouse of the individual receiving nursing facility or other long term care benefits under its medicaid plan.

"SEC. 2136. ASSIGNMENT OF RIGHTS OF PAYMENT.

"(a) IN GENERAL.—For the purpose of assisting in the collection of medical support payments and other payments for medical care owed to recipients of medical assistance under the medicaid plan, each medicaid plan shall—

"(1) provide that, as a condition of eligibility for medical assistance under the plan to an individual who has the legal capacity to execute an assignment for himself, the individual is required—

"(A) to assign the State any rights, of the individual or of any other person who is eligible for medical assistance under the plan and on whose behalf the individual has the legal authority to execute an assignment of such rights,

to support (specified as support for the purpose of medical care by a court or administrative order) and to payment for medical care from any third party,

''(B) to cooperate with the State (i) in establishing the paternity of such person (referred to in subparagraph (A)) if the person is a child born out of wedlock, and (ii) in obtaining support and payments (described in subparagraph (A)) for himself and for such person, unless (in either case) the individual is a pregnant woman or the individual is found to have good cause for refusing to cooperate as determined by the State, and

''(C) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the plan, unless such individual has good cause for refusing to cooperate as determined by the State; and

''(2) provide for entering into cooperative arrangements, including financial arrangements, with any appropriate agency of any State (including, with respect to the enforcement and collection of rights of

payment for medical care by or through a parent, with a State's agency established or designated under section 454(3)) and with appropriate courts and law enforcement officials, to assist the agency or agencies administering the plan with respect to—

"(A) the enforcement and collection of rights to support or payment assigned under this section, and

"(B) any other matters of common concern.

"(b) USE OF AMOUNTS COLLECTED.—Such part of any amount collected by the State under an assignment made under the provisions of this section shall be retained by the State as is necessary to reimburse it for medical assistance payments made on behalf of an individual with respect to whom such assignment was executed (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing of such medical assistance), and the remainder of such amount collected shall be paid to such individual.

"SEC. 2137. QUALITY ASSURANCE STANDARDS FOR NURSING FACILITIES.

"(a) STANDARDS FOR AND CERTIFICATION OF CERTAIN FACILITIES.—

"(1) STANDARDS FOR FACILITIES.—

"(A) IN GENERAL.—Each medicaid plan shall provide for the establishment and maintenance of procedures described in subparagraph (B) and standards consistent with the contents described in subparagraph (C) for nursing facilities which furnish services under the plan.

"(B) PROCEDURES DESCRIBED.—The procedures described in this subparagraph are—

"(i) procedures for the investigation of—

"(I) complaints by residents of nursing facilities, and

"(II) the abuse, neglect, and misappropriation of property of such residents; and

"(ii) procedures governing the discharge and transfer of residents sufficient to protect the health and safety of such residents, including the opportunity for a fair hearing and appeal of such discharges and transfers.

"(C) CONTENTS OF STANDARDS.—The standards established for facilities under this paragraph shall contain provisions relating to the following items:

"(i) The treatment of resident medical records.

"(ii) Policies, procedures, and bylaws for operation.

"(iii) Quality assurance systems.

"(iv) Resident assessment procedures, including care planning and outcome evaluation.

"(v) The assurance of a safe and adequate physical plant for the facility.

"(vi) Qualifications for staff sufficient to provide adequate care, as defined by the State.

"(vii) Utilization review.

"(viii) The protection and enforcement of resident rights described in subparagraph (D).

"(D) RESIDENT RIGHTS DESCRIBED.—The resident rights described in this subparagraph are the rights of residents to the following:

"(i) To exercise the individual's rights as a resident of the facility and as a citizen or resident of the United States.

"(ii) To receive notice of rights and services.

"(iii) To be protected against the misuse of resident funds.

"(iv) To be provided privacy and confidentiality, including the confidentiality of medical records.

"(v) To voice grievances without discrimination or reprisal.

"(vi) To examine the results of State certification program inspections.

"(vii) To refuse to perform services for the facility.

"(viii) To be provided privacy in communications and to receive mail.

"(ix) To have the facility provide immediate access to any resident by any representative of the certification program, the resident's individual physician, the State long term care ombudsman, and any person the resident has designated as a visitor.

"(x) To retain and use personal property.

"(xi) To be free from abuse, including verbal, sexual, physical and mental abuse, corporal punishment, and involuntary se-

clusion, and from any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms. Restraints may only be imposed—

"(I) to ensure the physical safety of the resident or other residents; and

"(II) only upon the written order of a physician that specifies the duration and circumstances under which the restraints are to be used, except in emergency circumstances specified by the Secretary until such an order could reasonably be obtained.

"(xii) To reside and receive services with reasonable accommodation of individual needs and preferences, except where the health or safety of the individual or other residents would be endangered.

"(xiii) To be provided with 30 days prior written notice of a pending transfer or discharge.

"(xiv) To request an assessment under section 2117(c)(1)(B).

"(E) PROCESS FOR ESTABLISHMENT.—The procedures and standards established by the State for facilities under this paragraph shall be promulgated either through the State's legislative, regulatory, or other process, and may only take effect after the State has provided the public with notice and an opportunity for comment.

"(2) CERTIFICATION PROGRAM.—

"(A) IN GENERAL.—Each medicaid plan shall provide for the establishment and operation of a program consistent with the requirements of subparagraph (B) for the certification of nursing facilities which follow the procedures and meet the standards established under paragraph (1) and the decertification of facilities which fail to follow such procedures or to meet such standards.

"(B) REQUIREMENTS FOR PROGRAM.—In addition to any other requirements the State may impose, in establishing and operating the certification program under subparagraph (A), the State shall ensure the following:

"(i) The State shall ensure public access (as defined by the State) to the cer-

tification program's evaluations of participating facilities, including compliance records and enforcement actions and other reports by the State regarding the ownership, compliance histories, and services provided by certified facilities.

"(ii) Not less often than every 4 years, the State shall audit its expenditures under the program, through an entity designated by the State which is not affiliated with the program, as designated by the State.

"(b) INTERMEDIATE SANCTION AUTHORITY.—

"(1) AUTHORITY.—In addition to any other authority under State law, where a State determines that a nursing facility which is certified for participation under the medicaid plan no longer substantially meets the requirements for such a facility under this title and further determines that the facility's deficiencies—

"(A) immediately jeopardize the health and safety of its residents, the State shall at least provide for the termination of the facility's certification for participation under the plan; or

"(B) do not immediately jeopardize the health and safety of its residents, the State may, in lieu of providing for terminating the facility's certification for participation under the plan, provide lesser sanctions including one that provides that no payment will be made under the plan with respect to any individual admitted to such facility after a date specified by the State.

"(2) NOTICE AND OPPORTUNITY FOR HEARING.—The State shall not make such a decision with respect to a facility until the facility has had a reasonable opportunity, following the initial determination that it no longer substantially meets the requirements for such a facility under the plan, to correct its deficiencies, and, following this period, has been given reasonable notice and opportunity for a hearing.

"(3) EFFECTIVENESS.—The State's decision to deny payment may be made effective only after such notice to the public and to the facility as may be provided for by the State, and its effectiveness shall terminate at the earlier of—

"(A) when the State finds that the facility is in substantial compliance (or is making good

faith efforts to achieve substantial compliance) with the requirements for such a facility under this title; or

"(B) in the case described in paragraph (1)(B), with the end of the eleventh month following the month such decision is made effective.

If a facility to which subparagraph (B) applies still fails to substantially meet the provisions of the respective section on the date specified in such clause, the State shall terminate such facility's certification for participation under the medicaid plan effective with the first day of the first month following the month specified in such clause.

"(4) NOTICE TO OMBUDSMAN.—The State shall provide notice of any findings of noncompliance by a facility and notice of any adverse action taken against the facility to the State long-term care ombudsman.

"SEC. 2138. OTHER PROVISIONS PROMOTING PROGRAM INTEGRITY.

"(a) PUBLIC ACCESS TO SURVEY RESULTS.—Each medicaid plan shall provide that upon completion of a survey of any health care facility or organization by a State agency to carry out the plan, the agency shall make public

in readily available form and place the pertinent findings of the survey relating to the compliance of the facility or organization with requirements of law.

"(b) RECORD KEEPING.—Each medicaid plan shall provide for agreements with persons or institutions providing services under the plan under which the person or institution agrees—

"(1) to keep such records, including ledgers, books, and original evidence of costs, as are necessary to fully disclose the extent of the services provided to individuals receiving assistance under the plan; and

"(2) to furnish the State agency with such information regarding any payments claimed by such person or institution for providing services under the plan, as the State agency may from time to time request.

"PART E—ESTABLISHMENT AND AMENDMENT OF MEDICAID PLANS

"SEC. 2151. SUBMITTAL AND APPROVAL OF MEDICAID PLANS.

"(a) SUBMITTAL.—As a condition of receiving funding under part C, each State shall submit to the Secretary a medicaid plan that meets the applicable requirements of this title.

"(b) APPROVAL.—Except as the Secretary may provide under section 2153, a medicaid plan submitted under subsection (a)—

"(1) shall be approved for purposes of this title; and

"(2) shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than the first calendar quarter that begins at least 60 days after the date the plan is submitted.

"SEC. 2152. SUBMITTAL AND APPROVAL OF PLAN AMENDMENTS.

"(a) SUBMITTAL OF AMENDMENTS.—A State may amend, in whole or in part, its medicaid plan at any time through transmittal of a plan amendment under this section.

"(b) APPROVAL.—Except as the Secretary may provide under section 2153, an amendment to a medicaid plan submitted under subsection (a)—

"(1) shall be approved for purposes of this title; and

"(2) shall be effective as provided in subsection (c).

"(c) EFFECTIVE DATES FOR AMENDMENTS.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, an amendment to med-

icaid plan shall take effect on one or more effective dates specified in the amendment.

"(2) AMENDMENTS RELATING TO ELIGIBILITY OR BENEFITS.—Except as provided in paragraph (4):

"(A) NOTICE REQUIREMENT.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan may not take effect unless the State certifies that it has provided prior or contemporaneous public notice of the change, in a form and manner provided under applicable State law.

"(B) TIMELY TRANSMITTAL.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan shall not be effective for longer than a 60-day period unless the amendment has been transmitted to the Secretary before the end of such period.

"(3) OTHER AMENDMENTS.—Subject to paragraph (4), any plan amendment that is not described in paragraph (2) that becomes effective in a State fiscal year may not remain in effect after the end of such fiscal year (or, if later, the end of the 90-day period on which it becomes effective) unless the amendment has been transmitted to the Secretary.

"(4) EXCEPTION.—The requirements of paragraphs (2) and (3) shall not apply to a plan amendment that is submitted on a timely basis pursuant to a court order or an order of the Secretary.

"SEC. 2153. SANCTIONS FOR SUBSTANTIAL NONCOMPLIANCE.

"(a) PROMPT REVIEW OF PLAN SUBMITTALS.—The Secretary shall promptly review medicaid plans and plan amendments submitted under this part to determine if they substantially comply with the requirements of this title.

"(b) DETERMINATIONS OF SUBSTANTIAL NONCOMPLIANCE.—

"(1) AT TIME OF PLAN OR AMENDMENT SUBMITTAL.—

"(A) IN GENERAL.—If the Secretary, during the 30-day period beginning on the date of submittal of a medicaid plan or plan amendment—

"(i) determines that the plan or amendment substantially violates (within the meaning of subsection (c)) a requirement of this title; and

"(ii) provides written notice of such determination to the State,

the Secretary shall issue an order specifying that the plan or amendment, insofar as it is in substantial violation of such a requirement, shall not be effective, except as provided in subsection (c), beginning at the end of a period of not less than 30 days (or 120 days in the case of the initial submission of the medicaid plan) specified in the order beginning on the date of the notice of the determination.

"(B) EXTENSION OF TIME PERIODS.—The time periods specified in subparagraph (A) may be extended by written agreement of the Secretary and the State involved.

"(2) VIOLATIONS IN ADMINISTRATION OF PLAN.—

"(A) IN GENERAL.—If the Secretary determines, after reasonable notice and opportunity for a hearing for the State, that in the administration of a medicaid plan there is a substantial violation of a requirement of this title, the Secretary shall provide the State with written notice of the determination and with an order to remedy such violation. Such an order shall become effective prospectively, as specified in the order, after the date of receipt of such written

notice. Such an order may include the withholding of funds, consistent with subsection (f), for parts of the medicaid plan affected by such violation, until the Secretary is satisfied that the violation has been corrected.

"(B) EFFECTIVENESS.—If the Secretary issues an order under paragraph (1), the order shall become effective, except as provided in subsection (c), beginning at the end of a period (of not less than 30 days) specified in the order beginning on the date of the notice of the determination to the State.

"(C) TIMELINESS OF DETERMINATIONS RELATING TO REPORT-BASED COMPLIANCE.—The Secretary shall make determinations under this paragraph respecting violations relating to information contained in an annual report under section 2102, an independent evaluation under section 2103, or an audit report under section 2131 not later than 30 days after the date of transmittal of the report or evaluation to the Secretary.

"(3) CONSULTATION WITH STATE.—Before making a determination adverse to a State under

this section, the Secretary shall (within any time periods provided under this section)—

"(A) reasonably consult with the State involved;

"(B) offer the State a reasonable opportunity to clarify the submission and submit further information to substantiate compliance with the requirements of this title; and

"(C) reasonably consider any such clarifications and information submitted.

"(4) JUSTIFICATION OF ANY INCONSISTENCIES IN DETERMINATIONS.—If the Secretary makes a determination under this section that is, in whole or in part, inconsistent with any previous determination issued by the Secretary under this title, the Secretary shall include in the determination a detailed explanation and justification for any such difference.

"(5) SUBSTANTIAL VIOLATION DEFINED.—For purposes of this title, a medicaid plan (or amendment to such a plan) or the administration of the medicaid plan is considered to 'substantially violate' a requirement of this title if a provision of the plan or amendment (or an omission from the plan or amendment) or the administration of the plan—

"(A) is material and substantial in nature and effect; and

"(B) is inconsistent with an express requirement of this title.

A failure to meet a strategic objective or performance goal (as described in section 2101) shall not be considered to substantially violate a requirement of this title.

"(c) STATE RESPONSE TO ORDERS.—

"(1) STATE RESPONSE BY REVISING PLAN.—

"(A) IN GENERAL.—Insofar as an order under subsection (b)(1) relates to a substantial violation by a medicaid plan or plan amendment, a State may respond (before the date the order becomes effective) to such an order by submitting a written revision of the plan or plan amendment to substantially comply with the requirements of this part.

"(B) REVIEW OF REVISION.—In the case of submission of such a revision, the Secretary shall promptly review the submission and shall withhold any action on the order during the period of such review.

"(C) SECRETARIAL RESPONSE.—The revision shall be considered to have corrected the

deficiency (and the order rescinded insofar as it relates to such deficiency) unless the Secretary determines and notifies the State in writing, within 15 days after the date the Secretary receives the revision, that the plan or amendment, as proposed to be revised, still substantially violates a requirement of this title. In such case the State may respond by seeking reconsideration or a hearing under paragraph (2).

"(D) REVISION RETROACTIVE.—If the revision provides for substantial compliance, the revision may be treated, at the option of the State, as being effective either as of the effective date of the provision to which it relates or such later date as the State and Secretary may agree.

"(2) STATE RESPONSE BY SEEKING RECONSIDERATION OR AN ADMINISTRATIVE HEARING.—A State may respond to an order under subsection (b) by filing a request with the Secretary for—

"(A) a reconsideration of the determination, pursuant to subsection (d)(1); or

"(B) a review of the determination through an administrative hearing, pursuant to subsection (d)(2).

In such case, the order shall not take effect before the completion of the reconsideration or hearing.

"(3) STATE RESPONSE BY CORRECTIVE ACTION PLAN.—

"(A) IN GENERAL.—In the case of an order described in subsection (b)(2) that relates to a substantial violation in the administration of the medicaid plan, a State may respond to such an order by submitting a corrective action plan with the Secretary to correct deficiencies in the administration of the plan which are the subject of the order.

"(B) REVIEW OF CORRECTIVE ACTION PLAN.—In such case, the Secretary shall withhold any action on the order for a period (not to exceed 30 days) during which the Secretary reviews the corrective action plan.

"(C) SECRETARIAL RESPONSE.—The corrective action plan shall be considered to have corrected the deficiency (and the order rescinded insofar as it relates to such deficiency) unless the Secretary determines and notifies the State in writing, within 15 days after the date the Secretary receives the corrective action plan, that the State's administration of the

medicaid plan, as proposed to be corrected in the plan, will still substantially violate a requirement of this title. In such case the State may respond by seeking reconsideration or a hearing under paragraph (2).

"(4) STATE RESPONSE BY WITHDRAWAL OF PLAN AMENDMENT; FAILURE TO RESPOND.—Insofar as an order relates to a substantial violation in a plan amendment submitted, a State may respond to such an order by withdrawing the plan amendment and the medicaid plan shall be treated as though the amendment had not been made.

"(d) ADMINISTRATIVE REVIEW AND HEARING.—

"(1) RECONSIDERATION.—Within 30 days after the date of receipt of a request under subsection (b)(2)(A), the Secretary shall notify the State of the time and place at which a hearing will be held for the purpose of reconsidering the Secretary's determination. The hearing shall be held not less than 20 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State agree in writing to holding the hearing at another time. The Secretary shall affirm, modify, or reverse the original determination within 60 days of the conclusion of the hearing.

"(2) ADMINISTRATIVE HEARING.—Within 30 days after the date of receipt of a request under subsection (b)(2)(B), an administrative law judge shall schedule a hearing for the purpose of reviewing the Secretary's determination. The hearing shall be held not less than 20 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State agree in writing to holding the hearing at another time. The administrative law judge shall affirm, modify, or reverse the determination within 60 days of the conclusion of the hearing.

"(e) JUDICIAL REVIEW.—

"(1) IN GENERAL.—A State which is dissatisfied with a final determination made by the Secretary under subsection (d)(1) or a final determination of an administrative law judge under subsection (d)(2) may, within 60 days after it has been notified of such determination, file with the United States court of appeals for the circuit in which the State is located a petition for review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary and, in the case of a determination under subsection (d)(2), to the administrative law judge involved. The

Secretary (or judge involved) thereupon shall file in the court the record of the proceedings on which the final determination was based, as provided in section 2112 of title 28, United States Code.

"(2) STANDARD FOR REVIEW.—The findings of fact by the Secretary or administrative law judge, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary or judge to take further evidence, and the Secretary or judge may thereupon make new or modified findings of fact and may modify a previous determination, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) JURISDICTION OF APPELLATE COURT.—The court shall have jurisdiction to affirm the action of the Secretary or judge or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(f) WITHHOLDING OF FUNDS.—

"(1) IN GENERAL.—Any order under this section relating to the withholding of funds shall be effective not earlier than the effective date of the order and shall only relate to the portions of a medicaid plan or administration thereof which substantially violate a requirement of this title. In the case of a failure to meet a set-aside requirement under section 2112, any withholding shall only apply to the extent of such failure.

"(2) SUSPENSION OF WITHHOLDING.—The Secretary may suspend withholding of funds under paragraph (1) during the period reconsideration or administrative and judicial review is pending under subsection (d) or (e).

"(3) RESTORATION OF FUNDS.—Any funds withheld under this subsection under an order shall be immediately restored to a State—

"(A) to the extent and at the time the order is—

"(i) modified or withdrawn by the Secretary upon reconsideration,

"(ii) modified or reversed by an administrative law judge, or

"(iii) set aside (in whole or in part) by an appellate court; or

"(B) when the Secretary determines that the deficiency which was the basis for the order is corrected;

"(C) when the Secretary determines that violation which was the basis for the order is resolved or the amendment which was the basis for the order is withdrawn; or

"(D) at any time upon the initiative of the Secretary.

"SEC. 2154. SECRETARIAL AUTHORITY.

"(a) NEGOTIATED AGREEMENT AND DISPUTE RESOLUTION.—

"(1) NEGOTIATIONS.—Nothing in this part shall be construed as preventing the Secretary and a State from at any time negotiating a satisfactory resolution to any dispute concerning the approval of a medicaid plan (or amendments to a medicaid plan) or the compliance of a medicaid plan (including its administration) with requirements of this title.

"(2) COOPERATION.—The Secretary shall act in a cooperative manner with the States in carrying out this title. In the event of a dispute between a State and the Secretary, the Secretary shall, whenever practicable, engage in informal dispute resolution ac-

tivities in lieu of formal enforcement or sanctions under section 2153.

"(b) LIMITATIONS ON DELEGATION OF DECISION-MAKING AUTHORITY.—The Secretary may not delegate (other than to the Administrator of the Health Care Financing Administration) the authority to make determinations or reconsiderations respecting the approval of medicaid plans (or amendments to such plans) or the compliance of a medicaid plan (including its administration) with requirements of this title. Such Administrator may not further delegate such authority to any individual, including any regional official of such Administration.

"(c) REQUIRING FORMAL RULEMAKING FOR CHANGES IN SECRETARIAL ADMINISTRATION.—The Secretary shall carry out the administration of the program under this title only through a prospective formal rulemaking process, including issuing notices of proposed rule making, publishing proposed rules or modifications to rules in the Federal Register, and soliciting public comment.

"PART F—GENERAL PROVISIONS

"SEC. 2171. DEFINITIONS.

"(a) MEDICAL ASSISTANCE.—

"(1) IN GENERAL.—For purposes of this title, except as provided in paragraphs (2) and (3), the

term 'medical assistance' means payment of part or all the cost of any of the following for eligible low-income individuals (as defined in subsection (b)) as specified under the medicaid plan:

"(A) Inpatient hospital services.

"(B) Outpatient hospital services.

"(C) Physician services.

"(D) Surgical services.

"(E) Clinic services and other ambulatory health care services.

"(F) Nursing facility services.

"(G) Intermediate care facility services for the mentally retarded.

"(H) Prescription drugs and biologicals.

"(I) Over-the-counter medications.

"(J) Laboratory and radiological services.

"(K) Family planning services and supplies.

"(L) Acute inpatient mental health services, including services furnished in a State-operated mental hospital and including residential or other 24-hour therapeutically planned structured services in the case of a child.

"(M) Outpatient and intensive community-based mental health services, including psychia-

trist rehabilitation, day treatment, intensive in-home services for children, and partial hospitalization.

''(N) Durable medical equipment and other medically-related or remedial devices (such as prosthetic devices, implants, eyeglasses, hearing aids, dental devices, and adaptive devices).

''(O) Disposable medical supplies.

''(P) Home and community-based services and related supportive services (such as home health nursing services, home health aide services, personal care, assistance with activities of daily living, chore services, day care services, respite care services, training for family members, and minor modifications to the home).

''(Q) Community supported living arrangements.

''(R) Nursing care services (such as nurse practitioner services, nurse midwife services, advanced practice nurse services, private duty nursing care, pediatric nurse services, and respiratory care services) in a home, school, or other setting.

''(S) Dental services.

"(T) Inpatient substance abuse treatment services and residential substance abuse treatment services.

"(U) Outpatient substance abuse treatment services.

"(V) Case management services.

"(W) Care coordination services.

"(X) Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

"(Y) Hospice care.

"(Z) Any other medical, diagnostic, screening, preventive, restorative, remedial, therapeutic, or rehabilitative services (whether in a facility, home, school, or other setting) if recognized by State law and if the service is—

"(i) prescribed by or furnished by a physician or other licensed or registered practitioner within the scope of practice as defined by State law,

"(ii) performed under the general supervision or at the direction of a physician, or

"(iii) furnished by a health care facility that is operated by a State or local gov-

ernment or is licensed under State law and operating within the scope of the license.

"(AA) Premiums for private health care insurance coverage, including private long-term care insurance coverage.

"(BB) Medical transportation.

"(CC) Medicare cost-sharing (as defined in subsection (c)).

"(DD) Enabling services (such as transportation, translation, and outreach services) designed to increase the accessibility of primary and preventive health care services for eligible low-income individuals.

"(EE) Any other health care services or items specified by the Secretary.

"(2) EXCLUSION OF CERTAIN PAYMENTS.—Such term does not include the payment with respect to care or services for—

"(A) any individual who is an inmate of a public institution (except as a patient in a State psychiatric hospital); and

"(B) any individual who is not an eligible low-income individual.

"(3) CLARIFICATION OF VACCINE PURCHASES.—Such term includes, for any fiscal year,

payment for the purchase of vaccines through contracts negotiated with the Centers for Disease Control and Prevention under section 317 of the Public Health Service Act, but only if—

"(A) the State has expended all grant funds available for such purchase under such section 317 for all fiscal years preceding such fiscal year; and

"(B) the total number of doses of each vaccine purchased during such year does not exceed—

"(i) the number of doses of each vaccine sufficient to immunize, according to the immunization schedule specified by the State, the annual birth cohort of children in targeted low-income families (as defined in section 2112(a)(3)), less

"(ii) 75 percent of the number of doses of each vaccine purchased by the State during the preceding fiscal year with funds available under such section 317.

"(b) ELIGIBLE LOW-INCOME INDIVIDUAL.—For purposes of this title, the term 'eligible low-income individual' means an individual who has been determined eligible by the State for medical assistance under the medicaid plan

and whose family income (as determined under the plan) does not exceed a percentage (specified in the medicaid plan and not to exceed 250 percent) of the poverty line applicable to a family of the size involved. In determining the amount of income under the previous sentence, a State may exclude costs incurred for medical care or other types of remedial care recognized by the State.

"(c) MEDICARE COST-SHARING.—For purposes of this title, the term 'medicare cost-sharing' means any of the following:

"(1)(A) Premiums under section 1839.

"(B) Premiums under section 1818 or 1818A.

"(2) Coinsurance under title XVIII, including coinsurance described in section 1813.

"(3) Deductibles established under title XVIII, including those described in section 1813 and section 1833(b).

"(4) The difference between the amount that is paid under section 1833(a) and the amount that would be paid under such section if any reference to '80 percent' therein were deemed a reference to '100 percent'.

"(5) Premiums for enrollment of an individual with an eligible organization under section 1876 or

with a Medicare Choice organization under part D of title XVIII.

"(d) ADDITIONAL DEFINITIONS.—For purposes of this title:

"(1) CHILD.—The term 'child' means an individual under 19 years of age.

"(2) POVERTY LINE DEFINED.—The term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section).

"(3) PREGNANT WOMAN.—The term 'pregnant woman' includes a woman during the 60-day period beginning on the last day of the pregnancy.

"(4) RETIREMENT AGE.—The term 'retirement age' has the meaning given such term by section 216(*l*)(1).

"SEC. 2172. TREATMENT OF TERRITORIES.

"Notwithstanding any other requirement of this title, the Secretary may waive or modify any requirement of this title with respect to the medical assistance program for a State other than the 50 States and the District of Columbia, other than a waiver of—

"(1) the Federal medical assistance percentage;

"(2) the limitation on total payments in a fiscal year to the amount of the allotment under section 2121(c); or

"(3) the requirement that payment may be made for medical assistance only with respect to amounts expended by the State for care and services described in paragraph (1) of section 2171(a) and medically-related services (as defined in section 2112(d)(2)).

"SEC. 2173. DESCRIPTION OF TREATMENT OF INDIAN HEALTH PROGRAMS.

"In the case of a State in which one or more Indian health programs described in section 2122(f)(2) are operated, the medicaid plan shall include a description of—

"(1) what provision (if any) has been made for payment for items and services furnished by such programs; and

"(2) the manner in which medical assistance for low-income eligible individuals who are Indians will be provided, as determined by the State in consultation with the appropriate Indian tribes and tribal organizations.

"SEC. 2174. APPLICATION OF CERTAIN GENERAL PROVISIONS.

"The following sections in part A of title XI shall apply to States under this title in the same manner as they applied to a State under title XIX:

"(1) Section 1101(a)(1) (relating to definition of State).

"(2) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with the provisions of part C.

"(3) Section 1124 (relating to disclosure of ownership and related information).

"(4) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(5) Section 1132 (relating to periods within which claims must be filed).".

(b) ANTI-FRAUD PROVISIONS.—

(1) IN GENERAL.—Section 1128(h)(1) (42 U.S.C. 1320a–7(h)(1)) is amended by inserting "or a medicaid plan under title XXI" after "title XIX".

(2) PENALTIES FOR THE FRAUDULENT CONVERSION OF ASSETS IN ORDER TO OBTAIN MEDICAID BENEFITS.—Section 1128B(b) (42 U.S.C. 1320a–7b(b)) is amended by striking "or" at the end of paragraph (4), by inserting "or" at the end of para-

graph (5), and by inserting after paragraph (5) the following new paragraph:

"(6) knowingly and willfully converts assets, by transfer (including any transfer in trust), aiding in such a transfer, or otherwise, in order for an individual to become eligible for benefits under a State health care program,".

(3) CONTINUED ROLE OF INSPECTOR GENERAL.—The Inspector General in the Department of Health and Human Services shall have the same responsibilities and duties in relation to fraud and abuse and related matters under the medicaid program under title XXI of the Social Security Act as such Inspector General has had in relation to the medicaid program under title XIX of such Act before the date of the enactment of this Act.

(c) CERTIFIED AMOUNT FOR PUERTO RICO.—Paragraph (1) of section 1108(c) (42 U.S.C. 1308(c)) is amended by striking "$116,500,000 for fiscal year 1994" and inserting "$200,000,000 for fiscal year 1996".

(d) TERMINATION OF PROGRAM FOR DISTRIBUTION OF PEDIATRIC VACCINES

(1) IN GENERAL.—Subject to paragraph (2), section 1928 (42 U.S.C. 1396s) is repealed, effective on the date of the enactment of this Act.

(2) TRANSITION.—

(A) NO EFFECT ON CERTAIN DISTRIBUTIONS.—Such repeal shall not affect the distribution of vaccines purchased and delivered to the States before the date of the enactment of this Act.

(B) NO PURCHASES AFTER ENACTMENT.—No vaccine may be purchased after the date of the enactment of this Act by the Federal Government or any State under section 1928(d) of the Social Security Act.

(e) TERMINATION OF CURRENT PROGRAM; LIMITATION ON MEDICAID PAYMENTS IN FISCAL YEAR 1996.—

(1) IN GENERAL.—Title XIX is amended—

(A) by redesignating section 1931 as section 1932; and

(B) by inserting after section 1930 the following new section:

"TERMINATION OF PROGRAM; LIMITATION ON NEW OBLIGATION AUTHORITY

"SEC. 1931. (a) ELIMINATION OF INDIVIDUAL ENTITLEMENT.—Effective on the date of the enactment of this section—

"(1) except as provided in subsection (b), the Federal Government has no obligation to provide

payment with respect to items and services provided under this title; and

"(2) this title shall not be construed as providing for an entitlement, under Federal law in relation to the Federal Government, in an individual or person (including any provider) at the time of provision or receipt of services.

"(b) LIMITATION ON OBLIGATION AUTHORITY.—Notwithstanding any other provision of this title—

"(1) AFTER ENACTMENT, BEFORE NEW MEDICAID.—Subject to paragraph (2), the Secretary is authorized to enter into obligations with any State under this title for expenses incurred after the date of the enactment of this section and during fiscal year 1996, but not in excess of the obligation allotment for that State for fiscal year 1996 under section 2121(a)(4)(C).

"(2) NONE AFTER NEW MEDICAID.—The Secretary is not authorized to enter into any obligation with any State under this title for expenses incurred on or after the earlier of—

"(A) October 1, 1996; or

"(B) the first day of the first quarter on which the State plan under title XXI is first effective.

"(3) AGREEMENT.—A State's submission of claims for payment under section 1903 after the date of the enactment of this section with respect to which the limitation described in paragraph (1) applies is deemed to constitute the State's acceptance of the obligation limitation under such paragraph, including the formula for computing the amount of such obligation limitation.

"(c) REQUIREMENT FOR TIMELY SUBMITTAL OF CLAIMS.—No payment shall be made to a State under this title with respect to an obligation incurred before the date of the enactment of this section, unless the State has submitted to the Secretary, by not later than June 30, 1996, a claim for Federal financial participation for expenses paid by the State with respect to such obligations. Nothing in subsection (a) or (b) shall be construed as affecting the obligation of the Federal Government to pay claims described in the previous sentence.".

(2) REPEAL OF TITLE.—Title XIX is repealed effective October 1, 1996.

(f) MEDICAID TRANSITION.—

(1) TREATMENT OF CERTAIN CAUSES OF ACTION.—No cause of action under title XIX of the Social Security Act which seeks to require a State to establish or maintain minimum payment rates

under such title or claim which seeks reimbursement for any period before the date of the enactment of this Act based on the alleged failure of the State to comply with title XIX and which has not become final as of such date shall be brought or continued.

(2) TREATMENT OF CERTAIN DISALLOWANCES.—Notwithstanding any provision of law, in the case where payment has been made under section 1903(a) of the Social Security Act to a State before October 1, 1995, and for which a disallowance has not been taken as of such date (or, if so taken, has not been completed (including judicial review) by such date), the Secretary of Health and Human Services shall discontinue the disallowance proceeding and, if such disallowance has been taken as of the date of the enactment of this Act, any payment reductions effected shall be rescinded and the payments returned to the State.

(3) EXTENSION OF MORATORIUM.—Section 6408(a)(3) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 13642 of the Omnibus Budget Reconciliation Act of 1993, is amended by striking ''December 31, 1995'' and inserting ''the first day of the first quarter on which

the medicaid plan for the State of Michigan is first effective under title XXI of such Act''.

(g) NO APPLICATION OF PRIOR MEDICAID JUDGMENTS TO NEW MEDICAID PROGRAM.—No judicial or administrative decision rendered regarding requirements imposed under title XIX of the Social Security Act with respect to a State shall have any application to the medicaid plan of the State title XXI of such Act. A State may, pursuant to the previous sentence, seek the abrogation or modification of any such decision after the date of termination of the State plan under title XIX of such Act.

(h) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation, as appropriate, with the heads of other Federal agencies, shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of, and amendments made by, sections 7191 and 7192.

(2) TRANSITIONAL RULE.—Any reference in any provision of law to title XIX of the Social Security Act or any provision thereof shall be deemed to

be a reference to such title or provision as in effect on the day before the date of the enactment of this Act.

SEC. 7192. MEDICAID DRUG REBATE PROGRAM.

(a) IN GENERAL.—Title XXI, as added by section 7191, is amended—

(1) in section 2123, by adding at the end the following new subsection:

"(j) LIMITATION ON PAYMENT FOR CERTAIN OUTPATIENT PRESCRIPTION DRUGS.—

"(1) IN GENERAL.—No payment shall be made to a State under this part for medical assistance for covered outpatient drugs (as defined in section 2175(j)(2)) of a manufacturer provided under the medicaid plan unless the manufacturer (as defined in section 2175(j)(5)) of the drug—

"(A) has entered into a medicaid rebate agreement with the Secretary under section 2175; and

"(B) is otherwise complying with the provisions of such section.

"(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State to participate in the medicaid rebate agreement under section 2175.

"(3) USE OF SUPPLEMENTAL REBATES PROHIBITED.—No payment shall be made under this part to a State that requires manufacturer rebates for covered outpatient drugs (as so defined) in excess of the rebate amount payable under section 2175."; and

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

"SEC. 2175. MEDICAID DRUG REBATE AGREEMENTS.

"(a) REQUIREMENT FOR REBATE AGREEMENT.—

"(1) IN GENERAL.—Pursuant to section 2123(j), in order for payment to be made to a State under part C for medical assistance for covered outpatient drugs of a manufacturer, the manufacturer must have entered into and have in effect a rebate agreement described in subsection (b) with the Secretary, on behalf of States (except that, the Secretary may authorize a State to enter directly into agreements with a manufacturer), and must meet the requirements of paragraph (5) (with respect to drugs purchased by a covered entity on or after the first day of the first month that begins after the date of the enactment of title VI of the Veterans Health Care Act of 1992 and paragraph (6). Any such agreement entered into prior to May 1, 1991,

shall be deemed to have been entered into on January 1, 1991, and the amount of the rebate to be paid by the manufacturer under such agreement shall be calculated as if the agreement had been entered into on January 1, 1991. If a manufacturer has not entered into such an agreement before May 1, 1991, such an agreement, subsequently entered into, shall not be effective until the first day of the calendar quarter that begins more than 60 days after the date the agreement is entered into.

"(2) EFFECTIVE DATE.—Paragraph (1) shall apply to drugs dispensed under this title on or after January 1, 1991, except that such paragraph shall not apply to drugs dispensed before May 1, 1991, if the Secretary determines that there were extenuating circumstances with respect to the first calendar quarter of 1991.

"(3) AUTHORIZING PAYMENT FOR DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Paragraph (1) shall not apply to the dispensing of a covered outpatient drug if—

"(A) the State has made a determination that the availability of such drug is essential to the health of beneficiaries under the medicaid plan;

"(B) the drug has been given a rating of 1–A or 1–P by the Food and Drug Administration; and

"(C)(i) the physician has obtained approval for the use of the drug in advance of dispensing such drug in accordance with a prior authorization program described in subsection (d)(5), or

"(ii) the Secretary has reviewed and approved the State's determination under subparagraph (A).

"(3) AUTHORIZING PAYMENT FOR DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Paragraph (1) shall not apply to the dispensing of a covered outpatient drug if (A)(i) the State has made a determination that the availability of the drug is essential to the health of beneficiaries under the medicaid plan for medical assistance; (ii) such drug has been given a rating of 1-A by the Food and Drug Administration; and (iii)(I) the physician has obtained approval for use of the drug in advance of its dispensing in accordance with a prior authorization program described in subsection (d), or (II) the Secretary has reviewed and approved the State's determination under subparagraph (A); or (B) the Sec-

retary determines that in the first calendar quarter of 1991, there were extenuating circumstances.

"(4) EFFECT ON EXISTING AGREEMENTS.—

"(A) IN GENERAL.—In the case of a rebate agreement in effect between a State and a manufacturer on the date of the enactment of title IV of the Omnibus Budget Reconciliation Act of 1990, such agreement, for the initial agreement period specified therein, shall be considered to be a rebate agreement in effect under this section with respect to that State, if the State agrees to report to the Secretary any rebates paid pursuant to the agreement and such agreement provides for a minimum aggregate rebate of 10 percent of the sum of the amounts determined under subparagraph (B) for all of the manufacturer's drugs paid for by the State under the agreement. If, after the initial agreement period, the State establishes to the satisfaction of the Secretary that an agreement in effect on the date of the enactment of title IV of the Omnibus Budget Reconciliation Act of 1990 provides for rebates that are at least as large as the rebates otherwise required under this section, and the State agrees to report any

rebates under the agreement to the Secretary, the agreement shall be considered to be a rebate agreement in compliance with the section for the renewal periods of such agreement.

"(B) AMOUNT DETERMINED.—The amount determined under this subparagraph with respect to a manufacturer's drug paid for by a State under an agreement described in the first sentence of subparagraph (A) is an amount equal to the product of—

"(i) the average manufacturer's price for such drug; and

"(ii) the number of dosage units of such drug paid for by the State under such agreement.

"(5) LIMITATION ON PRICES OF DRUGS PURCHASED BY COVERED ENTITIES.—

"(A) AGREEMENT WITH SECRETARY.—A manufacturer meets the requirements of this paragraph if the manufacturer has entered into an agreement with the Secretary that meets the requirements of section 340B of the Public Health Service Act with respect to covered outpatient drugs purchased by a covered entity on or after the first day of the first month that

begins after the date of the enactment of title VI of the Veterans Health Care Act of 1992.

"(B) COVERED ENTITY DEFINED.—In this subsection, the term 'covered entity' means an entity described in section 340B(a)(4) of the Public Health Service Act.

"(C) ESTABLISHMENT OF ALTERNATIVE MECHANISM TO ENSURE AGAINST DUPLICATE DISCOUNTS OR REBATES.—If the Secretary does not establish a mechanism under section 340B(a)(5)(A) of the Public Health Service Act within 12 months of the date of the enactment of such section, the following requirements shall apply:

"(i) Each covered entity shall inform the single State agency under this title when it is seeking reimbursement from the medicaid plan for medical assistance with respect to a unit of any covered outpatient drug which is subject to an agreement under section 340B(a) of such Act.

"(ii) Each such single State agency shall provide a means by which a covered entity shall indicate on any drug reimbursement claims form (or format, where

electronic claims management is used) that a unit of the drug that is the subject of the form is subject to an agreement under section 340B of such Act, and not submit to any manufacturer a claim for a rebate payment under subsection (b) with respect to such a drug.

"(D) EFFECT OF SUBSEQUENT AMENDMENTS.—In determining whether an agreement under subparagraph (A) meets the requirements of section 340B of the Public Health Service Act, the Secretary shall not take into account any amendments to such section that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992.

"(E) DETERMINATION OF COMPLIANCE.—A manufacturer is deemed to meet the requirements of this paragraph if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 340B of the Public Health Service Act (as in effect immediately after the enactment title VI of the Veterans Health Care Act of 1992, and would have entered into an agreement under

such section (as such section was in effect at such time), but for a legislative change in such section after such enactment.

"(6) REQUIREMENTS RELATING TO MASTER AGREEMENTS FOR DRUGS PROCURED BY DEPARTMENT OF VETERANS AFFAIRS AND CERTAIN OTHER FEDERAL AGENCIES.—

"(A) IN GENERAL.—A manufacturer meets the requirements of this paragraph if the manufacturer complies with the provisions of section 8126 of title 38, United States Code, including the requirement of entering into a master agreement with the Secretary of Veterans Affairs under such section.

"(B) EFFECT OF SUBSEQUENT AMENDMENTS.—In determining whether a master agreement described in subparagraph (A) meets the requirements of section 8126 of title 38, United States Code, the Secretary shall not take into account any amendments to such section that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992.

"(C) DETERMINATION OF COMPLIANCE.—A manufacturer is deemed to meet the require-

ments of this paragraph if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 8126 of title 38, United States Code (as in effect immediately after the enactment of title VI of the Veterans Health Care Act of 1992) and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after such enactment.

''(b) TERMS OF REBATE AGREEMENT.—

''(1) PERIODIC REBATES.—

''(A) IN GENERAL.—A rebate agreement under this subsection shall require the manufacturer to provide, to each medicaid plan approved under this title, a rebate for a rebate period in an amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed after December 31, 1990, for which payment was made under the medicaid plan for such period. Such rebate shall be paid by the manufacturer not later than 30 days after the date of receipt of the information described in paragraph (2) for the period involved.

"(B) OFFSET AGAINST MEDICAL ASSISTANCE.—Amounts received by a State under this section (or under an agreement authorized by the Secretary under subsection (a)(1) or an agreement described in subsection (a)(4)) in any quarter shall be considered to be a reduction in the amount expended under the medicaid plan in the quarter for medical assistance for purposes of this title.

"(2) STATE PROVISION OF INFORMATION.—

"(A) STATE RESPONSIBILITY.—Each State agency under this title shall report to each manufacturer not later than 60 days after the end of each rebate period and in a form consistent with a standard reporting format established by the Secretary, information on the total number of units of each dosage form and strength and package size of each covered outpatient drug dispensed after December 31, 1990, for which payment was made under the plan for the period, and shall promptly transmit a copy of such report to the Secretary.

"(B) AUDITS.—A manufacturer may audit the information provided (or required to be provided) under subparagraph (A). Adjustments to

rebates shall be made to the extent that information indicates that utilization was greater or less than the amount previously specified.

"(3) MANUFACTURER PROVISION OF PRICE INFORMATION.—

"(A) IN GENERAL.—Each manufacturer with an agreement in effect under this section shall report to the Secretary—

"(i) not later than 30 days after the last day of each rebate period under the agreement (beginning on or after January 1, 1991), on the average manufacturer price (as defined in subsection (j)(1)) and, for single source drugs and innovator multiple source drugs, the manufacturer's best price (as defined in subsection (c)(1)(C)) for each covered outpatient drug for the rebate period under the agreement; and

"(ii) not later than 30 days after the date of entering into an agreement under this section on the average manufacturer price (as defined in subsection (j)(1)) as of October 1, 1990, for each of the manufacturer's covered outpatient drugs.

"(B) VERIFICATION SURVEYS OF AVERAGE MANUFACTURER PRICE.—The Secretary may survey wholesalers and manufacturers that directly distribute their covered outpatient drugs, when necessary, to verify manufacturer prices reported under subparagraph (A). The Secretary may impose a civil monetary penalty in an amount not to exceed $10,000 on a wholesaler, manufacturer, or direct seller, if the wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a request for information by the Secretary in connection with a survey under this subparagraph. The provisions of section 1128A (other than subsections (a) (with respect to amounts of penalties or additional assessments) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(C) PENALTIES.—

"(i) FAILURE TO PROVIDE TIMELY INFORMATION.—In the case of a manufacturer with an agreement under this section that fails to provide information required under subparagraph (A) on a timely basis,

the amount of the penalty shall be $10,000 for each day in which such information has not been provided and such amount shall be paid to the Treasury. If such information is not reported within 90 days of the deadline imposed, the agreement shall be suspended for services furnished after the end of such 90-day period and until the date such information is reported (but in no case shall such suspension be for a period of less than 30 days).

''(ii) FALSE INFORMATION.—Any manufacturer with an agreement under this section, or a wholesaler or direct seller, that knowingly provides false information under subparagraph (A) or (B) is subject to a civil money penalty in an amount not to exceed $100,000 for each item of false information. Any such civil money penalty shall be in addition to other penalties as may be prescribed by law. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provi-

sions apply to a penalty or proceeding under section 1128A(a).

"(D) CONFIDENTIALITY OF INFORMATION.—Notwithstanding any other provision of law, information disclosed by manufacturers or wholesalers under this paragraph or under an agreement with the Secretary of Veterans Affairs described in subsection (a)(6)(A)(ii) is confidential and shall not be disclosed by the Secretary or the Secretary of Veterans Affairs or a State agency (or contractor therewith) in a form which discloses the identity of a specific manufacturer or wholesaler or the prices charged for drugs by such manufacturer or wholesaler, except—

"(i) as the Secretary determines to be necessary to carry out this section;

"(ii) to permit the Comptroller General to review the information provided; and

"(iii) to permit the Director of the Congressional Budget Office to review the information provided.

"(4) LENGTH OF AGREEMENT.—

"(A) IN GENERAL.—A rebate agreement shall be effective for an initial period of not less than 1 year and shall be automatically renewed for a period of not less than 1 year unless terminated under subparagraph (B).

"(B) TERMINATION.—

"(i) BY THE SECRETARY.—The Secretary may provide for termination of a rebate agreement for violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 60 days after the date of notice of such termination. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, but such hearing shall not delay the effective date of the termination. Failure of a State to provide any advance notice of such a termination as required by regulation shall not affect the State's right to terminate coverage of the drugs affected by such termination as of the effective date of such termination.

"(ii) BY A MANUFACTURER.—A manufacturer may terminate a rebate agree-

ment under this section for any reason. Any such termination shall not be effective until the calendar quarter beginning at least 60 days after the date the manufacturer provides notice to the Secretary.

"(iii) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

"(iv) NOTICE TO STATES.—In the case of a termination under this subparagraph, the Secretary shall provide notice of such termination to the States within not less than 30 days before the effective date of such termination.

"(v) APPLICATION TO TERMINATIONS OF OTHER AGREEMENTS.—The provisions of this subparagraph shall apply to the terminations of agreements described in section 340B(a)(1) of the Public Health Service Act and master agreements described in section 8126(a) of title 38, United States Code.

"(C) DELAY BEFORE REENTRY.—In the case of any rebate agreement with a manufacturer under this section which is terminated, another such agreement with the manufacturer (or a successor manufacturer) may not be entered into until a period of 1 calendar quarter has elapsed since the date of the termination, unless the Secretary finds good cause for an earlier reinstatement of such an agreement.

"(5) SETTLEMENT OF DISPUTES.—

"(A) SECRETARY.—The Secretary shall have the authority to resolve, settle, and compromise disputes regarding the amounts of rebates owed under this section.

"(B) STATE.—Each State, with respect to covered outpatient drugs paid for under the State's medicaid plan, shall have authority, independent of the Secretary' authority under subparagraph (A), to resolve, settle, and compromise disputes regarding the amounts of rebates owed under this section. Any such action shall be deemed to comply with the requirements of this title, and such covered outpatient drugs shall be eligible for payment under the medicaid plan approved under this title.

"(C) AMOUNT OF REBATE.—The Secretary shall limit the amount of the rebate payable in any case in which the Secretary determines that, because of unusual circumstances or questionable data, the provisions of subsection (c) result in a rebate amount that is inequitable or otherwise inconsistent with the purposes of this section.

"(c) DETERMINATION OF AMOUNT OF REBATE.—

"(1) BASIC REBATE FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) IN GENERAL.—Except as provided in paragraph (2), the amount of the rebate specified in this subsection for a rebate period (as defined in subsection (j)(8)) with respect to each dosage form and strength of a single source drug or an innovator multiple source drug shall be equal to the product of—

"(i) the total number of units of each dosage form and strength paid for under the medicaid plan in the rebate period (as reported by the State); and

"(ii) subject to subparagraph (B)(ii), the greater of—

"(I) the difference between the average manufacturer price and the best price (as defined in subparagraph (C)) for the dosage form and strength of the drug, or

"(II) the minimum rebate percentage (specified in subparagraph (B)(i)) of such average manufacturer price,

of or the rebate period.

"(B) MINIMUM REBATE PERCENTAGE.—For purposes of subparagraph (A)(ii)(II), the minimum rebate percentage for rebate periods beginning after December 31, 1995, is 15.1 percent.

"(C) BEST PRICE DEFINED.—For purposes of this section:

"(i) IN GENERAL.—The term 'best price' means, with respect to a single source drug or innovator multiple source drug of a manufacturer, the lowest price available from the manufacturer during the rebate period to any wholesaler, retailer, provider, health maintenance organization,

nonprofit entity, or governmental entity within the United States, excluding—

"(I) any prices charged on or after October 1, 1992, to the Indian Health Service, the Department of Veterans Affairs, a State home receiving funds under section 1741 of title 38, United States Code, the Department of Defense, the Public Health Service, or a covered entity described in subsection (a)(5)(B);

"(II) any prices charged under the Federal Supply Schedule of the General Services Administration;

"(III) any prices used under a State pharmaceutical assistance program; and

"(IV) any depot prices and single award contract prices, as defined by the Secretary, of any agency of the Federal Government.

"(ii) SPECIAL RULES.—The term 'best price'—

"(I) shall be inclusive of cash discounts, free goods that are contingent

on any purchase requirement, volume discounts, and rebates (other than rebates under this section);

"(II) shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package; and

"(III) shall not take into account prices that are merely nominal in amount.

"(2) ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) IN GENERAL.—The amount of the rebate specified in this subsection for a rebate period, with respect to each dosage form and strength of a single source drug or an innovator multiple source drug, shall be increased by an amount equal to the product of—

"(i) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the medicaid plan for the rebate period; and

"(ii) the amount (if any) by which—

"(I) the average manufacturer price for the dosage form and strength of the drug for the period, exceeds

"(II) the average manufacturer price for such dosage form and strength for the calendar quarter beginning July 1, 1990 (without regard to whether or not the drug has been sold or transferred to an entity, including a division or subsidiary of the manufacturer, after the first day of such quarter), increased by the percentage by which the consumer price index for all urban consumers (United States city average) for the month before the month in which the rebate period begins exceeds such index for September 1990.

"(B) TREATMENT OF SUBSEQUENTLY APPROVED DRUGS.—In the case of a covered outpatient drug approved by the Food and Drug Administration after October 1, 1990, clause (ii)(II) of subparagraph (A) shall be applied by substituting 'the first full calendar quarter after

the day on which the drug was first marketed' for 'the calendar quarter beginning July 1, 1990' and 'the month prior to the first month of the first full calendar quarter after the day on which the drug was first marketed' for 'September 1990'.

''(3) REBATE FOR OTHER DRUGS.—

''(A) IN GENERAL.—The amount of the rebate paid to a State for a rebate period with respect to each dosage form and strength of covered outpatient drugs (other than single source drugs and innovator multiple source drugs) shall be equal to the product of—

''(i) the applicable percentage (as described in subparagraph (B)) of the average manufacturer price for the dosage form and strength for the rebate period; and

''(ii) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the medicaid plan for the rebate period.

"(B) APPLICABLE PERCENTAGE DEFINED.—For purposes of subparagraph (A)(i), the 'applicable percentage' is 11 percent.

"(4) REBATE LIMITED TO AMOUNT OF STATE PAYMENT IF DRUG PRIMARILY DISPENSED TO NURSING FACILITY PATIENTS.—

"(A) IN GENERAL.—Upon request of the manufacturer of a covered outpatient drug, the Secretary shall limit, in accordance with subparagraph (B), the amount of the rebate under this subsection with respect to a dosage form and strength of such drug if the majority of the estimated number of units of such dosage form and strength that are subject to rebates under this section were dispensed to inpatients of nursing facilities.

"(B) AMOUNT OF REBATE.—In the case of a covered outpatient drug subject to subparagraph (A), the amount of the rebate specified in this subsection for a rebate period, with respect to each dosage form and strength of such drug, shall not exceed the amount paid under the medicaid plan with respect to such dosage form and strength of the drug in the rebate period

(without consideration of any dispensing fees paid).

"(5) SUPPLEMENTAL REBATES PROHIBITED.—No rebates shall be required to be paid by manufacturers with respect to covered outpatient drugs furnished to individuals in any State that provides for the collection of such rebates in excess of the rebate amount payable under this section.

"(d) LIMITATIONS ON COVERAGE OF DRUGS.—

"(1) PERMISSIBLE RESTRICTIONS.—

"(A) IN GENERAL.—A State may subject to prior authorization any covered outpatient drug. Any such prior authorization program shall comply with the requirements of paragraph (5).

"(B) ADDITIONAL RESTRICTIONS.—A State may exclude or otherwise restrict coverage of a covered outpatient drug if—

"(i) the drug is contained in the list referred to in paragraph (2);

"(ii) the drug is subject to such restrictions pursuant to an agreement between a manufacturer and a State authorized by the Secretary under subsection

(a)(1) or in effect pursuant to subsection (a)(4); or

"(iii) the State has excluded coverage of the drug from its formulary established in accordance with paragraph (4).

"(2) LIST OF DRUGS SUBJECT TO RESTRICTION.—The following drugs or classes of drugs, or their medical uses, may be excluded from coverage or otherwise restricted:

"(A) Agents when used for anorexia, weight loss, or weight gain.

"(B) Agents when used to promote fertility.

"(C) Agents when used for cosmetic purposes or hair growth.

"(D) Agents when used for the symptomatic relief of cough and colds.

"(E) Agents when used to promote smoking cessation.

"(F) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations.

"(G) Nonprescription drugs.

"(H) Covered outpatient drugs which the manufacturer seeks to require as a condition of

sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee.

"(I) Barbiturates.

"(J) Benzodiazepines.

"(3) ADDITIONS TO DRUG LISTINGS.—The Secretary shall, by regulation, periodically add to the list of drugs or classes of drugs described in paragraph (2), or their medical uses, which the Secretary has determined to be subject to clinical abuse or inappropriate use.

"(4) REQUIREMENTS FOR FORMULARIES.—A State may establish a formulary if the formulary meets the following requirements:

"(A) The formulary is developed by a committee consisting of physicians, pharmacists, and other appropriate individuals appointed by the Governor of the State (or, at the option of the State, the State's drug use review board established under subsection (f)(3)).

"(B) Except as provided in subparagraph (C), the formulary includes the covered outpatient drugs of any manufacturer which has entered into and complies with an agreement under subsection (a) (other than any drug ex-

1 cluded from coverage or otherwise restricted
2 under paragraph (2)).
3 "(C) A covered outpatient drug may be ex-
4 cluded with respect to the treatment of a spe-
5 cific disease or condition for an identified popu-
6 lation (if any) only if, based on the drug's label-
7 ing (or, in the case of a drug the prescribed use
8 of which is not approved under the Federal
9 Food, Drug, and Cosmetic Act but is a medi-
10 cally accepted indication, based on information
11 from the appropriate compendia described in
12 subsection (j)(6)), the excluded drug does not
13 have a significant, clinically meaningful thera-
14 peutic advantage in terms of safety, effective-
15 ness, or clinical outcome of such treatment for
16 such population over other drugs included in
17 the formulary and there is a written expla-
18 nation (available to the public) of the basis for
19 the exclusion.
20 "(D) The medicaid plan permits coverage
21 of a drug excluded from the formulary (other
22 than any drug excluded from coverage or other-
23 wise restricted under paragraph (2)) pursuant
24 to a prior authorization program that is consist-
25 ent with paragraph (5).

"(E) The formulary meets such other requirements as the Secretary may impose in order to achieve program savings consistent with protecting the health of program beneficiaries.

A prior authorization program established by a State under paragraph (5) is not a formulary subject to the requirements of this paragraph.

"(5) REQUIREMENTS OF PRIOR AUTHORIZATION PROGRAMS.—A medicaid plan approved under this title may require, as a condition of coverage or payment for a covered outpatient drug for which Federal financial participation is available in accordance with this section, with respect to drugs dispensed on or after July 1, 1991, the approval of the drug before its dispensing for any medically accepted indication (as defined in subsection (j)(6)) only if the system providing for such approval—

"(A) provides response by telephone or other telecommunication device within 24 hours of a request for prior authorization; and

"(B) except with respect to the drugs on the list referred to in paragraph (2), provides for the dispensing of at least 72-hour supply of a covered outpatient prescription drug in an

emergency situation (as defined by the Secretary).

"(6) OTHER PERMISSIBLE RESTRICTIONS.—A State may impose limitations, with respect to all such drugs in a therapeutic class, on the minimum or maximum quantities per prescription or on the number of refills, if such limitations are necessary to discourage waste, and may address instances of fraud or abuse by individuals in any manner authorized under this Act.

"(e) ESTABLISHMENT OF UPPER PAYMENT LIMITS.—The Health Care Financing Administration shall establish a Federal upper reimbursement limit for each multiple source drug for which the FDA has rated three or more products therapeutically and pharmaceutically equivalent, regardless of whether all such additional formulations are rated as such and shall use only such formulations when determining any such upper limit.

"(f) DRUG USE REVIEW.—

"(1) IN GENERAL.—A State participating in the medicaid rebate agreement may provide for a drug use review program to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians,

pharmacists, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs.

"(2) APPLICATION OF STATE STANDARDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a State with a drug use review program under this subsection shall establish and operate the program under such standards as it may establish.

"(B) DATA ON DRUG USE.—The program shall assess data on drug use against predetermined standards, consistent with—

"(i) compendia which shall consist of—

"(I) American Hospital Formulary Service Drug Information,

"(II) United States Pharmacopeia-Drug Information,

"(III) the DRUGDEX Information System, and

"(IV) American Medical Association Drug Evaluations; and

"(ii) the peer-reviewed medical literature.

"(g) ELECTRONIC CLAIMS MANAGEMENT.—In accordance with chapter 35 of title 44, United States Code (relating to coordination of Federal information policy), the Secretary shall encourage each State to establish, as its principal means of processing claims for covered outpatient drugs under its medicaid plan, a point-of-sale electronic claims management system, for the purpose of performing on-line, real time eligibility verifications, claims data capture, adjudication of claims, and assisting pharmacists (and other authorized persons) in applying for and receiving payment.

"(h) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than May 1 of each year, the Secretary shall transmit to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives a report on the operation of this section in the preceding fiscal year.

"(2) DETAILS.—Each report shall include information on—

"(A) ingredient costs paid under this title for single source drugs, multiple source drugs, and nonprescription covered outpatient drugs;

"(B) the total value of rebates received and number of manufacturers providing such rebates;

"(C) the effect of inflation on the value of rebates required under this section;

"(D) trends in prices paid under this title for covered outpatient drugs; and

"(E) Federal and State administrative costs associated with compliance with the provisions of this title.

"(i) EXEMPTION FOR CAPITATED HEALTH CARE ORGANIZATIONS, HOSPITALS, AND NURSING FACILITIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the requirements of the medicaid rebate agreement under this section shall not apply with respect to covered outpatient drugs dispensed by or through—

"(A) a capitated health care organization (as defined in section 2114(c)(1)); or

"(B) a hospital or nursing facility that dispenses covered outpatient drugs using a drug formulary system and bills the State no more than the hospital's purchasing costs for covered outpatient drugs.

"(2) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in paragraph (1) shall be construed as excluding amounts paid by the entities described in such paragraph for covered outpatient drugs from the determination of the best price (as defined in subsection (c)(1)(C)) for such drugs.

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

"(1) AVERAGE MANUFACTURER PRICE.—The term 'average manufacturer price' means, with respect to a covered outpatient drug of a manufacturer for a rebate period, the average price paid to the manufacturer for the drug in the United States by wholesalers for drugs distributed to the retail pharmacy class of trade, after deducting customary prompt pay discounts.

"(2) COVERED OUTPATIENT DRUG.—Subject to the exceptions in paragraph (3), the term 'covered outpatient drug' means—

"(A) of those drugs which are treated as prescribed drugs for purposes of this title, a drug which may be dispensed only upon prescription (except as provided in subparagraph (D)); and—

"(i) which is approved as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act,

"(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act, or

"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of

Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for some or all conditions of use prescribed, recommended, or suggested in its labeling;

''(B) a biological product, other than a vaccine which—

''(i) may only be dispensed upon prescription,

''(ii) is licensed under section 351 of the Public Health Service Act, and

''(iii) is produced at an establishment licensed under such section to produce such product;

''(C) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act; and

''(D) a drug which may be sold without a prescription (commonly referred to as an 'over-

the-counter drug'), if the drug is prescribed by a physician (or other person authorized to prescribe under State law).

"(3) LIMITING DEFINITION.—The term 'covered outpatient drug' does not include any drug, biological product, or insulin provided as part of, or as incident to and in the same setting as, any of the following (and for which payment may be made under this title as part of payment for the following and not as direct reimbursement for the drug):

"(A) Inpatient hospital services.

"(B) Hospice services.

"(C) Dental services, except that drugs for which the medicaid plan authorizes direct reimbursement to the dispensing dentist are covered outpatient drugs.

"(D) Physicians' services.

"(E) Outpatient hospital services.

"(F) Nursing facility services and services provided by an intermediate care facility for the mentally retarded.

"(G) Other laboratory and x-ray services.

"(H) Renal dialysis services.

Such term also does not include any such drug or product for which a National Drug Code number is

not required by the Food and Drug Administration or a drug or biological used for a medical indication which is not a medically accepted indication. Any drug, biological product, or insulin excluded from the definition of such term as a result of this paragraph shall be treated as a covered outpatient drug for purposes of determining the best price (as defined in subsection (c)(1)(C)) for such drug, biological product, or insulin.

''(4) OVER-THE-COUNTER DRUG.—The term 'over-the-counter drug' means a drug that may be sold without a prescription.

''(5) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug, the entity holding legal title to or possession of the National Drug Code number for such drug.

''(6) MEDICALLY ACCEPTED INDICATION.—The term 'medically accepted indication' means any use for a covered outpatient drug which is approved under the Federal Food, Drug, and Cosmetic Act, or the use of which is supported by one or more citations included or approved for inclusion in any of the compendia described in subsection (f)(2)(B)(i).

"(7) MULTIPLE SOURCE DRUG; INNOVATOR MULTIPLE SOURCE DRUG; NONINNOVATOR MULTIPLE SOURCE DRUG; SINGLE SOURCE DRUG.—

"(A) DEFINED.—

"(i) MULTIPLE SOURCE DRUG.—The term 'multiple source drug' means, with respect to a rebate period, a covered outpatient drug (not including any drug described in paragraph (2)(D)) for which there are 2 or more drug products which—

"(I) are rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of 'Approved Drug Products with Therapeutic Equivalence Evaluations');

"(II) except as provided in subparagraph (B), are pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C) and as determined by the Food and Drug Administration; and

"(III) are sold or marketed in the State during the period.

"(ii) INNOVATOR MULTIPLE SOURCE DRUG.—The term 'innovator multiple source drug' means a multiple source drug that was originally marketed under a new drug application or product licensing application approved by the Food and Drug Administration.

"(iii) NONINNOVATOR MULTIPLE SOURCE DRUG.—The term 'noninnovator multiple source drug' means a multiple source drug that is not an innovator multiple source drug.

"(iv) SINGLE SOURCE DRUG.—The term 'single source drug' means a covered outpatient drug (not including any drug described in paragraph (2)(D)) which is produced or distributed under a new drug application or product licensing application approved by the Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributors operating under the new drug application or product licensing application.

"(B) EXCEPTION.—Subparagraph (A)(i)(II) shall not apply if the Food and Drug

Administration changes by regulation the requirement that, for purposes of the publication described in subparagraph (A)(i)(I), in order for drug products to be rated as therapeutically equivalent, they must be pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C).

"(C) SPECIAL RULES.—For purposes of this paragraph—

"(i) drug products are pharmaceutically equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity;

"(ii) drugs are bioequivalent if they do not present a known or potential bioequivalence problem, or, if they do present such a problem, they are shown to meet an appropriate standard of bioequivalence; and

"(iii) a drug product is considered to be sold or marketed in a State if it appears in a published national listing of average

wholesale prices selected by the Secretary, if the listed product is generally available to the public through retail pharmacies in that State.

"(8) REBATE PERIOD.—The term 'rebate period' means, with respect to an agreement under subsection (a), a calendar quarter or other period specified by the Secretary with respect to the payment of rebates under such agreement.

"(9) STATE AGENCY.—The term 'State agency' means the agency designated under this title to administer or supervise the administration of the medicaid plan for medical assistance.".

(b) MEDICAID DRUG REBATE PROGRAM TASK FORCE.—

(1) IN GENERAL.—Not later than June 1, 1998, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall provide for the establishment of a Medicaid Drug Rebate Program Task Force (in this subsection referred to as the "Task Force").

(2) COMPOSITION.—The Task Force shall consist of volunteer representatives appointed by—

(A) the chair and vice chair of the National Governors Association (NGA);

(B) the National Association of State Medicaid Directors;

(C) associations representing the prescription and generic drug industries;

(D) an association representing pharmacies; and

(E) an association representing the interests of medicaid recipients.

(3) DUTIES.—The Task Force shall study whether the medicaid drug rebate program under section 2175 of the Social Security Act, as added by this section, should be retained or repealed. The study shall assess—

(A) the extent to which State medicaid programs rely on the drug rebate program to manage prescription drug expenditures;

(B) the impact of repealing the program on recipient access to prescription drugs and pharmacy services;

(C) the impact of retaining the program on the prescription and generic drug industries; and

(D) the likely actions States would take to manage prescription drug expenditures in the absence of drug rebate revenue.

(4) ADMINISTRATIVE ASSISTANCE.—Administrative support for the Task Force shall be provided by the Agency for Health Care Policy and Research (or, in the absence of such Agency, the Secretary).

(5) REPORT.—Not later than October 1, 1998, the Task Force shall report the results of the study to the Secretary. The report shall be transmitted to the Committee on Finance and Special Committee on Aging of the Senate and the Committee on Commerce of the House of Representatives.

(c) CLERICAL AMENDMENT.—The table of sections for title XXI, as added by section 7191(a), is amended by adding at the end the following new item:

"Sec. 2175. Medicaid drug rebate agreements.".

(d) SPECIAL EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect as if included in the amendment made by section 7191.

(2) RETROACTIVE APPLICATION OF CERTAIN PROVISIONS.—Subsections (b)(5), (c)(4), and (c)(5) of section 2175 of the Social Security Act, as added by this section, shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1990.

SEC. 7193. WAIVERS.

(a) CONTINUATION OF WAIVERS.—

(1) IN GENERAL.—Except as provided in paragraph (2), if any waiver granted to a State under section 1115 of the Social Security Act (42 U.S.C. 1315) or otherwise which relates to the provision of assistance under a State plan under title XIX of such Act has been implemented as of September 1, 1995, the waiver may continue, at the option of the State, subject to the terms and conditions of such waiver.

(2) FINANCING LIMITATION.—Notwithstanding any other provision of law, beginning with fiscal year 1996, a State operating under a waiver described in paragraph (1) shall receive the payment provided for in the waiver to the extent such payment does not exceed the payment under title XXI of the Social Security Act, as added by section 7191(a), such State would otherwise receive for the fiscal year.

(b) STATE OPTION TO TERMINATE WAIVER.—

(1) IN GENERAL.—A State may terminate a waiver described in subsection (a) before the expiration of the waiver.

(2) REPORT.—A State which terminates a waiver under paragraph (1) shall submit a report to the Secretary of Health and Human Services summariz-

ing the waiver and any available information concerning the result or effect of such waiver.

(3) HOLD HARMLESS PROVISION.—

(A) IN GENERAL.—Notwithstanding any other provision of law, a State that, not later than the date described in subparagraph (B), submits a written request to terminate a waiver described in subsection (a) shall be held harmless for accrued cost neutrality liabilities incurred under the terms and conditions of such waiver.

(B) DATE DESCRIBED.—The date described in this subparagraph is the later of—

(i) January 1, 1996; or

(ii) 90 days following the adjournment of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(c) CONTINUATION OF INDIVIDUAL WAIVERS.—A State may elect to continue one or more individual waivers described in subsection (a)(1).

SEC. 7194. CHILDREN WITH SPECIAL HEALTH CARE NEEDS.

(a) CLASSIFICATION SYSTEM TO IDENTIFY CHILDREN WITH SPECIAL HEALTH CARE NEEDS.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall, through the Health Care Financing Administration, develop a national, quantifiable classification system to identify children with special health care needs.

(2) CHILDREN WITH SPECIAL HEALTH CARE NEEDS.—For purposes of this section, children with special health care needs are children—

(A) with conditions which are, or can be anticipated to be, of at least a year's duration, and

(B) who require services significantly greater than well children.

(3) REQUIREMENTS OF CLASSIFICATION SYSTEM.—The classification system developed in accordance with this section—

(A) shall be based on commonly recognized diagnostic codes;

(B) shall be compatible with State and health plan data systems;

(C) shall be capable of serving as a basis for identifying such children and their medical

expenditures and monitoring the quality of care received; and

(D) shall incorporate the consideration of the severity status, prognosis, and desired outcome for each such child, including tertiary prevention, maintenance of function, or improvement of function.

(b) DEMONSTRATION PROJECTS TO USE CLASSIFICATION SYSTEM AND TO PROVIDE METHODS OF ASSURING QUALITY CARE FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS.—

(1) IN GENERAL.—Upon completion of the development of the classification system under subsection (a), the Secretary shall make grants to not more than 5 States to conduct 5-year demonstration projects in accordance with this subsection for the purpose of—

(A) testing the reliability and validity of such classification system;

(B) developing methods of assuring quality care for children with special health care needs; and

(C) providing for initial methods for identifying children with special health care needs based on diagnoses accounting for the majority

of the chronic conditions affecting children in the State which are likely to require significant medical interventions whether in number of interventions or costs.

Each State grant may be used without fiscal year limitation.

(2) REQUIREMENTS OF PROJECT.—

(A) IN GENERAL.—A project conducted in accordance with this subsection shall provide that the State in developing methods described in paragraph (1)(B), shall develop—

(i) adequate capitation rates specific to children with special health care needs; and

(ii) quality indicators, including system performance standards, care guidelines for specific populations, outcomes measures, and patient and parent satisfaction.

(B) APPROPRIATE REPRESENTATIVES.—The design and implementation of such a project shall include representatives of providers of services to such children and appropriate State agencies and programs.

(3) APPLICATIONS.—Each State desiring to conduct a demonstration project under this sub-

section, including projects which are statewide, substate, or regional in cooperation with a contiguous State or States, shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(4) REPORTS.—A State that conducts a demonstration project under this section shall prepare and submit to the Secretary annual and final reports in such form and containing such information as the Secretary may require.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of fiscal years 1997, 1998, 1999, 2000, and 2001 for the purpose of conducting demonstration projects in accordance with this subsection.

SEC. 7195. CBO REPORTS.

(a) STUDY.—The Director of the Congressional Budget Office shall prepare an annual analysis of the effects of the amendments made by section 7191 on the health insurance status of children, individuals who have attained retirement age, and the disabled.

(b) REPORT.—The Director of the Congressional Budget Office shall submit a report of the results of the analysis required under subsection (a) by May 15 of each

year to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives.

Subtitle C—Block Grants for Temporary Assistance for Needy Families

SEC. 7200. SHORT TITLE.

This subtitle may be cited as the ''Work Opportunity Act of 1995''.

SEC. 7201. BLOCK GRANTS TO STATES.

(a) REPEALS.—

(1) IN GENERAL.—Parts A and F of title IV (42 U.S.C. 601 et seq. and 682 et seq.) are hereby repealed.

(2) RULES AND REGULATIONS.—The Secretary of Health and Human Services shall ensure that any rules and regulations relating to the provisions of law repealed in paragraph (1) shall cease to have effect on and after the date of the repeal of such provisions.

(b) BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES WITH MINOR CHILDREN.—Title IV (42 U.S.C. 601 et seq.) is amended by inserting before part B the following:

"PART A—BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES WITH MINOR CHILDREN

"SEC. 400. NO INDIVIDUAL ENTITLEMENT.

''Notwithstanding any other provision of law, no individual is entitled to any assistance under this part.

"SEC. 401. PURPOSE.

''The purpose of this part is to increase the flexibility of States in operating a program designed to—

''(1) provide assistance to needy families with minor children;

''(2) provide job preparation and opportunities for such families; and

''(3) prevent and reduce the incidence of out-of-wedlock pregnancies, with a special emphasis on teenage pregnancies, and establish annual goals for preventing and reducing such pregnancies with respect to fiscal years 1996 through 2000.

"SEC. 402. ELIGIBLE STATES; STATE PLAN.

''(a) IN GENERAL.—As used in this part, the term 'eligible State' means, with respect to a fiscal year, a State that has submitted to the Secretary a plan that includes the following:

''(1) OUTLINE OF FAMILY ASSISTANCE PROGRAM.—A written document that outlines how the State intends to do the following:

"(A) Conduct a program designed to serve all political subdivisions in the State to—

"(i) provide assistance to needy families with not less than 1 minor child (or any expectant family); and

"(ii) provide a parent or caretaker in such families with work experience, assistance in finding employment, and other work preparation activities and support services that the State considers appropriate to enable such families to leave the program and become self-sufficient.

"(B) Require a parent or caretaker receiving assistance under the program to engage in work (as defined by the State) when the State determines the parent or caretaker is ready to engage in work, or after 24 months (whether or not consecutive) of receiving assistance under the program, whichever is earlier.

"(C) Satisfy the minimum participation rates specified in section 404.

"(D) Treat—

"(i) families with minor children moving into the State from another State; and

"(ii) noncitizens of the United States.

"(E) Safeguard and restrict the use and disclosure of information about individuals and families receiving assistance under the program.

"(F) Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies.

"(G) COMMUNITY SERVICE.—Not later than 2 years after the date of the enactment of this Act, consistent with the exception provided in section 404(d), require participation by, and offer to, unless the State opts out of this provision by notifying the Secretary, a parent or caretaker receiving assistance under the program, after receiving such assistance for 3 months—

"(i) is not exempt from work requirements; and

"(ii) is not engaged in work as determined under section 404(c),

in community service employment, with minimum hours per week and tasks to be determined by the State.

"(2) FAMILY ASSISTANCE PROGRAM STRATEGIC PLAN.—

"(A) IN GENERAL.—A single comprehensive State Family Assistance Program Strategic Plan (hereafter referred to in this section as the 'State Plan') describing a 3-year strategic plan for the statewide program designed to meet the State goals and reach the State benchmarks for program activities of the family assistance program.

"(B) CONTENTS OF THE STATE PLAN.—The State plan shall include:

"(i) STATE GOALS.—A description of the goals of the 3-year plan, including outcome related goals of and benchmarks for program activities of the family assistance program.

"(ii) CURRENT YEAR PLAN.—A description of how the goals and benchmarks described in clause (i) will be achieved, or how progress toward the goals and benchmarks will be achieved, during the fiscal year in which the plan has been submitted.

"(iii) PERFORMANCE INDICATORS.—A description of performance indicators to be used in measuring or assessing the rel-

evant output service levels and outcomes of relevant program activities.

"(iv) EXTERNAL FACTORS.—Information on those key factors external to the program and beyond the control of the State that could significantly affect the attainment of the goals and benchmarks.

"(v) EVALUATION MECHANISMS.—Information on a mechanism for conducting program evaluation, to be used to compare actual results with the goals and benchmarks and designate the results on a scale ranging from highly successful to failing to reach the goals and benchmarks of the program.

"(vi) MINIMUM PARTICIPATION RATES.—Information on how the minimum participation rates specified in section 404 will be satisfied.

"(vii) ESTIMATE OF EXPENDITURES.—An estimate of the total amount of State or local expenditures under the program for the fiscal year in which the plan is submitted.

"(3) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD SUPPORT ENFORCEMENT PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child support enforcement program under the State plan approved under part D.

"(4) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD PROTECTION PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child protection program under the State plan approved under part B.

"(5) CERTIFICATION THAT THE STATE WILL OPERATE A FOSTER CARE AND ADOPTION ASSISTANCE PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a foster care and adoption assistance program under the State plan approved under part E.

"(6) CERTIFICATION THAT THE STATE WILL PARTICIPATE IN THE INCOME AND ELIGIBILITY VERIFICATION SYSTEM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will participate in the income and eligibility verification system required by section 1137.

"(7) CERTIFICATION OF THE ADMINISTRATION OF THE PROGRAM.—A certification by the chief executive officer of the State specifying which State agency or agencies are responsible for the administration and supervision of the State program for the fiscal year and ensuring that local governments and private sector organizations have been consulted regarding the plan and design of welfare services in the State so that services are provided in a manner appropriate to local populations.

"(8) CERTIFICATION THAT REQUIRED REPORTS WILL BE SUBMITTED.—A certification by the chief executive officer of the State that the State shall provide the Secretary with any reports required under this part.

"(b) CERTIFICATION THAT THE STATE WILL PROVIDE ACCESS TO INDIANS.—

"(1) IN GENERAL.—In recognition of the Federal Government's trust responsibility to, and government-to-government relationship with, Indian tribes, the Secretary shall ensure that Indians receive at least their equitable share of services under the State program, by requiring a certification by the chief executive officer of each State described in paragraph (2) that, during the fiscal year, the State

shall provide Indians in each Indian tribe that does not have a tribal family assistance plan approved under section 414 for a fiscal year with equitable access to assistance under the State program funded under this part.

"(2) STATE DESCRIBED.—For purposes of paragraph (1), a State described in this paragraph is a State in which there is an Indian tribe that does not have a tribal family assistance plan approved under section 414 for a fiscal year.

"(c) DISTRIBUTION OF STATE PLAN.—

"(1) PUBLIC AVAILABILITY OF SUMMARY.—The State shall make available to the public a summary of the State plan submitted under this section.

"(2) COPY TO AUDITOR.—The State shall provide the approved entity conducting the audit under section 408 with a copy of the State plan submitted under this section.

"(d) DEFINITIONS.—For purposes of this part, the following definitions shall apply:

"(1) ADULT.—The term 'adult' means an individual who is not a minor child.

"(2) MINOR CHILD.—The term 'minor child' means an individual—

"(A) who—

"(i) has not attained 18 years of age; or

"(ii) has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training); and

"(B) who resides with such individual's custodial parent or other caretaker relative.

"(3) FISCAL YEAR.—The term 'fiscal year' means any 12-month period ending on September 30 of a calendar year.

"(4) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the terms 'Indian', 'Indian tribe', and 'tribal organization' have the meaning given such terms by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(B) IN ALASKA.—For purposes of making tribal family assistance grants under section 414 on behalf of Indians in Alaska, the term 'Indian tribe' shall mean only the following Alaska Native regional nonprofit corporations:

"(i) Arctic Slope Native Association.

"(ii) Kawerak, Inc.

"(iii) Maniilaq Association.

"(iv) Association of Village Council Presidents.

"(v) Tanana Chiefs Conference.

"(vi) Cook Inlet Tribal Council.

"(vii) Bristol Bay Native Association.

"(viii) Aleutian and Pribilof Island Association.

"(ix) Chugachmuit.

"(x) Tlingit Haida Central Council.

"(xi) Kodiak Area Native Association.

"(xii) Copper River Native Association.

"(5) STATE.—Except as otherwise specifically provided, the term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa.

"SEC. 403. PAYMENTS TO STATES AND INDIAN TRIBES.

"(a) GRANT AMOUNT.—

"(1) IN GENERAL.—Subject to the provisions of paragraphs (3) and (5), section 407 (relating to penalties), and section 414(g), for each of fiscal years

1996, 1997, 1998, 1999, and 2000, the Secretary shall pay—

"(A) each eligible State a grant in an amount equal to the State family assistance grant for the fiscal year, for each of fiscal years 1998 and 1999, the amount of the State's job placement performance bonus determined under subsection (f)(1) for the fiscal year, and for fiscal year 2000, the amount of the State's share of the performance bonus and high performance bonus determined under section 418 for such fiscal year; and

"(B) each Indian tribe with an approved tribal family assistance plan a tribal family assistance grant in accordance with section 414.

"(2) STATE FAMILY ASSISTANCE GRANT.—

"(A) IN GENERAL.—

"(i) BASIC AMOUNT.—For purposes of paragraph (1)(A), a State family assistance grant for any State for a fiscal year is an amount equal to the sum of—

"(I) the total amount of the Federal payments to the State under section 403 (other than Federal payments to the State described in sub-

paragraphs (A), (B) and (C) of section 419(a)(2)) for fiscal year 1994 (as such section 403 was in effect during such fiscal year), plus

"(II) the total amount of the Federal payments to the State under subparagraphs (A), (B) and (C) of section 419(a)(2),

as such payments were reported by the State on February 14, 1995, and as adjusted under clause (ii).

"(ii) ADJUSTMENTS.—The payments described in clause (i) shall be—

"(I) reduced by the amount, if any, determined under subparagraph (B);

"(II) reduced by the amount determined under subsection (f)(2)(B);

"(III) reduced by the amount, if any, determined under subsection (i)(3)(C)(iii);

"(IV) for fiscal year 2000, reduced by the amount determined under section 418(a)(3); and

"(V) increased by the amount, if any, determined under subparagraph (D).

"(B) AMOUNT ATTRIBUTABLE TO CERTAIN INDIAN FAMILIES SERVED BY INDIAN TRIBES.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the amount determined under this subparagraph is an amount equal to the Federal payments to the State under this section for fiscal year 1994 (as in effect during such fiscal year) attributable to expenditures by the State under parts A and F of this title (as so in effect) for Indian families described in clause (ii).

"(ii) INDIAN FAMILIES DESCRIBED.—For purposes of clause (i), Indian families described in this clause are Indian families who reside in a service area or areas of an Indian tribe receiving a tribal family assistance grant under section 414.

"(C) NOTIFICATION.—Not later than 3 months prior to the payment of each quarterly installment of a State grant under subsection (a)(1), the Secretary shall notify the State of

the amount of the reduction determined under subparagraph (B) with respect to the State.

"(D) AMOUNT ATTRIBUTABLE TO STATE PLAN AMENDMENTS.—

"(i) IN GENERAL.—For purposes of subparagraph (A) and subject to the limitation in clause (ii), the amount determined under this subparagraph is an amount equal to the Federal payment under section 403(a)(5) to the State for emergency assistance in fiscal year 1995 under any State plan amendment made under section 402 during fiscal year 1994 (as such sections were in effect before the date of the enactment of the Work Opportunity Act of 1995).

"(ii) LIMITATION.—Amounts made available under clause (i) to all States shall not exceed $800,000,000 for the 5-fiscal year period beginning in fiscal year 1996. If amounts available under this subparagraph are less than the total amount of emergency assistance payments referred to in clause (i), the amount payable to a State shall be equal to an amount which

bears the same relationship to the total amount available under this clause as the State emergency assistance payment bears to the total amount of such payments.

"(iii) BUDGET SCORING.—Notwithstanding section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, the baseline shall assume that no grant shall be made under this subparagraph after fiscal year 2000.

"(3) SUPPLEMENTAL GRANT AMOUNT FOR POPULATION INCREASES IN CERTAIN STATES.—

"(A) IN GENERAL.—The amount of the grant payable under paragraph (1) to a qualifying State for each of fiscal years 1997, 1998, 1999, and 2000 shall be increased by an amount equal to 2.5 percent of the amount that the State received under this section in the preceding fiscal year.

"(B) INCREASE TO REMAIN IN EFFECT EVEN IF STATE FAILS TO QUALIFY IN LATER YEARS.—Subject to section 407, in no event shall the amount of a grant payable under paragraph (1) to a State for any fiscal year be

less than the amount the State received under this section for the preceding fiscal year.

"(C) QUALIFYING STATE.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'qualifying State', with respect to any fiscal year, means a State that—

"(I) had an average level of State welfare spending per poor person in the preceding fiscal year that was less than the national average level of State welfare spending per poor person in the preceding fiscal year; and

"(II) had an estimated rate of State population growth as determined by the Bureau of the Census for the most recent fiscal year for which information is available that was greater than the average rate of population growth for all States as determined by the Bureau of the Census for such fiscal year.

"(ii) CERTAIN STATES DEEMED QUALIFYING STATES.—For purposes of this paragraph, a State shall be deemed to

be a qualifying State for fiscal years 1997, 1998, 1999, and 2000 if—

"(I) the level of State welfare spending per poor person in fiscal year 1996 was less than 35 percent of the national average level of State welfare spending per poor person in fiscal year 1996; or

"(II) a State has extremely high population growth (which for purposes of this clause shall be defined as a greater than ten percent increase in population from April 1, 1990 to July 1, 1994, as determined by the Bureau of the Census).

"(iii) STATE MUST QUALIFY IN FISCAL YEAR 1997.—A State shall not be eligible to be a qualifying State under clause (i) for fiscal years after 1997 if the State was not a qualifying State under clause (i) in fiscal year 1997.

"(D) DEFINITIONS.—For purposes of this paragraph:

"(i) LEVEL OF STATE WELFARE SPENDING PER POOR PERSON.—The term

'level of State welfare spending per poor person' means, with respect to a State for any fiscal year—

"(I) the amount of the grant received by the State under this section (prior to the application of section 407); divided by

"(II) the number of the individuals in the State who had an income below the poverty line according to the 1990 decennial census.

"(ii) NATIONAL AVERAGE LEVEL OF STATE WELFARE SPENDING PER POOR PERSON.—The term 'national average level of State welfare spending per poor person' means an amount equal to—

"(I) the amount paid in grants under this section (prior to the application of section 407); divided by

"(II) the number of individuals in all States with an income below the poverty line according to the 1990 decennial census.

"(iii) POVERTY LINE.—The term 'poverty line' has the same meaning given such

term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

"(iv) STATE.—The term 'State' means each of the 50 States of the United States.

"(4) APPROPRIATION.—

"(A) STATES.—There are authorized to be appropriated and there are appropriated $16,803,769,000 for each fiscal year described in paragraph (1) for the purpose of paying—

"(i) grants to States under paragraph (1)(A); and

"(ii) tribal family assistance grants under paragraph (1)(B).

"(B) ADJUSTMENT FOR QUALIFYING STATES.—For the purpose of increasing the amount of the grant payable to a State under paragraph (1) in accordance with paragraph (3), there are authorized to be appropriated and there are appropriated—

"(i) for fiscal year 1997, $85,860,000;

"(ii) for fiscal year 1998, $173,276,000;

"(iii) for fiscal year 1999, $263,468,000; and

"(iv) for fiscal year 2000, $355,310,000.

"(5) WELFARE PARTNERSHIP.—

"(A) IN GENERAL.—The amount of the grant otherwise determined under paragraph (1) for fiscal year 1997, 1998, 1999, or 2000 shall be reduced by the amount by which State expenditures under the State program funded under this part for the preceding fiscal year is less than 80 percent of historic State expenditures.

"(B) HISTORIC STATE EXPENDITURES.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'historic State expenditures' means expenditures by a State under parts A and F of title IV for fiscal year 1994, as in effect during such fiscal year.

"(ii) HOLD HARMLESS.—In no event shall the historic State expenditures applicable to any fiscal year exceed the amount which bears the same ratio to the amount determined under clause (i) as—

"(I) the grant amount otherwise determined under paragraph (1) for the preceding fiscal year (without regard to section 407), bears to

"(II) the total amount of Federal payments to the State under section 403 for fiscal year 1994 (as in effect during such fiscal year).

"(C) DETERMINATION OF STATE EXPENDITURES FOR PRECEDING FISCAL YEAR.—

"(i) IN GENERAL.—For purposes of this paragraph, the expenditures of a State under the State program funded under this part for a preceding fiscal year shall be equal to the sum of the State's expenditures under the program in the preceding fiscal year for—

"(I) cash assistance;

"(II) child care assistance;

"(III) education, job training, and work;

"(IV) administrative costs; and

"(V) any other use of funds allowable under section 403(b)(1).

"(ii) TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—In determining State expenditures under clause (i), such expenditures shall not include funding supplanted by transfers from other State and local programs.

"(D) EXCLUSION OF FEDERAL AMOUNTS.—For purposes of this paragraph, State expenditures shall not include any expenditures from amounts made available by the Federal Government, State funds expended for the medicaid program under title XIX of this Act or any successor to such program, and any State funds which are used to match Federal funds or are expended as a condition of receiving Federal funds under Federal programs other than under this part.

"(b) USE OF GRANT.—

"(1) IN GENERAL.—Subject to this part, a State to which a grant is made under this section may use the grant—

"(A) in any manner that is reasonably calculated to accomplish the purpose of this part; or

"(B) in any manner that such State used amounts received under part A or F of this title, as such parts were in effect before October 1, 1995;

except that not more than 15 percent of the grant may be used for administrative purposes.

"(2) AUTHORITY TO TREAT INTERSTATE IMMIGRANTS UNDER RULES OF FORMER STATE.—A State to which a grant is made under this section may apply to a family some or all of the rules (including benefit amounts) of the program operated under this part of another State if the family has moved to the State from the other State and has resided in the State for less than 12 months.

"(3) AUTHORITY TO RESERVE CERTAIN AMOUNTS FOR ASSISTANCE.—A State may reserve amounts paid to the State under this part for any fiscal year for the purpose of providing, without fiscal year limitation, assistance under the State program operated under this part. In the case of amounts paid to the State that are set aside in accordance with section 419(a), the State may reserve such amounts for any fiscal year only for the purpose of providing without fiscal year limitation child care assistance under this part.

"(4) AUTHORITY TO OPERATE EMPLOYMENT PLACEMENT PROGRAM.—A State to which a grant is made under this section may use a portion of the grant to make payments (or provide job placement vouchers) to State-approved public and private job placement agencies that provide employment placement services to individuals who receive assistance under the State program funded under this part.

"(5) TRANSFERABILITY OF GRANT AMOUNTS.—A State may use up to 30 percent of amounts received from a grant under this part for a fiscal year to carry out State activities under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) (relating to child care block grants).

"(c) TIMING OF PAYMENTS.—The Secretary shall pay each grant payable to a State under this section in quarterly installments.

"(d) FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—

"(1) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a revolving loan fund which shall be known as the 'Federal Loan Fund for State Welfare Programs' (hereafter

for purposes of this section referred to as the 'fund').

"(2) DEPOSITS INTO FUND.—

"(A) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, $1,700,000,000 are hereby appropriated for fiscal year 1996 for payment to the fund.

"(B) LOAN REPAYMENTS.—The Secretary shall deposit into the fund any principal or interest payment received with respect to a loan made under this subsection.

"(3) AVAILABILITY.—Amounts in the fund are authorized to remain available without fiscal year limitation for the purpose of making loans and receiving payments of principal and interest on such loans, in accordance with this subsection.

"(4) USE OF FUND.—

"(A) LOANS TO STATES.—The Secretary shall make loans from the fund to any loan-eligible State, as defined in subparagraph (D), for a period to maturity of not more than 3 years.

"(B) RATE OF INTEREST.—The Secretary shall charge and collect interest on any loan made under subparagraph (A) at a rate equal

to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the period to maturity of the loan.

"(C) MAXIMUM LOAN.—The cumulative amount of any loans made to a State under subparagraph (A) during fiscal years 1996 through 2000 shall not exceed 10 percent of the State family assistance grant under subsection (a)(2) for a fiscal year.

"(D) LOAN-ELIGIBLE STATE.—For purposes of subparagraph (A), a loan-eligible State is a State which has not had a penalty described in section 407(a)(1) imposed against it at any time prior to the loan being made.

"(5) LIMITATION ON USE OF LOAN.—A State shall use a loan received under this subsection only for any purpose for which grant amounts received by the State under subsection (a) may be used including—

"(A) welfare anti-fraud activities; and

"(B) the provision of assistance under the State program to Indian families that have moved from the service area of an Indian tribe

with a tribal family assistance plan approved under section 414.

"(e) SPECIAL RULE FOR INDIAN TRIBES THAT RECEIVED JOBS FUNDS.—

"(1) IN GENERAL.—The Secretary shall pay to each eligible Indian tribe for each of fiscal years 1996, 1997, 1998, 1999, and 2000 a grant in an amount equal to the amount received by such Indian tribe in fiscal year 1994 under section 482(i) (as in effect during such fiscal year) for the purpose of operating a program to make work activities available to members of the Indian tribe.

"(2) ELIGIBLE INDIAN TRIBE.—For purposes of paragraph (1), the term 'eligible Indian tribe' means an Indian tribe or Alaska Native organization that conducted a job opportunities and basic skills training program in fiscal year 1995 under section 482(i) (as in effect during such fiscal year).

"(3) APPROPRIATION.—There are authorized to be appropriated and there are hereby appropriated $7,638,474 for each fiscal year described in paragraph (1) for the purpose of paying grants in accordance with such paragraph.

"(f) JOB PLACEMENT PERFORMANCE BONUS.—

"(1) IN GENERAL.—The job placement performance bonus determined with respect to a State and a fiscal year is an amount equal to the amount of the State's allocation of the job placement performance fund determined in accordance with the formula developed under paragraph (2).

"(2) ALLOCATION FORMULA; BONUS FUND.—

"(A) ALLOCATION FORMULA.—

"(i) IN GENERAL.—Not later than September 30, 1996, the Secretary of Health and Human Services shall develop and publish in the Federal Register a formula for allocating amounts in the job placement performance bonus fund to States based on the number of families that received assistance under a State program funded under this part in the preceding fiscal year that became ineligible for assistance under the State program as a result of unsubsidized employment during such year.

"(ii) FACTORS TO CONSIDER.—In developing the allocation formula under clause (i), the Secretary shall—

"(I) provide a greater financial bonus for individuals in families described in clause (i) who remain employed for greater periods of time or are at greater risk of long-term welfare dependency; and

"(II) take into account the unemployment conditions of each State or geographic area.

"(B) JOB PLACEMENT PERFORMANCE BONUS FUND.—

"(i) IN GENERAL.—The amount in the job placement performance bonus fund for a fiscal year shall be an amount equal to the applicable percentage of the amount appropriated under section 403(a)(2)(A)(i) for such fiscal year.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i)(I), the applicable percentage shall be determined in accordance with the following table:

"For fiscal year:	The applicable percentage is:
1998	3
1999	4.

"(g) SECRETARY.—For purposes of this section, the term 'Secretary' means the Secretary of the Treasury.

"(h) CONTINGENCY FUND.—

"(1) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a fund which shall be known as the 'Contingency Fund for State Welfare Programs' (hereafter in this section referred to as the 'Fund').

"(2) DEPOSITS INTO FUND.—Out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated for fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 such sums as are necessary for payment to the Fund in a total amount not to exceed $1,000,000,000.

"(3) COMPUTATION OF GRANT.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of the Treasury shall pay to each eligible State in a fiscal year an amount equal to the Federal medical assistance percentage for such State for such fiscal year (as defined in section 2122(c)) of so much of the expenditures by the State in such year under the State program funded under this part as exceed the historic State expenditures for such State.

"(B) LIMITATION.—The total amount paid to a State under subparagraph (A) for any fiscal year shall not exceed an amount equal to 20 percent of the annual amount determined for such State under the State program funded under this part (without regard to this subsection) for such fiscal year.

"(C) METHOD OF COMPUTATION, PAYMENT, AND RECONCILIATION.—

"(i) METHOD OF COMPUTATION.—The method of computing and paying such amounts shall be as follows:

"(I) The Secretary of Health and Human Services shall estimate the amount to be paid to the State for each quarter under the provisions of subparagraph (A), such estimate to be based on a report filed by the State containing its estimate of the total sum to be expended in such quarter and such other information as the Secretary may find necessary.

"(II) The Secretary of Health and Human Services shall then certify to the Secretary of the Treasury the

amount so estimated by the Secretary of Health and Human Services.

"(ii) METHOD OF PAYMENT.—The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Department of the Treasury and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health and Human Services, the amount so certified.

"(iii) METHOD OF RECONCILIATION.—If at the end of each fiscal year, the Secretary of Health and Human Services finds that a State which received amounts from the Fund in such fiscal year did not meet the maintenance of effort requirement under paragraph (5)(B) for such fiscal year, the Secretary shall reduce the State family assistance grant for such State for the succeeding fiscal year by such amounts.

"(4) USE OF GRANT.—

"(A) IN GENERAL.—An eligible State may use the grant—

"(i) in any manner that is reasonably calculated to accomplish the purpose of this part; or

"(ii) in any manner that such State used amounts received under part A or F of this title, as such parts were in effect before October 1, 1995.

"(B) REFUND OF UNUSED PORTION.—Any amount of a grant under this subsection not used during the fiscal year shall be returned to the Fund.

"(5) ELIGIBLE STATE.—

"(A) IN GENERAL.—For purposes of this subsection, a State is an eligible State with respect to a fiscal year, if—

"(i)(I) the average rate of total unemployment in such State (seasonally adjusted) for the period consisting of the most recent 3 months for which data for all States are published equals or exceeds 6.5 percent, and

"(II) the average rate of total unemployment in such State (seasonally adjusted) for the 3-month period equals or exceeds 110 percent of such average rate

for either (or both) of the corresponding 3-month periods ending in the 2 preceding calendar years; and

"(ii) has met the maintenance of effort requirement under subparagraph (B) for the State program funded under this part for the fiscal year.

"(B) MAINTENANCE OF EFFORT.—The maintenance of effort requirement for any State under this subparagraph for any fiscal year is the expenditure of an amount at least equal to 100 percent of the level of historic State expenditures for such State (as determined under subsection (a)(5)).

"(6) ANNUAL REPORTS.—The Secretary of the Treasury shall annually report to the Congress on the status of the Fund.

"SEC. 404. MANDATORY WORK REQUIREMENTS.

"(a) PARTICIPATION RATE REQUIREMENTS.—A State to which a grant is made under section 403 for a fiscal year shall achieve the minimum participation rate specified in the following tables for the fiscal year with respect to—

"(1) all families receiving assistance under the State program funded under this part:

"If the fiscal year is:	The minimum participation rate for all families is:
1996	25
1997	30
1998	35
1999	40
2000 or thereafter	50;

and

"(2) with respect to 2-parent families receiving such assistance:

"If the fiscal year is:	The minimum participation rate is:
1996	60
1997 or 1998	75
1999 or thereafter	90.

"(b) CALCULATION OF PARTICIPATION RATES.—

"(1) FOR ALL FAMILIES.—

"(A) AVERAGE MONTHLY RATE.—For purposes of subsection (a)(1), the participation rate for all families of a State for a fiscal year is the average of the participation rates for all families of the State for each month in the fiscal year.

"(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for all families of the State for a month, expressed as a percentage, is—

"(i) the sum of—

"(I) the number of all families receiving assistance under the State

program funded under this part that include an adult who is engaged in work for the month;

"(II) the number of all families receiving assistance under the State program funded under this part that are subject in such month to a penalty described in paragraph (1)(A) or (2)(A) of subsection (d) but have not been subject to such penalty for more than 3 months within the preceding 12-month period (whether or not consecutive); and

"(III) the number of all families that received assistance under the State program under this part during the previous 6-month period that have become ineligible to receive assistance during such period because of employment and which include an adult who is employed for the month; divided by

"(ii) the total number of all families receiving assistance under the State program funded under this part during the

month that include an adult receiving assistance.

"(2) 2-PARENT FAMILIES.—

"(A) AVERAGE MONTHLY RATE.—For purposes of subsection (a)(2), the participation rate for 2-parent families of a State for a fiscal year is the average of the participation rates for 2-parent families of the State for each month in the fiscal year.

"(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for 2-parent families of the State for a month, expressed as a percentage, is—

"(i) the total number of 2-parent families described in paragraph (1)(B)(i); divided by

"(ii) the total number of 2-parent families receiving assistance under the State program funded under this part during the month that include an adult.

"(3) PRO RATA REDUCTION OF PARTICIPATION RATE DUE TO CASELOAD REDUCTIONS NOT REQUIRED BY FEDERAL LAW.—

"(A) IN GENERAL.—The Secretary shall prescribe regulations for reducing the minimum

participation rate otherwise required by this section for a fiscal year by the number of percentage points equal to the number of percentage points (if any) by which—

"(i) the number of families receiving assistance during the fiscal year under the State program funded under this part is less than

"(ii) the number of families that received aid under the State plan approved under part A of this title (as in effect before October 1, 1995) during the fiscal year immediately preceding such effective date.

The minimum participation rate shall not be reduced to the extent that the Secretary determines that the reduction in the number of families receiving such assistance is required by Federal law.

"(B) ELIGIBILITY CHANGES NOT COUNTED.—The regulations described in subparagraph (A) shall not take into account families that are diverted from a State program funded under this part as a result of differences in eligibility criteria under a State program funded

under this part and eligibility criteria under such State's plan under the aid to families with dependent children program, as such plan was in effect on the day before the date of the enactment of the Work Opportunity Act of 1995.

"(4) STATE OPTION TO INCLUDE INDIVIDUALS RECEIVING ASSISTANCE UNDER A TRIBAL FAMILY ASSISTANCE PLAN.—For purposes of paragraphs (1)(B) and (2)(B), a State may, at its option, include families receiving assistance under a tribal family assistance plan approved under section 414. For purposes of the previous sentence, an individual who receives assistance under a tribal family assistance plan approved under section 414 shall be treated as being engaged in work if the individual is participating in work under standards that are comparable to State standards for being engaged in work.

"(5) STATE OPTION FOR PARTICIPATION REQUIREMENT EXEMPTIONS.—For any fiscal year, a State may, at its option, not require an individual who is the parent or caretaker relative of a minor child who is less than 12 months of age to engage in work and may exclude such an individual from

the determination of the minimum participation rate specified for such fiscal year in subsection (a).

"(c) ENGAGED IN WORK.—

"(1) ALL FAMILIES.—For purposes of subsection (b)(1)(B)(i)(I), an adult is engaged in work for a month in a fiscal year if the adult is participating in work for at least the minimum average number of hours per week specified in the following table during the month, not fewer than 20 hours per week of which are attributable to a work activity:

"If the month is in fiscal year:	The minimum average number of hours per week is:
1996	20
1997	20
1998	20
1999	25
2000	30
2001	30
2002	35
2003 or thereafter	35.

"(2) 2-PARENT FAMILIES.—For purposes of subsection (b)(2)(A), an adult is engaged in work for a month in a fiscal year if the adult is participating in work for at least 35 hours per week during the month, not fewer than 30 hours per week of which are attributable to work activities described in paragraph (3).

"(3) DEFINITION OF WORK ACTIVITIES.—For purposes of this subsection, the term 'work activities' means—

"(A) unsubsidized employment;

"(B) subsidized employment;

"(C) on-the-job training;

"(D) community service programs;

"(E) job search (only for the first 4 weeks in which an individual is required to participate in work activities under this section); and

"(F) vocational educational training (not to exceed 12 months with respect to any individual).

"(4) LIMITATION ON VOCATIONAL EDUCATION ACTIVITIES COUNTED AS WORK.—For purposes of determining monthly participation rates under paragraphs (1)(B)(i)(I) and (2)(B)(i) of subsection (b), not more than 25 percent of adults in all families and in 2-parent families determined to be engaged in work in the State for a month may meet the work activity requirement through participation in vocational educational training.

"(d) PENALTIES AGAINST INDIVIDUALS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an adult in a family receiving assistance under the State program funded under this part refuses to engage in work required under sub-

section (c)(1) or (c)(2), a State to which a grant is made under section 403 shall—

"(A) reduce the amount of assistance otherwise payable to the family pro rata (or more, at the option of the State) with respect to any period during a month in which the adult so refuses; or

"(B) terminate such assistance,

subject to such good cause and other exceptions as the State may establish.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a State may not reduce or terminate assistance under the State program based on a refusal of an adult to work if such adult is a single custodial parent caring for a child age 5 or under and has a demonstrated inability (as determined by the State) to obtain needed child care, for one or more of the following reasons:

"(A) Unavailability of appropriate child care within a reasonable distance of the individual's home or work site.

"(B) Unavailability or unsuitability of informal child care by a relative or under other arrangements.

"(C) Unavailability of appropriate and affordable formal child care arrangements.

"(e) NONDISPLACEMENT IN WORK ACTIVITIES.—

"(1) IN GENERAL.—Subject to paragraph (2), an adult in a family receiving assistance under this part may fill a vacant employment position in order to engage in a work activity described in subsection (c)(3).

"(2) NO FILLING OF CERTAIN VACANCIES.—No adult in a work activity described in subsection (c)(3) shall be employed or assigned—

"(A) when any other individual is on layoff from the same or any substantially equivalent job; or

"(B) when the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy so created with an adult described in paragraph (1).

"(3) NO PREEMPTION.—Nothing in this subsection shall preempt or supersede any provision of State or local law that provides greater protection for employees from displacement.

"(f) SENSE OF THE CONGRESS.—It is the sense of the Congress that in complying with this section, each

State that operates a program funded under this part is encouraged to assign the highest priority to requiring adults in 2-parent families and adults in single-parent families that include older preschool or school-age children to be engaged in work activities.

"(g) ENCOURAGEMENT TO PROVIDE CHILD CARE SERVICES.—An individual participating in a State community service program may be treated as being engaged in work under subsection (c) if such individual provides child care services to other individuals participating in the community service program in the manner, and for the period of time each week, determined appropriate by the State.

"SEC. 405. REQUIREMENTS AND LIMITATIONS.

"(a) STATE REQUIRED TO ENTER INTO A PERSONAL RESPONSIBILITY CONTRACT WITH EACH FAMILY RECEIVING ASSISTANCE.—

"(1) IN GENERAL.—Each State to which a grant is made under section 403 shall require each family receiving assistance under the State program funded under this part to enter into—

"(A) a personal responsibility contract (as developed by the State) with the State; or

"(B) a limited benefit plan.

"(2) PERSONAL RESPONSIBILITY CONTRACT.—For purposes of this subsection, the term 'personal responsibility contract' means a binding contract between the State and each family receiving assistance under the State program funded under this part that—

"(A) outlines the steps each family and the State will take to get the family off of welfare and to become self-sufficient;

"(B) specifies a negotiated time-limited period of eligibility for receipt of assistance that is consistent with unique family circumstances and is based on a reasonable plan to facilitate the transition of the family to self-sufficiency;

"(C) provides that the family will automatically enter into a limited benefit plan if the family is out of compliance with the personal responsibility contract; and

"(D) provides that the contract shall be invalid if the State agency fails to comply with the contract.

"(3) LIMITED BENEFIT PLAN.—For purposes of this subsection, the term 'limited benefit plan' means a plan which provides for a reduced level of assistance and later termination of assistance to a

family that has entered into the plan in accordance with a schedule to be determined by the State.

"(4) ASSESSMENT.—The State agency shall provide, through a case manager, an initial and thorough assessment of the skills, prior work experience, and employability of each parent for use in developing and negotiating a personal responsibility contract.

"(5) DISPUTE RESOLUTION.—The State agency described in section 402(a)(7) shall establish a dispute resolution procedure for disputes related to participation in the personal responsibility contract that provides the opportunity for a hearing.

"(b) NO ASSISTANCE FOR MORE THAN 5 YEARS.—

"(1) IN GENERAL.—Except as provided under paragraphs (2) and (3), a State to which a grant is made under section 403 may not use any part of the grant to provide assistance to a family that includes an adult who has received assistance under the program operated under this part for the lesser of—

"(A) the period of time established at the option of the State; or

"(B) 60 months (whether or not consecutive) after September 30, 1995.

"(2) MINOR CHILD EXCEPTION.—If an individual received assistance under the State program operated under this part as a minor child in a needy family, any period during which such individual's family received assistance shall not be counted for purposes of applying the limitation described in paragraph (1) to an application for assistance under such program by such individual as the head of a household of a needy family with minor children.

"(3) HARDSHIP EXCEPTION.—

"(A) IN GENERAL.—The State may exempt a family from the application of paragraph (1) by reason of hardship.

"(B) LIMITATION.—The number of families with respect to which an exemption made by a State under subparagraph (A) is in effect for a fiscal year shall not exceed 20 percent of the average monthly number of families to which the State is providing assistance under the program operated under this part.

"(c) DENIAL OF ASSISTANCE FOR 10 YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN ASSISTANCE IN 2 OR MORE STATES.—An individual shall not be considered an eligible individual for the purposes of this part

during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under programs that are funded under this title, title XXI, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI.

''(d) DENIAL OF ASSISTANCE FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.—

''(1) IN GENERAL.—An individual shall not be considered an eligible individual for the purposes of this part if such individual is—

''(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

''(B) violating a condition of probation or parole imposed under Federal or State law.

"(2) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Notwithstanding any other provision of law, a State shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of assistance under this part, if the officer furnishes the agency with the name of the recipient and notifies the agency that—

"(A) such recipient—

"(i) is described in subparagraph (A) or (B) of paragraph (1); or

"(ii) has information that is necessary for the officer to conduct the officer's official duties; and

"(B) the location or apprehension of the recipient is within such officer's official duties.

"(e) STATE OPTION TO REQUIRE ASSIGNMENT OF SUPPORT.—At the option of the State, a State to which a grant is made under section 403 may provide that an individual applying for or receiving assistance under the State program funded under this part shall be required to assign to the State any rights to support from any other person the individual may have in such individual's own

behalf or in behalf of any other family member for whom the individual is applying for or receiving assistance.

"(f) DENIAL OF ASSISTANCE FOR ABSENT CHILD.—Each State to which a grant is made under section 403—

"(1) may not use any part of the grant to provide assistance to a family with respect to any minor child who has been, or is expected by the caretaker relative in the family to be, absent from the home for a period of 45 consecutive days or, at the option of the State, such period of not less than 30 and not more than 90 consecutive days as the State may provide for in the State plan;

"(2) at the option of the State, may establish such good cause exceptions to paragraph (1) as the State considers appropriate if such exceptions are provided for in the State plan; and

"(3) shall provide that a caretaker relative shall not be considered an eligible individual for purposes of this part if the caretaker relative fails to notify the State agency of an absence of a minor child from the home for the period specified in or provided for under paragraph (1), by the end of the 5-day period that begins on the date that it becomes clear to the caretaker relative that the minor child will be

absent for the period so specified or provided for in paragraph (1).

"SEC. 406. PROMOTING RESPONSIBLE PARENTING.

"(a) FINDINGS.—The Congress makes the following findings:

"(1) Marriage is the foundation of a successful society.

"(2) Marriage is an essential institution of a successful society which promotes the interests of children.

"(3) Promotion of responsible fatherhood and motherhood is integral to successful child rearing and the wellbeing of children.

"(4) In 1992, only 54 percent of single-parent families with children had a child support order established and, of that 54 percent, only about one half received the full amount due. Of the cases enforced through the public child support enforcement system, only 18 percent of the caseload has a collection.

"(5) The number of individuals receiving aid to families with dependent children (hereafter in this subsection referred to as 'AFDC') has more than tripled since 1965. More than two-thirds of these recipients are children. Eighty-nine percent of children

receiving AFDC benefits now live in homes in which no father is present.

"(A)(i) The average monthly number of children receiving AFDC benefits—

"(I) was 3,300,000 in 1965;

"(II) was 6,200,000 in 1970;

"(III) was 7,400,000 in 1980; and

"(IV) was 9,300,000 in 1992.

"(ii) While the number of children receiving AFDC benefits increased nearly threefold between 1965 and 1992, the total number of children in the United States aged 0 to 18 has declined by 5.5 percent.

"(B) The Department of Health and Human Services has estimated that 12,000,000 children will receive AFDC benefits within 10 years.

"(C) The increase in the number of children receiving public assistance is closely related to the increase in births to unmarried women. Between 1970 and 1991, the percentage of live births to unmarried women increased nearly threefold, from 10.7 percent to 29.5 percent.

"(6) The increase of out-of-wedlock pregnancies and births is well documented as follows:

"(A) It is estimated that the rate of nonmarital teen pregnancy rose 23 percent from 54 pregnancies per 1,000 unmarried teenagers in 1976 to 66.7 pregnancies in 1991. The overall rate of nonmarital pregnancy rose 14 percent from 90.8 pregnancies per 1,000 unmarried women in 1980 to 103 in both 1991 and 1992. In contrast, the overall pregnancy rate for married couples decreased 7.3 percent between 1980 and 1991, from 126.9 pregnancies per 1,000 married women in 1980 to 117.6 pregnancies in 1991.

"(B) The total of all out-of-wedlock births between 1970 and 1991 has risen from 10.7 percent to 29.5 percent and if the current trend continues, 50 percent of all births by the year 2015 will be out-of-wedlock.

"(7) The negative consequences of an out-of-wedlock birth on the mother, the child, the family, and society are well documented as follows:

"(A) Young women 17 and under who give birth outside of marriage are more likely to go on public assistance and to spend more years

on welfare once enrolled. These combined effects of 'younger and longer' increase total AFDC costs per household by 25 percent to 30 percent for 17-year olds.

''(B) Children born out-of-wedlock have a substantially higher risk of being born at a very low or moderately low birth weight.

''(C) Children born out-of-wedlock are more likely to experience low verbal cognitive attainment, as well as more child abuse, and neglect.

''(D) Children born out-of-wedlock were more likely to have lower cognitive scores, lower educational aspirations, and a greater likelihood of becoming teenage parents themselves.

''(E) Being born out-of-wedlock significantly reduces the chances of the child growing up to have an intact marriage.

''(F) Children born out-of-wedlock are 3 more times likely to be on welfare when they grow up.

''(8) Currently 35 percent of children in single-parent homes were born out-of-wedlock, nearly the same percentage as that of children in single-parent homes whose parents are divorced (37 percent).

While many parents find themselves, through divorce or tragic circumstances beyond their control, facing the difficult task of raising children alone, nevertheless, the negative consequences of raising children in single-parent homes are well documented as follows:

"(A) Only 9 percent of married-couple families with children under 18 years of age have income below the national poverty level. In contrast, 46 percent of female-headed households with children under 18 years of age are below the national poverty level.

"(B) Among single-parent families, nearly ½ of the mothers who never married received AFDC while only ⅕ of divorced mothers received AFDC.

"(C) Children born into families receiving welfare assistance are 3 times more likely to be on welfare when they reach adulthood than children not born into families receiving welfare.

"(D) Mothers under 20 years of age are at the greatest risk of bearing low birth-weight babies.

"(E) The younger the single parent mother, the less likely she is to finish high school.

"(F) Young women who have children before finishing high school are more likely to receive welfare assistance for a longer period of time.

"(G) Between 1985 and 1990, the public cost of births to teenage mothers under the aid to families with dependent children program, the food stamp program, and the medicaid program has been estimated at $120,000,000,000.

"(H) The absence of a father in the life of a child has a negative effect on school performance and peer adjustment.

"(I) Children of teenage single parents have lower cognitive scores, lower educational aspirations, and a greater likelihood of becoming teenage parents themselves.

"(J) Children of single-parent homes are 3 times more likely to fail and repeat a year in grade school than are children from intact two-parent families.

"(K) Children from single-parent homes are almost 4 times more likely to be expelled or suspended from school.

"(L) Neighborhoods with larger percentages of youth aged 12 through 20 and areas

with higher percentages of single-parent households have higher rates of violent crime.

"(M) Of those youth held for criminal offenses within the State juvenile justice system, only 29.8 percent lived primarily in a home with both parents. In contrast to these incarcerated youth, 73.9 percent of the 62,800,000 children in the Nation's resident population were living with both parents.

"(9) Therefore, in light of this demonstration of the crisis in our Nation, it is the sense of the Congress that prevention of out-of-wedlock pregnancy and reduction in out-of-wedlock birth are very important Government interests and the policy contained in provisions of this title is intended to address the crisis.

"(b) STATE OPTION TO DENY ASSISTANCE FOR OUT-OF-WEDLOCK BIRTHS TO MINORS.—At the option of the State, a State to which a grant is made under section 403 may provide that the grant shall not be used to provide assistance for a child born out-of-wedlock to an individual who has not attained 18 years of age, or for the individual, until the individual attains such age.

"(c) STATE OPTION TO DENY ASSISTANCE FOR CHILDREN BORN TO FAMILIES RECEIVING ASSIST-

ANCE.—At the option of the State, a State to which a grant is made under section 403 may provide that the grant shall not be used to provide assistance for a minor child who is born to—

"(1) a recipient of assistance under the program funded under this part; or

"(2) an individual who received such benefits at any time during the 10-month period ending with the birth of the child.

"(d) REQUIREMENT THAT TEENAGE PARENTS LIVE IN ADULT-SUPERVISED SETTINGS.—

"(1) IN GENERAL.—

"(A) REQUIREMENT.—Except as provided in paragraph (2), if a State provides assistance under the State program funded under this part to an individual described in subparagraph (B), such individual may only receive assistance under the program if such individual and the child of the individual reside in a place of residence maintained by a parent, legal guardian, or other adult relative of such individual as such parent's, guardian's, or adult relative's own home.

"(B) INDIVIDUAL DESCRIBED.— For purposes of subparagraph (A), an individual de-

scribed in this subparagraph is an individual who is—

"(i) under the age of 18; and

"(ii) not married and has a minor child in his or her care.

"(2) EXCEPTION.—

"(A) PROVISION OF, OR ASSISTANCE IN LOCATING, ADULT-SUPERVISED LIVING ARRANGEMENT.—In the case of an individual who is described in subparagraph (B), the State agency shall provide, or assist such individual in locating, a second chance home, maternity home, or other appropriate adult-supervised supportive living arrangement, taking into consideration the needs and concerns of such individual, unless the State agency determines that the individual's current living arrangement is appropriate, and thereafter shall require that such parent and the child of such parent reside in such living arrangement as a condition of the continued receipt of assistance under the plan (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate).

"(B) INDIVIDUAL DESCRIBED.—For purposes of subparagraph (A), an individual is described in this subparagraph if the individual is described in paragraph (1)(B) and—

"(i) such individual has no parent, legal guardian or other appropriate adult relative as described in (ii) of his or her own who is living or whose whereabouts are known;

"(ii) no living parent, legal guardian, or other appropriate adult relative who would otherwise meet applicable State criteria to act as such individual's legal guardian, of such individual allows the individual to live in the home of such parent, guardian, or relative;

"(iii) the State agency determines that—

"(I) the individual or the individual's custodial minor child is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of such individual's own parent or legal guardian; or

"(II) substantial evidence exists of an act or failure to act that presents an imminent or serious harm if such individual and such individual's minor child lived in the same residence with such individual's own parent or legal guardian; or

"(iv) the State agency otherwise determines that it is in the best interest of the minor child to waive the requirement of paragraph (1) with respect to such individual or minor child.

"(C) SECOND-CHANCE HOME.—For purposes of this paragraph, the term 'second-chance home' means an entity that provides individuals described in subparagraph (B) with a supportive and supervised living arrangement in which such individuals are required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children.

"(3) ASSISTANCE TO STATES IN PROVIDING OR LOCATING ADULT-SUPERVISED SUPPORTIVE LIVING

ARRANGEMENTS FOR UNMARRIED TEENAGE PARENTS.—

"(A) IN GENERAL.—For each of fiscal years 1996 through 2002, each State that provides assistance under the State program to individuals described in paragraph (1)(B) shall be entitled to receive a grant in an amount determined under subparagraph (B) for the purpose of providing or locating adult-supervised supportive living arrangements for individuals described in paragraph (1)(B) in accordance with this subsection.

"(B) AMOUNT DETERMINED.—

"(i) IN GENERAL.—The amount determined under this subparagraph is an amount that bears the same ratio to the amount specified under clause (ii) as the amount of the State family assistance grant for the State for such fiscal year (described in section 403(a)(2)) bears to the amount appropriated for such fiscal year in accordance with section 403(a)(4)(A).

"(ii) AMOUNT SPECIFIED.—The amount specified in this subparagraph is—

"(I) for fiscal year 1996, $25,000,000;

"(II) for fiscal year 1997, $25,000,000; and

"(III) for each of fiscal years 1998, 1999, 2000, 2001, and 2002, $20,000,000.

"(C) ASSISTANCE TO STATES IN PROVIDING OR LOCATING ADULT-SUPERVISED SUPPORTIVE LIVING ARRANGEMENTS FOR UNMARRIED TEENAGE PARENTS.—There are authorized to be appropriated and there are appropriated for fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 such sums specified in subparagraph (B)(ii) for the purpose of paying grants to States in accordance with the provisions of this paragraph.

"(e) REQUIREMENT THAT TEENAGE PARENTS ATTEND HIGH SCHOOL OR OTHER EQUIVALENT TRAINING PROGRAM.—If a State provides assistance under the State program funded under this part to an individual described in subsection (d)(1)(B) who has not successfully completed a high-school education (or its equivalent) and whose minor child is at least 12 weeks of age, the State shall not provide such individual with assistance under the

program (or, at the option of the State, shall provide a reduced level of such assistance) if the individual does not participate in—

"(1) educational activities directed toward the attainment of a high school diploma or its equivalent; or

"(2) an alternative educational or training program that has been approved by the State.

"(f) GRANT INCREASED TO REWARD STATES THAT REDUCE OUT-OF-WEDLOCK BIRTHS.—

"(1) IN GENERAL.—The amount of the grant payable to a State under section 403(a)(1)(A) for fiscal years 1998, 1999, and 2000 shall be increased by—

"(A) an amount equal to the product of $25 multiplied by the number of children in the State in families with incomes below the poverty line, according to the most recently available census data, if—

"(i) the illegitimacy ratio of the State for the most recent fiscal year for which such information is available is at least 1 percentage point lower than the illegitimacy ratio of the State for fiscal year 1995 (or, if such information is not avail-

able, the first available year after 1995 for which such data is available); and

"(ii) the rate of induced pregnancy terminations for the same most recent fiscal year in the State is not higher than the rate of induced pregnancy terminations in the State for fiscal year 1995 (or, the same first available year); or

"(B) an amount equal to the product of $50 multiplied by the number of children in the State in families with incomes below the poverty line, according to the most recently available census data, if—

"(i) the illegitimacy ratio of the State for the most recent fiscal year for which information is available is at least 2 percentage points lower than the illegitimacy ratio of the State for fiscal year 1995 (or, if such information is not available, the first available year after 1995 for which such data is available); and

"(ii) the rate of induced pregnancy terminations in the State for the same most recent fiscal year is not higher than the rate of induced pregnancy terminations

in the State for fiscal year 1995 (or, the same first available fiscal year).

"(2) DETERMINATION OF THE SECRETARY.—The Secretary shall not increase the grant amount under paragraph (1) if the Secretary determines that the relevant difference between the illegitimacy ratio of a State for an applicable fiscal year and the illegitimacy ratio of such State for fiscal year 1995 or, where appropriate, the first available year after 1995 for which such data is available, is the result of a change in State methods of reporting data used to calculate the illegitimacy ratio or if the Secretary determines that the relevant non-increase in the rate of induced pregnancy terminations for an applicable fiscal year as compared to fiscal year 1995 or, the appropriate fiscal year, is the result of a change in State methods of reporting data used to calculate the rate of induced pregnancy terminations.

"(3) ILLEGITIMACY RATIO.—For purposes of this subsection, the term 'illegitimacy ratio' means, with respect to a State and a fiscal year—

"(A) the number of out-of-wedlock births that occurred in the State during the most recent fiscal year for which such information is available; divided by

"(B) the number of births that occurred in the State during the most recent fiscal year for which such information is available.

"(4) POVERTY LINE.—For purposes of this subsection, the term 'poverty line' has the meaning given such term in section 403(a)(3)(D)(iii).

"(5) AVAILABILITY OF AMOUNTS.—There are authorized to be appropriated and there are appropriated such sums as may be necessary for fiscal years 1998, 1999, and 2000 for the purpose of increasing the amount of the grant payable to a State under section 403(a)(1) in accordance with this subsection.

"(g) STATE OPTION TO DENY ASSISTANCE IN CERTAIN SITUATIONS.—Nothing in this subsection shall be construed to restrict the authority of a State to exercise its option to limit assistance under this part to individuals if such limitation is not inconsistent with the provisions of this part.

"SEC. 407. STATE PENALTIES.

"(a) IN GENERAL.—Subject to the provisions of subsection (b), the Secretary shall deduct from the grant otherwise payable under section 403 the following penalties:

"(1) FOR USE OF GRANT IN VIOLATION OF THIS PART.—If an audit conducted under section

408 finds that an amount paid to a State under section 403 for a fiscal year has been used in violation of this part, then the Secretary shall reduce the amount of the grant otherwise payable to the State under such section for the immediately succeeding fiscal year quarter by the amount so used. If the State does not prove to the satisfaction of the Secretary that such unlawful expenditure was not made by the State in intentional violation of the requirements of this part, then the Secretary shall impose an additional penalty of 5 percent of such grant (determined without regard to this section).

"(2) FOR FAILURE TO SUBMIT REQUIRED REPORT.—

"(A) IN GENERAL.—If the Secretary determines that a State has not, within 6 months after the end of a fiscal year, submitted the report required by section 409 for the fiscal year, the Secretary shall reduce by 5 percent the amount of the grant that would (in the absence of this section) be payable to the State under section 403 for the immediately succeeding fiscal year.

"(B) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a

State under subparagraph (A) with respect to a report for a fiscal year if the State submits the report before the end of the immediately succeeding fiscal year.

"(3) FOR FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—

"(A) IN GENERAL.—If the Secretary determines that a State has failed to satisfy the minimum participation rates specified in section 404(a) for a fiscal year, the Secretary shall reduce the amount of the grant that would (in the absence of this section) be payable to the State under section 403 for the immediately succeeding fiscal year by—

"(i) in the first year in which the State fails to satisfy such rates, 5 percent; and

"(ii) in subsequent years in which the State fails to satisfy such rates, the percent reduction determined under this subparagraph (if any) in the preceding year, increased by 5 percent.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reduc-

tions under subparagraph (A) on the basis of the degree of noncompliance.

"(4) FOR FAILURE TO PARTICIPATE IN THE INCOME AND ELIGIBILITY VERIFICATION SYSTEM.—If the Secretary determines that a State program funded under this part is not participating during a fiscal year in the income and eligibility verification system required by section 1137, the Secretary shall reduce by not more than 5 percent the amount of the grant that would (in the absence of this section) be payable to the State under section 403 for the immediately succeeding fiscal year.

"(5) FOR FAILURE TO COMPLY WITH PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT REQUIREMENTS UNDER PART D.—Notwithstanding any other provision of this Act, if the Secretary determines that the State agency that administers a program funded under this part does not enforce the penalties requested by the agency administering part D against recipients of assistance under the State program who fail to cooperate in establishing paternity in accordance with such part, the Secretary shall reduce by not more than 5 percent the amount of the grant that would (in the absence of this section) be payable to the State under

section 403 for the immediately succeeding fiscal year.

"(6) FOR FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—If the Secretary determines that a State has failed to repay any amount borrowed from the Federal Loan Fund for State Welfare Programs established under section 403(d) within the period of maturity applicable to such loan, plus any interest owed on such loan, then the Secretary shall reduce the amount of the grant otherwise payable to the State under section 403 for the immediately succeeding fiscal year quarter by the outstanding loan amount, plus the interest owed on such outstanding amount. The Secretary may not forgive any outstanding loan amount nor interest owed thereon.

"(b) REQUIREMENTS.—

"(1) LIMITATION ON AMOUNT OF PENALTY.—

"(A) IN GENERAL.—In imposing the penalties described in subsection (a), the Secretary shall not reduce any quarterly payment to a State by more than 25 percent.

"(B) CARRYFORWARD OF UNRECOVERED PENALTIES.—To the extent that subparagraph (A) prevents the Secretary from recovering dur-

ing a fiscal year the full amount of all penalties imposed on a State under subsection (a) for a prior fiscal year, the Secretary shall apply any remaining amount of such penalties to the grant otherwise payable to the State under section 403 for the immediately succeeding fiscal year.

"(2) STATE FUNDS TO REPLACE REDUCTIONS IN GRANT.—A State which has a penalty imposed against it under subsection (a) shall expend additional State funds in an amount equal to the amount of the penalty for the purpose of providing assistance under the State program under this part.

"(3) REASONABLE CAUSE FOR NONCOMPLIANCE.—The Secretary may not impose a penalty on a State under subsection (a) if the Secretary determines that the State has reasonable cause for failing to comply with a requirement for which a penalty is imposed under such subsection.

"(c) CERTIFICATION OF AMOUNT OF PENALTIES.—If the Secretary is required to reduce the amount of any grant under this section, the Secretary shall certify the amount of such reduction to the Secretary of the Treasury and the Secretary of the Treasury shall reduce the amount paid to the State under section 403 by such amount.

"(d) EFFECTIVE DATES.—

"(1) IN GENERAL.—The penalties described in paragraphs (2) through (6) of subsection (a) shall apply—

"(A) with respect to periods beginning 6 months after the Secretary issues final rules with respect to such penalties; or

"(B) with respect to fiscal years beginning on or after October 1, 1996;

whichever is later.

"(2) MISUSE OF FUNDS.—The penalties described in subsection (a)(1) shall apply with respect to fiscal years beginning on or after October 1, 1995.

"SEC. 408. AUDITS.

"(a) IN GENERAL.—Each State shall, not less than annually, audit the State expenditures from amounts received under this part. Such audit shall—

"(1) determine the extent to which such expenditures were or were not expended in accordance with this part; and

"(2) be conducted by an approved entity (as defined in subsection (b)) in accordance with generally accepted auditing principles.

"(b) APPROVED ENTITY.—For purposes of subsection (a), the term 'approved entity' means an entity that—

"(1) is approved by the Secretary of the Treasury;

"(2) is approved by the chief executive officer of the State; and

"(3) is independent of any agency administering activities funded under this part.

"(c) AUDIT REPORT.—Not later than 30 days following the completion of an audit under this subsection, a State shall submit a copy of the audit to the State legislature, the Secretary of the Treasury, and the Secretary of Health and Human Services.

"(d) ADDITIONAL ACCOUNTING REQUIREMENTS.—The provisions of chapter 75 of title 31, United States Code, shall apply to the audit requirements of this section.

"SEC. 409. DATA COLLECTION AND REPORTING.

"(a) IN GENERAL.—The Secretary, in consultation with State and local government officials and other interested persons, shall develop a quality assurance system of data collection and reporting that promotes accountability and ensures the improvement and integrity of programs funded under this part.

"(b) STATE SUBMISSIONS.—

"(1) IN GENERAL.—Not later than the 15th day of the first month of each calendar quarter, each State to which a grant is made under section 410(h) shall submit to the Secretary the data described in paragraphs (2) and (3) with respect to families described in paragraph (4).

"(2) DISAGGREGATED DATA DESCRIBED.—The data described in this paragraph with respect to families described in paragraph (4) is a sample of monthly disaggregated case record data containing the following:

"(A) The age of the adults and children (including pregnant women) in each family.

"(B) The marital and familial status of each member of the family (including whether the family is a 2-parent family and whether a child is living with an adult relative other than a parent).

"(C) The gender, educational level, work experience, and race of the head of each family.

"(D) The health status of each member of the family (including whether any member of the family is seriously ill, disabled, or incapacitated and is being cared for by another member of the family).

"(E) The type and amount of any benefit or assistance received by the family, including—

"(i) the amount of and reason for any reduction in assistance, and

"(ii) if assistance is terminated, whether termination is due to employment, sanction, or time limit.

"(F) Any benefit or assistance received by a member of the family with respect to housing, food stamps, job training, or the Head Start program.

"(G) The number of months since the family filed the most recent application for assistance under the program and if assistance was denied, the reason for the denial.

"(H) The number of times a family has applied for and received assistance under the State program and the number of months assistance has been received each time assistance has been provided to the family.

"(I) The employment status of the adults in the family (including the number of hours worked and the amount earned).

"(J) The date on which an adult in the family began to engage in work, the number of

hours the adult engaged in work, the work activity in which the adult participated, and the amount of child care assistance provided to the adult (if any).

"(K) The number of individuals in each family receiving assistance and the number of individuals in each family not receiving assistance, and the relationship of each individual to the youngest child in the family.

"(L) The citizenship status of each member of the family.

"(M) The housing arrangement of each member of the family.

"(N) The amount of unearned income, child support, assets, and other financial factors considered in determining eligibility for assistance under the State program.

"(O) The location in the State of each family receiving assistance.

"(P) Any other data that the Secretary determines is necessary to ensure efficient and effective program administration.

"(3) AGGREGATED MONTHLY DATA.—The data described in this paragraph is the following aggre-

gated monthly data with respect to the families described in paragraph (4):

"(A) The number of families.

"(B) The number of adults in each family.

"(C) The number of children in each family.

"(D) The number of families for which assistance has been terminated because of employment, sanctions, or time limits.

"(4) FAMILIES DESCRIBED.—The families described in this paragraph are—

"(A) families receiving assistance under a State program funded under this part for each month in the calendar quarter preceding the calendar quarter in which the data is submitted;

"(B) families applying for such assistance during such preceding calendar quarter; and

"(C) families that became ineligible to receive such assistance during such preceding calendar quarter.

"(5) APPROPRIATE SUBSETS OF DATA COLLECTED.—The Secretary shall determine appropriate subsets of the data described in paragraphs (2) and (3) that a State is required to submit under

paragraph (1) with respect to families described in subparagraphs (B) and (C) of paragraph (4).

"(6) SAMPLING AND OTHER METHODS.—The Secretary shall provide the States with such case sampling plans and data collection procedures as the Secretary deems necessary to produce statistically valid estimates of each State's program performance. The Secretary is authorized to develop and implement procedures for verifying the quality of data submitted by the States.

"(c) REPORT ON USE OF FEDERAL FUNDS TO COVER ADMINISTRATIVE COSTS AND OVERHEAD.—The report required by subsection (a) for a fiscal year shall include a statement of—

"(1) the total amount and percentage of the Federal funds paid to the State under this part for the fiscal year that are used to cover administrative costs or overhead; and

"(2) the total amount of State funds that are used to cover such costs or overhead.

"(d) REPORT ON STATE EXPENDITURES ON PROGRAMS FOR NEEDY FAMILIES.—The report required by subsection (a) for a fiscal year shall include a statement of the total amount expended by the State during the fis-

cal year on the program under this part and the purposes for which such amount was spent.

"(e) REPORT ON NONCUSTODIAL PARENTS PARTICIPATING IN WORK ACTIVITIES.—The report required by subsection (a) for a fiscal year shall include the number of noncustodial parents in the State who participated in work activities during the fiscal year.

"(f) REPORT ON CHILD SUPPORT COLLECTED.—The report required by subsection (a) for a fiscal year shall include the total amount of child support collected by the State agency administering the State program under part D on behalf of a family receiving assistance under this part.

"(g) REPORT ON CHILD CARE.—The report required by subsection (a) for a fiscal year shall include the total amount expended by the State for child care under the program under this part, along with a description of the types of child care provided, including child care provided in the case of a family that—

"(1) has ceased to receive assistance under this part because of employment; or

"(2) is not receiving assistance under this part but would be at risk of becoming eligible for such assistance if child care was not provided.

"(h) REPORT ON TRANSITIONAL SERVICES.—The report required by subsection (a) for a fiscal year shall include the total amount expended by the State for providing transitional services to a family that has ceased to receive assistance under this part because of employment, along with a description of such services.

"(i) SECRETARY'S REPORT ON DATA PROCESSING.—

"(1) IN GENERAL.—Not later than 6 months after the date of the enactment of the Work Opportunity Act of 1995, the Secretary shall prepare and submit to the Congress a report on—

"(A) the status of the automated data processing systems operated by the States to assist management in the administration of State programs under this part (whether in effect before or after October 1, 1995); and

"(B) what would be required to establish a system capable of—

"(i) tracking participants in public programs over time; and

"(ii) checking case records of the States to determine whether individuals are participating in public programs in 2 or more States.

"(2) PREFERRED CONTENTS.—The report required by paragraph (1) should include—

"(A) a plan for building on the automated data processing systems of the States to establish a system with the capabilities described in paragraph (1)(B); and

"(B) an estimate of the amount of time required to establish such a system and of the cost of establishing such a system.

"(j) REPORT TO CONGRESS.—Not later than 6 months after the end of fiscal year 1997, and each fiscal year thereafter, the Secretary shall transmit to the Congress a report describing—

"(1) whether the States are meeting—

"(A) the participation rates described in section 404(a); and

"(B) the objectives of—

"(i) increasing employment and earnings of needy families, and child support collections; and

"(ii) decreasing out-of-wedlock pregnancies and child poverty;

"(3) the demographic and financial characteristics of families applying for assistance, families re-

ceiving assistance, and families that become ineligible to receive assistance;

"(4) the characteristics of each State program funded under this part; and

"(5) the trends in employment and earnings of needy families with minor children.

"SEC. 410. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.

"(a) RESEARCH.—The Secretary shall conduct research on the benefits, effects, and costs of operating different State programs funded under this part, including time limits relating to eligibility for assistance. The research shall include studies on the effects of different programs and the operation of such programs on welfare dependency, illegitimacy, teen pregnancy, employment rates, child well-being, and any other area the Secretary deems appropriate.

"(b) DEVELOPMENT AND EVALUATION OF INNOVATIVE APPROACHES TO REDUCING WELFARE DEPENDENCY AND INCREASING CHILD WELL-BEING.—

"(1) IN GENERAL.—The Secretary may assist States in developing, and shall evaluate, innovative approaches for reducing welfare dependency and increasing the well-being of minor children with respect to recipients of assistance under programs

funded under this part. The Secretary may provide funds for training and technical assistance to carry out the approaches developed pursuant to this paragraph.

"(2) EVALUATIONS.—In performing the evaluations under paragraph (1), the Secretary shall, to the maximum extent feasible, use random assignment as an evaluation methodology.

"(c) DISSEMINATION OF INFORMATION.—The Secretary shall develop innovative methods of disseminating information on any research, evaluations, and studies conducted under this section, including the facilitation of the sharing of information and best practices among States and localities through the use of computers and other technologies.

"(d) ANNUAL RANKING OF STATES AND REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—

"(1) ANNUAL RANKING OF STATES.—The Secretary shall rank annually the States to which grants are paid under section 403 in the order of their success in placing recipients of assistance under the State program funded under this part into long-term private sector jobs, reducing the overall welfare caseload, and, when a practicable method for calculating this information becomes available, di-

verting individuals from formally applying to the State program and receiving assistance. In ranking States under this subsection, the Secretary shall take into account the average number of minor children in families in the State that have incomes below the poverty line and the amount of funding provided each State for such families.

"(2) ANNUAL REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—The Secretary shall review the programs of the 3 States most recently ranked highest under paragraph (1) and the 3 States most recently ranked lowest under paragraph (1) that provide parents with work experience, assistance in finding employment, and other work preparation activities and support services to enable the families of such parents to leave the program and become self-sufficient.

"(e) ANNUAL RANKING OF STATES AND REVIEW OF ISSUES RELATING TO OUT-OF-WEDLOCK BIRTHS.—

"(1) ANNUAL RANKING OF STATES.—

"(A) IN GENERAL.—The Secretary shall annually rank States to which grants are paid under section 403 based on the following ranking factors (developed with information reported by the State under section 406(f)):

"(i) ABSOLUTE OUT-OF-WEDLOCK RATIOS.—The ratio represented by—

"(I) the total number of out-of-wedlock births in families receiving assistance under the State program under this part in the State for the most recent fiscal year for which information is available; over

"(II) the total number of births in families receiving assistance under the State program under this part in the State for such year.

"(ii) NET CHANGES IN THE OUT-OF-WEDLOCK RATIO.—The difference between the ratio described in subparagraph (A)(i) for the most recent fiscal year for which information is available and such State's ratio determined for the preceding year.

"(2) ANNUAL REVIEW.—The Secretary shall review the programs of the 5 States most recently ranked highest under paragraph (1) and the 5 States most recently ranked the lowest under paragraph (1).

"(f) STUDY ON ALTERNATIVE OUTCOMES MEASURES.—

"(1) STUDY.—The Secretary shall, in cooperation with the States, study and analyze outcomes measures for evaluating the success of a State in moving individuals out of the welfare system through employment as an alternative to the minimum participation rates described in section 404. The study shall include a determination as to whether such alternative outcomes measures should be applied on a national or a State-by-State basis and a preliminary assessment of the job placement performance bonus established under section 403(f).

"(2) REPORT.—Not later than September 30, 1998, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing the findings of the study described in paragraph (1).

"(g) STATE-INITIATED STUDIES.—A State shall be eligible to receive funding to evaluate the State's family assistance program funded under this part if—

"(1) the State submits a proposal to the Secretary for such evaluation,

"(2) the Secretary determines that the design and approach of the evaluation is rigorous and is

likely to yield information that is credible and will be useful to other States, and

"(3) unless otherwise waived by the Secretary, the State provides a non-Federal share of at least 10 percent of the cost of such study.

"(h) ADDITIONAL AMOUNT FOR STUDIES AND DEMONSTRATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated and there are appropriated for each fiscal year described in section 403(a)(1) an additional $20,000,000 for the purpose of paying—

"(A) the Federal share of any State-initiated study approved under subsection (g);

"(B) an amount determined by the Secretary to be necessary to operate and evaluate demonstration projects, relating to part A of title IV of this Act, that are in effect or approved under section 1115 as of October 1, 1995, and are continued after such date;

"(C) the cost of conducting the research described in subsection (a); and

"(D) the cost of developing and evaluating innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b).

"(2) ALLOCATION.—Of the amount appropriated under paragraph (1) for a fiscal year—

"(A) 50 percent shall be allocated for the purposes described in subparagraphs (A) and (B) of paragraph (1), and

"(B) 50 percent shall be allocated for the purposes described in subparagraphs (C) and (D) of paragraph (1).

"SEC. 411. STUDY BY THE CENSUS BUREAU.

"(a) IN GENERAL.—The Bureau of the Census shall expand the Survey of Income and Program Participation as necessary to obtain such information as will enable interested persons to evaluate the impact of the amendments made by the Work Opportunity Act of 1995 on a random national sample of recipients of assistance under State programs funded under this part and (as appropriate) other low-income families, and in doing so, shall pay particular attention to the issues of out-of-wedlock births, welfare dependency, the beginning and end of welfare spells, and the causes of repeat welfare spells.

"(b) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, the Secretary of the Treasury shall pay to the Bureau of the Census $10,000,000 for each of fiscal years 1996, 1997, 1998, 1999, and 2000 to carry out subsection (a).

"SEC. 412. WAIVERS.

"(a) CONTINUATION OF WAIVERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if any waiver granted to a State under section 1115 or otherwise which relates to the provision of assistance under a State plan under this part is in effect or approved by the Secretary as of October 1, 1995, the amendments made by subtitle D of title I and subtitles C, D, E, F, and G of title VII of the Balanced Budget Reconciliation Act of 1995 shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the terms of the waiver.

"(2) FINANCING LIMITATION.—Notwithstanding any other provision of law, beginning with fiscal year 1996, a State operating under a waiver described in paragraph (1) shall receive the payment described for such State for such fiscal year under section 403, in lieu of any other payment provided for in the waiver.

"(b) STATE OPTION TO TERMINATE WAIVER.—

"(1) IN GENERAL.—A State may terminate a waiver described in subsection (a) before the expiration of the waiver.

"(2) REPORT.—A State which terminates a waiver under paragraph (1) shall submit a report to the Secretary summarizing the waiver and any available information concerning the result or effect of such waiver.

"(3) HOLD HARMLESS PROVISION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a State that, not later than the date described in subparagraph (B), submits a written request to terminate a waiver described in subsection (a) shall be held harmless for accrued cost neutrality liabilities incurred under the terms and conditions of such waiver.

"(B) DATE DESCRIBED.—The date described in this subparagraph is the later of—

"(i) January 1, 1996; or

"(ii) 90 days following the adjournment of the first regular session of the State legislature that begins after the date of the enactment of the Work Opportunity Act of 1995.

"(c) SECRETARIAL ENCOURAGEMENT OF CURRENT WAIVERS.—The Secretary shall encourage any State operating a waiver described in subsection (a) to continue such

waiver and to evaluate, using random sampling and other characteristics of accepted scientific evaluations, the result or effect of such waiver.

"(d) CONTINUATION OF INDIVIDUAL WAIVERS.—A State may elect to continue one or more individual waivers described in subsection (a)(1).

"SEC. 413. STATE AND COUNTY DEMONSTRATION PROGRAMS.

"(a) NO LIMITATION OF STATE DEMONSTRATION PROJECTS.—Nothing in this part shall be construed as limiting a State's ability to conduct demonstration projects for the purpose of identifying innovative or effective program designs in 1 or more political subdivisions of the State: *Provided,* That such State contains more than one county with a population of greater than 500,000.

"(b) COUNTY WELFARE DEMONSTRATION PROJECT.—

"(1) IN GENERAL.—The Secretary of Health and Human Services and the Secretary of Agriculture shall jointly enter into negotiations with all counties having a population greater than 500,000 desiring to conduct a demonstration project described in paragraph (2) for the purpose of estab-

lishing appropriate rules to govern the establishment and operation of such project.

"(2) DEMONSTRATION PROJECT DESCRIBED.—The demonstration project described in this paragraph shall provide that—

"(A) a county participating in the demonstration project shall have the authority and duty to administer the operation of the program described under this part as if the county were considered a State for the purpose of this part;

"(B) the State in which the county participating in the demonstration project is located shall pass through directly to the county the portion of the grant received by the State under section 403 which the State determines is attributable to the residents of such county; and

"(C) the duration of the project shall be for 5 years.

"(3) COMMENCEMENT OF PROJECT.—After the conclusion of the negotiations described in paragraph (2), the Secretary of Health and Human Services and the Secretary of Agriculture may authorize a county to conduct the demonstration project described in paragraph (2) in accordance with the rules established during the negotiations.

"(4) REPORT.—Not later then 6 months after the termination of a demonstration project operated under this subsection, the Secretary of Health and Human Services and the Secretary of Agriculture shall submit to the Congress a report that includes—

"(A) a description of the demonstration project;

"(B) the rules negotiated with respect to the project; and

"(C) the innovations (if any) that the county was able to initiate under the project.

"(5) ELIGIBLE COUNTY.—A county may participate in a demonstration project under this subsection if the county is—

"(A) a county that is already administering the welfare program under this part;

"(B) represents less than 25 percent of the State's total welfare caseload.

"SEC. 414. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES.

"(a) PURPOSE.—The purpose of this section is—

"(1) to strengthen and enhance the control and flexibility of local governments over local programs; and

"(2) in recognition of the principles contained in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)—

"(A) to provide direct Federal funding to Indian tribes for the tribal administration of the program funded under this part; or

"(B) to enable Indian tribes to enter into agreements, contracts, or compacts with intertribal consortia, States, or other entities for the administration of such program on behalf of the Indian tribe.

"(b) GRANT AMOUNTS FOR INDIAN TRIBES.—

"(1) IN GENERAL.—For each of fiscal years 1996, 1997, 1998, 1999, and 2000, the Secretary shall pay to each Indian tribe that has an approved tribal family assistance plan a tribal family assistance grant for the fiscal year in an amount equal to the amount determined under paragraph (2).

"(2) AMOUNT DETERMINED.—

"(A) IN GENERAL.—The amount determined under this paragraph is an amount equal to the total amount of the Federal payments to a State or States under section 403 for fiscal year 1994 (as in effect during such fiscal year) attributable to expenditures by the State or

States under part A and part F of this title (as so in effect) in such year for Indian families residing in the service area or areas identified by the Indian tribe in subsection (c)(1)(C).

"(B) USE OF STATE SUBMITTED DATA.—

"(i) IN GENERAL.—The Secretary shall use State submitted data to make each determination under subparagraph (A).

"(ii) DISAGREEMENT WITH DETERMINATION.—If an Indian tribe or tribal organization disagrees with State submitted data described under clause (i), the Indian tribe or tribal organization may submit to the Secretary such additional information as may be relevant to making the determination under subparagraph (A) and the Secretary may consider such information before making such determination.

"(c) 3-YEAR TRIBAL FAMILY ASSISTANCE PLAN.—

"(1) IN GENERAL.—Any Indian tribe that desires to receive a tribal family assistance grant shall submit to the Secretary a 3-year tribal family assistance plan that—

"(A) outlines the Indian tribe's approach to providing welfare-related services for the 3-year period, consistent with the purposes of this section;

"(B) specifies whether the welfare-related services provided under the plan will be provided by the Indian tribe or through agreements, contracts, or compacts with intertribal consortia, States, or other entities;

"(C) identifies the population and service area or areas to be served by such plan;

"(D) provides that a family receiving assistance under the plan may not receive duplicative assistance from other State or tribal programs funded under this part;

"(E) identifies the employment opportunities in or near the service area or areas of the Indian tribe and the manner in which the Indian tribe will cooperate and participate in enhancing such opportunities for recipients of assistance under the plan consistent with any applicable State standards; and

"(F) applies the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25

U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

"(2) APPROVAL.—The Secretary shall approve each tribal family assistance plan submitted in accordance with paragraph (1).

"(3) CONSORTIUM OF TRIBES.—Nothing in this section shall preclude the development and submission of a single plan by the participating Indian tribes of an intertribal consortium.

"(d) MINIMUM WORK PARTICIPATION REQUIREMENTS AND TIME LIMITS.—The Secretary, with the participation of Indian tribes, shall establish for each Indian tribe receiving a grant under this section minimum work participation requirements, appropriate time limits for receipt of welfare-related services under such grant, and penalties against individuals—

"(1) consistent with the purposes of this section;

"(2) consistent with the economic conditions and resources available to each tribe; and

"(3) similar to comparable provisions in section 404(d).

"(e) EMERGENCY ASSISTANCE.—Nothing in this section shall preclude an Indian tribe from seeking emergency

assistance from any Federal loan program or emergency fund.

"(f) ACCOUNTABILITY.—Nothing in this section shall be construed to limit the ability of the Secretary to maintain program funding accountability consistent with—

"(1) generally accepted accounting principles; and

"(2) the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(g) TRIBAL PENALTIES.—For the purpose of ensuring the proper use of tribal family assistance grants, the following provisions shall apply to an Indian tribe with an approved tribal assistance plan:

"(1) The provisions of subsections (a)(1), (a)(6), and (b) of section 407, in the same manner as such subsections apply to a State.

"(2) The provisions of section 407(a)(3), except that such subsection shall be applied by substituting 'the minimum requirements established under subsection (d) of section 414' for 'the minimum participation rates specified in section 404'.

"(h) DATA COLLECTION AND REPORTING.—For the purpose of ensuring uniformity in data collection, section

409 shall apply to an Indian tribe with an approved tribal family assistance plan.

"(i) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, and except as provided in paragraph (2), an Indian tribe in the State of Alaska that receives a tribal family assistance grant under this section shall use such grant to operate a program in accordance with the requirements applicable to the program of the State of Alaska funded under this part.

"(2) WAIVER.—An Indian tribe described in paragraph (1) may apply to the appropriate State authority to receive a waiver of the requirement of paragraph (1).

"SEC. 415. ASSISTANT SECRETARY FOR FAMILY SUPPORT.

"The programs under this part and part D of this title shall be administered by an Assistant Secretary for Family Support within the Department of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be in addition to any other Assistant Secretary of Health and Human Services provided for by law.

"SEC. 416. LIMITATION ON FEDERAL AUTHORITY.

''The Secretary of Health and Human Services and the Secretary of the Treasury may not regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part.

"SEC. 417. APPEAL OF ADVERSE DECISION.

''(a) IN GENERAL.—The Secretary shall notify the chief executive officer of a State of any adverse decision or action under this part, including any decision with respect to the State's plan or the imposition of a penalty under section 407.

''(b) ADMINISTRATIVE REVIEW OF ADVERSE DECISION.—

''(1) IN GENERAL.—Within 60 days after the date a State receives notice of an adverse decision under this section, the State may appeal the decision, in whole or in part, to the Departmental Appeals Board established in the Department of Health and Human Services (hereafter referred to in this section as the 'Board') by filing an appeal with the Board.

''(2) PROCEDURAL RULES.—The Board shall consider a State's appeal on the basis of such documentation as the State may submit and as the Board may require to support the final decision of

the Board. In deciding whether to uphold an adverse decision or any portion thereof, the Board shall conduct a thorough review of the issues and take into account all relevant evidence. The Board shall make a final determination with respect to an appeal filed under this paragraph not less than 60 days after the date the appeal is filed.

''(c) JUDICIAL REVIEW OF ADVERSE DECISION.—

''(1) IN GENERAL.—Within 90 days after the date of a final decision by the Board with respect to an adverse decision regarding a State under this section, the State may obtain judicial review of the final decision (and the findings incorporated into the final decision) by filing an action in—

''(A) the district court of the United States for the judicial district in which the principal or headquarters office of the State agency is located; or

''(B) the United States District Court for the District of Columbia.

''(2) PROCEDURAL RULES.—The district court in which an action is filed shall review the final decision of the Board on the record established in the administrative proceeding, in accordance with the standards of review prescribed by subparagraphs (A)

through (E) of section 706(2) of title 5, United States Code. The review shall be on the basis of the documents and supporting data submitted to the Board.

"SEC. 418. PERFORMANCE BONUS AND HIGH PERFORMANCE BONUS.

"(a) IN GENERAL.—

"(1) PERFORMANCE BONUS.—In addition to the State family assistance grant, for fiscal year 2000, the Secretary shall pay to each qualified State an amount equal to the State's share of the performance bonus fund described in paragraph (3).

"(2) QUALIFIED STATE.—For purposes of this subsection, the term 'qualified State' means a State that during the measurement period—

"(A) exceeds the overall average performance achieved by all States with respect to a measurement category, or

"(B) improves the State's performance in a measurement category by at least 15 percent over the State's baseline period.

"(3) BONUS FUND.—The amount of the bonus fund for fiscal year 2000 shall be an amount equal to 5 percent of the amount appropriated under section 403(a)(2)(A)(i) for such fiscal year.

"(b) HIGH PERFORMANCE BONUS.—

"(1) IN GENERAL.—In addition to the amount provided under subsection (a), each of the 10 high performance States in each measurement category shall be entitled to receive a share of the high performance bonus fund described in paragraph (3).

"(2) HIGH PERFORMANCE STATES.—For purposes of this subsection, the term 'high performance States' means with respect to each measurement category during the measurement period—

"(A) the 5 States that have the highest percentage of improvement with respect to the State's performance in the measurement category over the State's baseline period; and

"(B) the 5 States that have the highest overall average performance with respect to the measurement category.

"(3) HIGH PERFORMANCE BONUS FUND.—There are authorized to be appropriated and there are appropriated the amount of the high performance bonus fund for fiscal year 2000 equal to the amount of the reduction in State family assistance grants for all States for fiscal years 1996, 1997, 1998, and 1999 resulting from the application of section 407 (other than subsection (a)(6) thereof).

"(c) DEFINITIONS AND SPECIAL RULES.— For purposes of this section:

"(1) MEASUREMENT CATEGORY.—A measurement category means any of the following categories:

"(A) A reduction in the average length of time families in the State receive assistance during a fiscal year under the State program funded under this part.

"(B) An increase in the percentage of families receiving such assistance under this part that receive child support payments under part D.

"(C) An increase in the number of families that received assistance under a State program funded under this part in the preceding fiscal year that became ineligible for assistance under the State program as a result of unsubsidized employment during such year.

"(D) An increase in the amount earned by families that receive assistance under this part.

"(E) A reduction in the percentage of families that become eligible for assistance under this part within 18 months after becoming ineligible for such assistance.

"(2) MEASUREMENT PERIOD; BASELINE PERIOD.—

"(A) MEASUREMENT PERIOD.—The term 'measurement period' means the period beginning not later than 6 months after the date of the enactment of the Work Opportunity Act of 1995 and ending on September 30, 1999.

"(B) BASELINE PERIOD.—The term 'baseline period' means fiscal year 1994.

"(3) ALLOCATION FORMULA.—For purposes of determining a State's share of the performance bonus fund under subsection (a)(1), and the State's share of the high performance bonus fund under subsection (b)(1), the Secretary shall, not later than June 30, 1999, develop and publish in the Federal Register a formula for allocating amounts in the performance bonus fund to qualified States and a formula for allocating amounts in the high performance bonus fund to high performance States. Such formulas shall be based on each State's proportional share of the total amount appropriated under section 403(a)(2)(A) for fiscal year 2000.

"SEC. 419. AMOUNTS FOR CHILD CARE.

"(a) CHILD CARE ALLOCATION.—

"(1) IN GENERAL.—From the amount appropriated under section 403(a)(4)(A) for a fiscal year, the Secretary shall set aside an amount equal to the total amount of the Federal payments for fiscal year 1994 to States under section—

"(A) 402(g)(3)(A) of this Act (as such section was in effect before October 1, 1995) for amounts expended for child care pursuant to paragraph (1) of such section;

"(B) 403(l)(1)(A) of this Act (as so in effect) for amounts expended for child care pursuant to section 402(g)(1)(A) of this Act (as so in effect), in the case of a State with respect to which section 1108 of this Act applies; and

"(C) 403(n) of this Act (as so in effect) for child care services pursuant to section 402(i) of this Act (as so in effect).

"(2) DISTRIBUTION.—From amounts set aside for a fiscal year under paragraph (1), the Secretary shall pay to a State an amount equal to the total amounts of Federal payments for fiscal year 1994 to the State under section—

"(A) 402(g)(3)(A) of this Act (as such section was in effect before October 1, 1995) for

amounts expended for child care pursuant to paragraph (1) of such section;

"(B) 403(l)(1)(A) of this Act (as so in effect) for amounts expended for child care pursuant to section 402(g)(1)(A) of this Act (as so in effect), in the case of a State with respect to which section 1108 of this Act applies; and

"(C) 403(n) of this Act (as so in effect) for child care services pursuant to section 402(i) of this Act (as so in effect).

"(3) USE OF FUNDS.—Amounts received by a State under paragraph (2) shall only be used to provide child care assistance under this part.

"(4) FEDERAL PAYMENTS.—For purposes of paragraphs (1) and (2), Federal payments for fiscal year 1994 means such payments as reported by the State on February 14, 1995.

"(b) ADDITIONAL APPROPRIATION.—

"(1) IN GENERAL.—There are authorized to be appropriated and there are appropriated, $3,000,000,000 to be distributed to the States during the 5-fiscal year period beginning in fiscal year 1996 for the provision of child care assistance.

"(2) DISTRIBUTION.—

"(A) IN GENERAL.—The Secretary shall use amounts made available under paragraph (1) to make grants to States. The total amount of grants awarded to a State under this paragraph shall be based on the formula used for determining the amount of Federal payments to the State for fiscal year 1994 under section 403(n) (as such section was in effect before October 1, 1995) for child care services pursuant to section 402(i) (as so in effect) as such amount relates to the total amount of such Federal payments to all States for such fiscal year.

"(B) FISCAL YEAR 2000.—With respect to the last quarter of fiscal year 2000, if the Secretary determines that any allotment to a State under this subsection will not be used by such State for carrying out the purpose for which the allotment is available, the Secretary shall make such allotment available for carrying out such purpose to 1 or more other States which apply for such funds to the extent the Secretary determines that such other States will be able to use such additional allotments for carrying out such purpose. Such available allotments shall be

reallocated to a State pursuant to section 402(i) (as such section was in effect before October 1, 1995) by substituting 'the number of children residing in all States applying for such funds' for 'the number of children residing in the United States in the second preceding fiscal year'. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under this subsection) for such year.

''(3) AMOUNT OF FUNDS.—The Secretary shall pay to each eligible State in a fiscal year an amount equal to the Federal medical assistance percentage for such State for such fiscal year (as defined in section 2122(c)) of so much of the expenditures by the State for child care in such year as exceed the State set-aside for such State under subsection (a) for such year and the amount of State expenditures in fiscal year 1994 that equal the non-Federal share for the programs described in subparagraphs (A), (B) and (C) of subsection (a)(1).

''(4) BUDGET SCORING.—Notwithstanding section 257(b)(2) of the Balanced Budget and Emer-

gency Deficit Control Act of 1985, the baseline shall assume that no grant shall be made under this subsection after fiscal year 2000.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) STATE OPTION.—For purposes of section 402(a)(1)(B), a State may, at its option, not require a single parent with a child under the age of 6 to participate in work for more than an average of 20 hours per week during a month and may count such parent as being engaged in work for a month for purposes of section 404(c)(1) if such parent participates in work for an average of 20 hours per week during such month.

"(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide an entitlement to child care services to any child.

"SEC. 420. ELIGIBILITY FOR CHILD CARE ASSISTANCE.

Notwithstanding section 658T of the Child Care and Development Block Grant Act of 1990, the State agency specified in section 402(a)(7) shall determine eligibility for child care assistance provided under this part in accordance with criteria determined by the State.

"SEC. 421. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS.

"(a) IN GENERAL.—Upon receiving notice from the Secretary of Health and Human Services that a State agency administering a plan approved under this part has notified the Secretary that a named individual has been overpaid under the State plan approved under this part, the Secretary of the Treasury shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual, regardless of whether such individual filed a tax return as a married or unmarried individual. If the Secretary of the Treasury finds that any such amount is payable, the Secretary shall withhold from such refunds an amount equal to the overpayment sought to be collected by the State and pay such amount to the State agency.

"(b) REGULATIONS.—The Secretary of the Treasury shall issue regulations, after review by the Secretary of Health and Human Services, that provide—

"(1) that a State may only submit under subsection (a) requests for collection of overpayments with respect to individuals—

"(A) who are no longer receiving assistance under the State plan approved under this part,

"(B) with respect to whom the State has already taken appropriate action under State

law against the income or resources of the individuals or families involved to collect the past-due legally enforceable debt; and

"(C) to whom the State agency has given notice of its intent to request withholding by the Secretary of the Treasury from the income tax refunds of such individuals;

"(2) that the Secretary of the Treasury will give a timely and appropriate notice to any other person filing a joint return with the individual whose refund is subject to withholding under subsection (a); and

"(3) the procedures that the State and the Secretary of the Treasury will follow in carrying out this section which, to the maximum extent feasible and consistent with the specific provisions of this section, will be the same as those issued pursuant to section 464(b) applicable to collection of past-due child support.".

(c) CONFORMING AMENDMENTS RELATING TO COLLECTION OF OVERPAYMENTS.—

(1) Section 6402 of the Internal Revenue Code of 1986 (relating to authority to make credits or refunds) is amended—

(A) in subsection (a), by striking ''(c) and (d)'' and inserting ''(c), (d), and (e)'';

(B) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

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

''(e) COLLECTION OF OVERPAYMENTS UNDER TITLE IV–A OF THE SOCIAL SECURITY ACT.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 421 of the Social Security Act (concerning recovery of overpayments to individuals under State plans approved under part A of title IV of such Act).''.

(2) Paragraph (10) of section 6103(*l*) of such Code is amended—

(A) by striking ''(c) or (d)'' each place it appears and inserting ''(c), (d), or (e)''; and

(B) by adding at the end of subparagraph (B) the following new sentence: ''Any return information disclosed with respect to section 6402(e) shall only be disclosed to officers and

employees of the State agency requesting such information.''.

(3) The matter preceding subparagraph (A) of section 6103(p)(4) of such Code is amended—

(A) by striking ''(5), (10)'' and inserting ''(5)''; and

(B) by striking ''(9), or (12)'' and inserting ''(9), (10), or (12)''.

(4) Section 552a(a)(8)(B)(iv)(III) of title 5, United States Code, is amended by striking ''section 464 or 1137 of the Social Security Act'' and inserting ''section 421, 464, or 1137 of the Social Security Act.''.

SEC. 7202. SERVICES PROVIDED BY CHARITABLE, RELIGIOUS, OR PRIVATE ORGANIZATIONS.

(a) IN GENERAL.—

(1) STATE OPTIONS.—Notwithstanding any other provision of law, a State may—

(A) administer and provide services under the programs described in subparagraphs (A) and (B)(i) of paragraph (2) through contracts with charitable, religious, or private organizations; and

(B) provide beneficiaries of assistance under the programs described in subparagraphs

(A) and (B)(ii) of paragraph (2) with certificates, vouchers, or other forms of disbursement which are redeemable with such organizations.

(2) PROGRAMS DESCRIBED.—The programs described in this paragraph are the following programs:

(A) A State program funded under part A of title IV of the Social Security Act (as amended by section 7201).

(B) Any other program that is established or modified under title I or III of this Act or this subtitle or subtitle D of this title that—

(i) permits contracts with organizations; or

(ii) permits certificates, vouchers, or other forms of disbursement to be provided to beneficiaries, as a means of providing assistance.

(b) RELIGIOUS ORGANIZATIONS.—The purpose of this section is to allow religious organizations to contract, or to accept certificates, vouchers, or other forms of disbursement under any program described in subsection (a)(2), on the same basis as any other provider without impairing the religious character of such organizations,

and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

(c) NONDISCRIMINATION AGAINST RELIGIOUS ORGANIZATIONS.—Religious organizations are eligible, on the same basis as any other private organization, as contractors to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, under any program described in subsection (a)(2) so long as the programs are implemented consistent with the Establishment Clause of the United States Constitution. Neither the Federal Government nor a State receiving funds under such programs shall discriminate against an organization which is or applies to be a contractor to provide assistance, or which accepts certificates, vouchers, or other forms of disbursement, on the basis that the organization has a religious character.

(d) RELIGIOUS CHARACTER AND FREEDOM.—

(1) RELIGIOUS ORGANIZATIONS.—Notwithstanding any other provision of law, any religious organization with a contract described in subsection (a)(1)(A), or which accepts certificates, vouchers, or other forms of disbursement under subsection (a)(1)(B), shall retain its independence from Federal, State, and local governments, including such

organization's control over the definition, development, practice, and expression of its religious beliefs.

(2) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State shall require a religious organization to—

(A) alter its form of internal governance; or

(B) remove religious art, icons, scripture, or other symbols;

in order to be eligible to contract to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, funded under a program described in subsection (a)(2).

(e) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

(1) IN GENERAL.—If an individual described in paragraph (2) has an objection to the religious character of the organization or institution from which the individual receives, or would receive, assistance funded under any program described in subsection (a)(2), the State in which the individual resides shall provide such individual (if otherwise eligible for such assistance) with assistance from an alternative provider the value of which is not less than the value of the assistance which the individual would have received from such organization.

(2) INDIVIDUAL DESCRIBED.—An individual described in this paragraph is an individual who receives, applies for, or requests to apply for, assistance under a program described in subsection (a)(2).

(f) NONDISCRIMINATION IN EMPLOYMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this section shall be construed to modify or affect the provisions of any other Federal or State law or regulation that relates to discrimination in employment on the basis of religion.

(2) EXCEPTION.—A religious organization with a contract described in subsection (a)(1)(A), or which accepts certificates, vouchers, or other forms of disbursement under subsection (a)(1)(B), may require that an employee rendering service pursuant to such contract, or pursuant to the organization's acceptance of certificates, vouchers, or other forms of disbursement adhere to—

(A) the religious tenets and teachings of such organization; and

(B) any rules of the organization regarding the use of drugs or alcohol.

(g) NONDISCRIMINATION AGAINST BENEFICIARIES.—Except as otherwise provided in law, a religious organization shall not discriminate against an indi-

vidual in regard to rendering assistance funded under any program described in subsection (a)(2) on the basis of religion, a religious belief, or refusal to actively participate in a religious practice.

(h) FISCAL ACCOUNTABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), any religious organization contracting to provide assistance funded under any program described in subsection (a)(2) shall be subject to the same regulations as other contractors to account in accord with generally accepted auditing principles for the use of such funds provided under such programs.

(2) LIMITED AUDIT.—If such organization segregates Federal funds provided under such programs into separate accounts, then only the financial assistance provided with such funds shall be subject to audit.

(i) COMPLIANCE.—A religious organization which has its rights under this section violated may enforce its claim exclusively by asserting a civil action for such relief as may be appropriate, including injunctive relief or damages, in an appropriate State court against the entity or agency that allegedly commits such violation.

SEC. 7203. LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.

No funds provided directly to institutions or organizations to provide services and administer programs described in section 7202(a)(2) and programs established or modified under subtitle D of title I of this Act, this subtitle, or subtitle D, E, F, or G of this title shall be expended for sectarian worship or instruction. This section shall not apply to financial assistance provided to or on behalf of beneficiaries of assistance in the form of certificates, vouchers, or other forms of disbursement, if such beneficiary may choose where such assistance shall be redeemed.

SEC. 7204. CENSUS DATA ON GRANDPARENTS AS PRIMARY CAREGIVERS FOR THEIR GRANDCHILDREN.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Commerce (hereafter in this section referred to as the ''Secretary''), in carrying out the provisions of section 141 of title 13, United States Code, shall expand the data collection efforts of the Bureau of the Census (hereafter in this section referred to as the ''Bureau'') to enable the Bureau to collect statistically significant data, in connection with its decennial census and its mid-decade census, concerning the growing trend of grandparents who are the primary caregivers for their grandchildren.

(b) EXPANDED CENSUS QUESTION.—In carrying out the provisions of subsection (a), the Secretary shall expand the Bureau's census question that details households which include both grandparents and their grandchildren. The expanded question shall be formulated to distinguish between the following households:

(1) A household in which a grandparent temporarily provides a home for a grandchild for a period of weeks or months during periods of parental distress.

(2) A household in which a grandparent provides a home for a grandchild and serves as the primary caregiver for the grandchild.

SEC. 7205. STUDY OF EFFECT OF WELFARE REFORM ON GRANDPARENTS AS PRIMARY CAREGIVERS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the ''Secretary'') shall conduct a study evaluating the impact of amendments made by subtitle D of title I of this Act, this subtitle, and subtitles D, E, F, and G of this title on grandparents who have assumed the responsibility of providing care to their grandchildren. In such study, the Secretary shall identify barriers to participation in public programs including inconsistent policies, standards, and definitions used by programs and agencies in the ad-

ministration of medicaid, assistance under a State program funded under part A of title IV of the Social Security Act, child support enforcement, and foster care programs on grandparents who have assumed the care-giving role for children whose natural parents are unable to provide care.

(b) REPORT.—Not later than December 31, 1997, the Secretary shall submit a report setting forth the findings of the study described in subsection (a) to the Committee on Ways and Means and the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Finance, the Committee on Labor and Human Resources, and the Special Committee on Aging of the Senate. The report shall include such recommendations for administrative or legislative changes as the Secretary considers appropriate.

SEC. 7206. DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD REQUIRED.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Commissioner of Social Security (hereafter in this section referred to as the ''Commissioner'') shall in accordance with the provisions of this section develop a prototype of a coun-

terfeit-resistant social security card. Such prototype card shall—

(A) be made of a durable, tamper-resistant material such as plastic or polyester,

(B) employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits, and

(C) be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) ASSISTANCE BY ATTORNEY GENERAL.—The Attorney General of the United States shall provide such information and assistance as the Commissioner deems necessary to achieve the purposes of this section.

(b) STUDY AND REPORT.—

(1) IN GENERAL.—The Commissioner shall conduct a study and issue a report to Congress which examines different methods of improving the social security card application process.

(2) ELEMENTS OF STUDY.—The study shall include an evaluation of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3, 5, and 10 year period. The study shall also evaluate the feasibility

and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year phase-in options.

(3) DISTRIBUTION OF REPORT.—Copies of the report described in this subsection along with a facsimile of the prototype card as described in subsection (a) shall be submitted to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate within 1 year of the date of the enactment of this Act.

SEC. 7207. DISCLOSURE OF RECEIPT OF FEDERAL FUNDS.

(a) IN GENERAL.—Whenever an organization that accepts Federal funds under subtitle D of title I of this Act, this subtitle, or subtitle D, E, F, or G of this title or the amendments made by such title or subtitles makes any communication that in any way intends to promote public support or opposition to any policy of a Federal, State, or local government through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public advertising, such communication shall state the following: ''This was prepared and paid for by an organization that accepts taxpayer dollars.''.

(b) FAILURE TO COMPLY.—If an organization makes any communication described in subsection (a) and fails to provide the statement required by that subsection, such organization shall be ineligible to receive Federal funds under subtitle D of title I of this Act, this subtitle, or subtitle D, E, F, or G of this title or the amendments made by such title and subtitles.

(c) DEFINITION.—For purposes of this section, the term ''organization'' means an organization described in section 501(c) of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATES.—This section shall take effect—

(1) with respect to printed communications 1 year after the date of enactment of this Act; and

(2) with respect to any other communication on the date of enactment of this Act.

SEC. 7208. MODIFICATIONS TO THE JOB OPPORTUNITIES FOR CERTAIN LOW-INCOME INDIVIDUALS PROGRAM.

Section 505 of the Family Support Act of 1988 (42 U.S.C. 1315 note) is amended—

(1) in the heading, by striking ''**DEMONSTRATION**'';

(2) by striking ''demonstration'' each place it appears;

(3) in subsection (a), by striking ''in each of fiscal years'' and all that follows through ''10'' and inserting ''shall enter into agreements with'';

(4) in subsection (b)(3), by striking ''aid to families with dependent children under part A of title IV of the Social Security Act'' and inserting ''assistance under the State program funded under part A of title IV of the Social Security Act in the State in which the individual resides'';

(5) in subsection (c)—

(A) in paragraph (1)(C), by striking ''aid to families with dependent children under part A of title IV of the Social Security Act'' and inserting ''assistance under the State program funded under part A of title IV of the Social Security Act'';

(B) in paragraph (2), by striking ''aid to families with dependent children under title IV of such Act'' and inserting ''assistance under the State program funded under part A of title IV of the Social Security Act'';

(6) in subsection (d), by striking ''job opportunities and basic skills training program (as provided for under title IV of the Social Security Act'' and in-

serting ''the State program funded under part A of title IV of the Social Security Act''; and

(7) by striking subsections (e) through (g) and inserting the following:

''(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of conducting projects under this section, there is authorized to be appropriated an amount not to exceed $25,000,000 for any fiscal year.''.

SEC. 7209. DEMONSTRATION PROJECTS FOR SCHOOL UTILIZATION.

(a) FINDINGS.—It is the goal of the United States that children grow to be self-sufficient citizens, that parents equip themselves to provide the best parental care and guidance to their children, and that welfare dependency, crime, and the deterioration of neighborhoods be eliminated. It will contribute to these goals to increase the level of parents' involvement in their children's school and other activities, to increase the amount of time parents spend with or in close proximity to their children, to increase the portion of the day and night when children are in a safe and healthy environment and not exposed to unfavorable influences, to increase the opportunities for children to participate in safe, healthy, and enjoyable extracurricular and organized developmental and recreational activities, and to make more accessible the opportunities

for parents, especially those dependent on public assistance, to increase and enhance their parenting and living skills. All of these contributions can be facilitated by establishing the neighborhood public school as a focal point for such activities and by extending the hours of the day in which its facilities are available for such activities.

(b) GRANTS.—The Secretary of Education (hereafter in this section referred to as the ''Secretary'') shall make demonstration grants as provided in subsection (c) to States to enable them to increase the number of hours during each day when existing public school facilities are available for use for the purposes set forth in subsection (d).

(c) SELECTION OF STATES.—The Secretary shall make grants to not more than 5 States for demonstration projects in accordance with this section. Each State shall select the number and location of schools based on the amount of funds it deems necessary for a school properly to achieve the goals of this program. The schools selected must have a significant percentage of students receiving benefits under part A of title IV of the Social Security Act. No more than 2 percent of the grant to any State shall be used for administrative expenses of any kind by any entity (except that none of the activities set forth in paragraphs (1) and (2) of subsection (d) shall be consid-

ered an administrative activity the expenses for which are limited by this subsection).

(d) USE OF FUNDS.—The grants made under subsection (b), in order that school facilities can be more fully utilized, shall be used to provide funding for, among other things—

(1) extending the length of the school day, expanding the scope of student programs offered before and after pre-existing school hours, enabling volunteers and parents or professionals paid from other sources to teach, tutor, coach, organize, advise, or monitor students before and after pre-existing school hours, and providing security, supplies, utilities, and janitorial services before and after pre-existing school hours for these programs,

(2) making the school facilities available for community and neighborhood clubs, civic associations and organizations, Boy and Girl Scouts and similar organizations, adult education classes, organized sports, parental education classes, and other educational, recreational, and social activities.

None of the funds provided under this section can be used to supplant funds already provided to a school facility for services, equipment, personnel, or utilities nor can funds be used to pay costs associated with operating school fa-

cilities during hours those facilities are already available for student or community use.

(e) APPLICATIONS.—

(1) IN GENERAL.—The Governor of each State desiring to conduct a demonstration project under this section shall prepare and submit to the Secretary an application in such manner and containing such information as the Secretary may require. The Secretary shall actively encourage States to submit such applications.

(2) APPROVAL.—The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this section and shall approve such applications in a number of States to be determined by the Secretary (not to exceed 5), taking into account the overall funding levels available under this section.

(f) DURATION.—A demonstration project under this section shall be conducted for not more than 4 years plus an additional time period of up to 12 months for final evaluation and reporting. The Secretary may terminate a project if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(g) EVALUATION PLAN.—

(1) STANDARDS.—Not later than 3 months after the date of the enactment of this section, the Secretary shall develop standards for evaluating the effectiveness of each demonstration project in contributing toward meeting the objectives set forth in subsection (a), which shall include the requirement that an independent expert entity selected by the Secretary provide an evaluation of all demonstration projects, which evaluations shall be included in the appropriate State's annual and final reports to the Secretary under subsection (h)(1).

(2) SUBMISSION OF PLAN.—Each State conducting a demonstration project under this section shall submit an evaluation plan (meeting the standards developed by the Secretary under paragraph (1)) to the Secretary not later than 90 days after the State is notified of the Secretary's approval for such project. A State shall not receive any Federal funds for the operation of the demonstration project until the Secretary approves such evaluation plan.

(h) REPORTS.—

(1) STATE.—A State that conducts a demonstration project under this section shall prepare and submit to the Secretary annual and final reports

in accordance with the State's evaluation plan under subsection (g)(2) for such demonstration project.

(2) SECRETARY.—The Secretary shall prepare and submit to the Congress annual reports concerning each demonstration project under this section.

(i) AUTHORIZATIONS.—

(1) GRANTS.—There are authorized to be appropriated for grants under subsection (b) for each of fiscal years 1996, 1997, 1998, 1999, and 2000, $10,000,000.

(2) ADMINISTRATION.—There are authorized to be appropriated $1,000,000 for each of fiscal years 1996, 1997, 1998, 1999, and 2000 for the administration of this section by the Secretary, including development of standards and evaluation of all demonstration projects by an independent expert entity under subsection (g)(1).

SEC. 7210. CORRECTIVE COMPLIANCE PLAN.

(a) IN GENERAL.—

(1) NOTIFICATION OF VIOLATION.—Notwithstanding any other provision of law, the Federal Government shall, prior to assessing a penalty against a State under any program established or modified under subtitle D of title I of this Act, this subtitle, or subtitle D, E, F, or G of this title, notify

the State of the violation of law for which such penalty would be assessed and allow the State the opportunity to enter into a corrective compliance plan in accordance with this section which outlines how the State will correct any violations for which such penalty would be assessed and how the State will insure continuing compliance with the requirements of such program.

(2) 60-DAY PERIOD TO PROPOSE A CORRECTIVE COMPLIANCE PLAN.—Any State notified under paragraph (1) shall have 60 days in which to submit to the Federal Government a corrective compliance plan to correct any violations described in such paragraph.

(3) ACCEPTANCE OF PLAN.—The Federal Government shall have 60 days to accept or reject the State's corrective compliance plan and may consult with the State during this period to modify the plan. If the Federal Government does not accept or reject the corrective compliance plan during the period, the corrective compliance plan shall be deemed to be accepted.

(b) FAILURE TO CORRECT.—If a corrective compliance plan is accepted by the Federal Government, no penalty shall be imposed with respect to a violation described

in subsection (a) if the State corrects the violation pursuant to the plan. If a State has not corrected the violation in a timely manner under the plan, some or all of the penalty shall be assessed.

SEC. 7211. PARENTAL RESPONSIBILITY CONTRACTS.

(a) ASSESSMENT.—Notwithstanding any other provision of, or amendment made by, this subtitle, each State to which a grant is made under section 403 of the Social Security Act shall provide that the State agency, through a case manager, shall make an initial assessment of the education level, parenting skills, and history of parenting activities and involvement of each parent who is applying for financial assistance under the State plan funded under part A of title IV of the Social Security Act.

(b) PARENTAL RESPONSIBILITY CONTRACTS.—On the basis of the assessment made under subsection (a) with respect to each parent applicant, the case manager, in consultation with the parent applicant (hereafter in this subsection referred to as the ''client'') and, if possible, the client's spouse if one is present, shall develop a parental responsibility contract for the client, which meets the following requirements:

(1) Sets forth the obligations of the client, including all of the following the case manager believes are within the ability and capacity of the client, are not

incompatible with the employment or school activities of the client, and are not inconsistent with each other in the client's case or with the well being of the client's children:

(A) Attend school, if necessary, and maintain certain grades and attendance.

(B) Keep school-age children of the client in school.

(C) Immunize children of the client.

(D) Attend parenting and money management classes.

(E) Participate in parent and teacher associations and other activities intended to involve parents in their children's school activities and in the affairs of their children's school.

(F) Attend school activities with their children where attendance or participation by both children and parents is appropriate.

(G) Undergo appropriate substance abuse treatment counseling.

(H) Any other appropriate activity, at the option of the State.

(2) Provides that the client shall accept any bona fide offer of unsubsidized full-time employment, unless the client has good cause for not doing so.

(c) PENALTIES FOR NONCOMPLIANCE WITH PARENTAL RESPONSIBILITY CONTRACT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the following penalties shall apply:

(A) PROGRESSIVE REDUCTIONS IN ASSISTANCE FOR 1ST AND 2ND ACTS OF NON-COMPLIANCE.—The State plan described in section 402 of the Social Security Act shall provide that the amount of assistance otherwise payable under part A of title IV of such Act to a family that includes a client who, with respect to a parental responsibility contract signed by the client, commits an act of noncompliance without good cause, shall be reduced by—

(i) 33 percent for the 1st such act of noncompliance; or

(ii) 66 percent for the 2nd such act of noncompliance.

(B) DENIAL OF ASSISTANCE FOR 3RD AND SUBSEQUENT ACTS OF NONCOMPLIANCE.—The State shall provide that in the case of the 3rd or subsequent such act of noncompliance, the family of which the client is a member shall not thereafter be eligible for assistance under this part.

(C) LENGTH OF PENALTIES.—The penalty for an act of noncompliance shall not exceed the greater of—

(i) in the case of—

(I) the 1st act of noncompliance, 1 month,

(II) the 2nd act of noncompliance, 3 months, or

(III) the 3rd or subsequent act of noncompliance, 6 months; or

(ii) the period ending with the cessation of such act of noncompliance.

(D) DENIAL OF ASSISTANCE TO ADULTS REFUSING TO ACCEPT A BONA FIDE OFFER OF EMPLOYMENT.—The State plan shall provide that if an unemployed individual who has attained 18 years of age refuses to accept a bona fide offer of employment without good cause, such act of noncompliance shall be considered a 3rd or subsequent act of noncompliance.

(2) STATE FLEXIBILITY.—The State plan may provide for different penalties than those specified in paragraph (1).

SEC. 7212. EXPENDITURE OF FEDERAL FUNDS IN ACCORDANCE WITH LAWS AND PROCEDURES APPLICABLE TO EXPENDITURE OF STATE FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, any funds received by a State under the provisions of law specified in subsection (b) shall be expended only in accordance with the laws and procedures applicable to expenditures of the State's own revenues, including appropriation by the State legislature, consistent with the terms and conditions required under such provisions of law.

(b) PROVISIONS OF LAW.—The provisions of law specified in this subsection are the following:

(1) Part A of title IV of the Social Security Act (relating to block grants for temporary assistance to needy families).

(2) The section of the Food Stamp Act of 1977 relating to the optional State food assistance block grants.

(3) The Child Care and Development Block Grant Act of 1990 (relating to block grants for child care).

SEC. 7213. CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) AMENDMENTS TO TITLE II.—

(1) Section 205(c)(2)(C)(vi) (42 U.S.C. 405(c)(2)(C)(vi)), as so redesignated by section 321(a)(9)(B) of the Social Security Independence and Program Improvements Act of 1994, is amended—

(A) by inserting ''an agency administering a program funded under part A of title IV or'' before ''an agency operating''; and

(B) by striking ''A or D of title IV of this Act'' and inserting ''D of such title''.

(2) Section 228(d)(1) (42 U.S.C. 428(d)(1)) is amended by inserting ''under a State program funded under'' before ''part A of title IV''.

(b) AMENDMENT TO PART B OF TITLE IV.—Section 422(b)(2) (42 U.S.C. 622(b)(2)) is amended by striking ''under the State plan approved'' and inserting ''under the State program funded.''.

(c) AMENDMENTS TO PART D OF TITLE IV.—

(1) Section 451 (42 U.S.C. 651) is amended by striking ''aid'' and inserting ''assistance under a State program funded''.

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) by striking ''aid to families with dependent children'' and inserting ''assistance under a State program funded under part A'';

(B) by striking ''such aid'' and inserting ''such assistance''; and

(C) by striking ''402(a)(26) or''.

(3) Section 452(a)(10)(F) (42 U.S.C. 652(a)(10)(F)) is amended—

(A) by striking ''aid under a State plan approved'' and inserting ''assistance under a State program funded''; and

(B) by striking ''in accordance with the standards referred to in section 402(a)(26)(B)(ii)'' and inserting ''by the State''.

(4) Section 452(b) (42 U.S.C. 652(b)) is amended in the first sentence by striking ''aid under the State plan approved under part A'' and inserting ''assistance under a State program funded under part A''.

(5) Section 452(d)(3)(B)(i) (42 U.S.C. 652(d)(3)(B)(i)) is amended by striking ''1115(c)'' and inserting ''1115(b)''.

(6) Section 452(g)(2)(A)(ii)(I) (42 U.S.C. 652(g)(2)(A)(ii)(I)) is amended by striking ''aid is

being paid under the State's plan approved under part A or E'' and inserting ''assistance is being provided under the State program funded under part A or aid is being paid under the State's plan approved under part E''.

(7) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended in the matter following clause (iii) by striking ''aid was being paid under the State's plan approved under part A or E'' and inserting ''assistance was being provided under the State program funded under part A or aid was being paid under the State's plan approved under part E''.

(8) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended in the matter following subparagraph (B)—

(A) by striking ''who is a dependent child'' and inserting ''with respect to whom assistance is being provided under the State program funded under part A'';

(B) by inserting ''by the State agency administering the State plan approved under this part'' after ''found''; and

(C) by striking ''under section 402(a)(26)'' and inserting ''with the State in establishing paternity''.

(9) Section 452(h) (42 U.S.C. 652(h)) is amended by striking ''under section 402(a)(26)''.

(10) Section 453(c)(3) (42 U.S.C. 653(c)(3)) is amended by striking ''aid'' and inserting ''assistance under a State program funded''.

(11) Section 454 (42 U.S.C. 654)) is amended—

(A) in paragraph (5)(A)—

(i) by striking ''under section 402(a)(26)''; and

(ii) by striking ''except that this paragraph shall not apply to such payments for any month following the first month in which the amount collected is sufficient to make such family ineligible for assistance under the State plan approved under part A;''; and

(B) in paragraph (6)(D), by striking ''aid under a State plan approved'' and inserting ''assistance under a State program funded''.

(12) Section 456 (42 U.S.C. 656) is amended—

(A) in subsection (a)(1), by striking ''under section 402(a)(26)''; and

(B) by striking subsection (b) and inserting the following:

"(b) A debt which is a support obligation enforceable under this title is not released by a discharge in bankruptcy under title 11, United States Code.".

(13) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "402(a)(26) or".

(14) Section 466(b)(2) (42 U.S.C. 666(b)(2)) is amended by striking "aid" and inserting "assistance under a State program funded".

(15) Section 469(a) (42 U.S.C. 669(a)) is amended—

(A) by striking "aid under plans approved" and inserting "assistance under State programs funded"; and

(B) by striking "such aid" and inserting "such assistance".

(d) AMENDMENTS TO PART E OF TITLE IV.—

(1) Section 470 (42 U.S.C. 670) is amended—

(A) by striking "would be" and inserting "would have been"; and

(B) by inserting "(as such plan was in effect on June 1, 1995)" after "part A".

(2) Section 471(17) (42 U.S.C. 671(17)) is amended by striking "plans approved under parts A

and D'' and inserting ''program funded under part A and plan approved under part D''.

(3) Section 472(a) (42 U.S.C. 672(a)) is amended—

(A) in the matter preceding paragraph (1)—

(i) by striking ''would meet'' and inserting ''would have met'';

(ii) by inserting ''(as such sections were in effect on June 1, 1995)'' after ''407''; and

(iii) by inserting ''(as so in effect)'' after ''406(a)''; and

(B) in paragraph (4)—

(i) in subparagraph (A)—

(I) by inserting ''would have'' after ''(A)''; and

(II) by inserting ''(as in effect on June 1, 1995)'' after ''section 402''; and

(ii) in subparagraph (B)(ii), by inserting ''(as in effect on June 1, 1995)'' after ''406(a)''.

(4) Section 472(h) (42 U.S.C. 672(h)) is amended to read as follows:

"(h)(1) For purposes of the medicaid program under title XIX of this Act or any successor to such program, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a dependent child as defined in section 406 (as in effect as of June 1, 1995) and shall be deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect). For purposes of title XX, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a minor child in a needy family under a State program funded under part A and shall be deemed to be a recipient of assistance under such part.

"(2) For purposes of paragraph (1), a child whose costs in a foster family home or child care institution are covered by the foster care maintenance payments being made with respect to the child's minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are made under this section.".

(5) Section 473(a)(2) (42 U.S.C. 673(a)(2)) is amended—

(A) in subparagraph (A)(i)—

(i) by inserting ''(as such sections were in effect on June 1, 1995)'' after ''407'';

(ii) by inserting ''(as so in effect)'' after ''specified in section 406(a)''; and

(iii) by inserting ''(as such section was in effect on June 1, 1995)'' after ''403'';

(B) in subparagraph (B)(i)—

(i) by inserting ''would have'' after ''(B)(i)''; and

(ii) by inserting ''(as in effect on June 1, 1995)'' after ''section 402''; and

(C) in subparagraph (B)(ii)(II), by inserting ''(as in effect on June 1, 1995)'' after ''406(a)''.

(6) Section 473(b) (42 U.S.C. 673(b)) is amended to read as follows:

''(b)(1) For purposes of the medicaid program under title XIX of this Act or any successor to such program, any child who is described in paragraph (3) shall be deemed to be a dependent child as defined in section 406 (as in effect as of June 1, 1995) and shall be deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect) in the State where such child resides.

"(2) For purposes of title XX, any child who is described in paragraph (3) shall be deemed to be a minor child in a needy family under a State program funded under part A and shall be deemed to be a recipient of assistance under such part.

"(3) A child described in this paragraph is any child—

"(A)(i) who is a child described in subsection (a)(2), and

"(ii) with respect to whom an adoption assistance agreement is in effect under this section (whether or nor adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued), or

"(B) with respect to whom foster care maintenance payments are being made under section 472.

"(4) For purposes of paragraphs (1) and (2), a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the child's minor parent, as provided in section 475(4)(B), shall be considered a child

with respect to whom foster care maintenance payments are being made under section 472.''.

(e) AMENDMENT TO TITLE X.—Section 1002(a)(7) (42 U.S.C. 1202(a)(7)) is amended by striking ''aid to families with dependent children under the State plan approved under section 402 of this Act'' and inserting ''assistance under a State program funded under part A of title IV''.

(f) AMENDMENTS TO TITLE XI.—

(1) Section 1109 (42 U.S.C. 1309) is amended by striking ''or part A of title IV,''.

(2) Section 1115 (42 U.S.C. 1315) is amended—

(A) in subsection (a)(2)—

(i) by inserting ''(A)'' after ''(2)'';

(ii) by striking ''403,'';

(iii) by striking the period at the end and inserting '', and''; and

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

''(B) costs of such project which would not otherwise be a permissible use of funds under part A of title IV and which are not included as part of the costs of projects under section 1110, shall to the extent and for the period prescribed by the Secretary,

be regarded as a permissible use of funds under such part.''; and

(B) in subsection (c)(3), by striking ''under the program of aid to families with dependent children'' and inserting ''part A of such title''.

(3) Section 1116 (42 U.S.C. 1316) is amended—

(A) in each of subsections (a)(1), (b), and (d), by striking ''or part A of title IV,''; and

(B) in subsection (a)(3), by striking ''404,''.

(4) Section 1118 (42 U.S.C. 1318) is amended—

(A) by striking ''403(a),'';

(B) by striking ''and part A of title IV,''; and

(C) by striking '', and shall, in the case of American Samoa, mean 75 per centum with respect to part A of title IV''.

(5) Section 1119 (42 U.S.C. 1319) is amended—

(A) by striking ''or part A of title IV''; and

(B) by striking ''403(a),''.

(6) Section 1133(a) (42 U.S.C. 1320b–3(a)) is amended by striking ''or part A of title IV,''.

(7) Section 1136 (42 U.S.C. 1320b–6) is repealed.

(8) Section 1137 (42 U.S.C. 1320b–7) is amended—

(A) in subsection (b), by striking paragraph (1) and inserting the following:

''(1) any State program funded under part A of title IV of this Act;''; and

(B) in subsection (d)(1)(B)—

(i) by striking ''In this subsection—'' and all that follows through ''(ii) in'' and inserting ''In this subsection, in'';

(ii) by redesignating subclauses (I), (II), and (III) as clauses (i), (ii), and (iii); and

(iii) by moving such redesignated material 2 ems to the left.

(9) Section 1108 (42 U.S.C. 1308) is amended—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1)—

(I) by inserting ''(or paid, in the case of part A of title IV)'' after ''certified''; and

(II) by striking ''or, in the case of'' and all that follows through ''section 403(k)'';

(ii) in paragraph (1)—

(I) in subparagraph (F), by striking ''or'';

(II) in subparagraph (G), by striking ''the fiscal year 1989 and each fiscal year thereafter;'' and inserting ''each of the fiscal years 1989 through 1995, or''; and

(III) by inserting after subparagraph (G), the following new subparagraph:

''(H) $100,039,000 with respect to fiscal year 1996 and each fiscal year thereafter;'';

(iii) in paragraph (2)—

(I) in subparagraph (F), by striking ''or'';

(II) in subparagraph (G), by striking ''the fiscal year 1989 and each fiscal year thereafter;'' and in-

serting "each of the fiscal years 1989 through 1995, or"; and

(III) by inserting after subparagraph (G), the following new subparagraph:

"(H) $3,489,000 with respect to fiscal year 1996 and each fiscal year thereafter;"; and

(iv) in paragraph (3)—

(I) in subparagraph (F), by striking "or";

(II) in subparagraph (G), by striking "the fiscal year 1989 and each fiscal year thereafter." and inserting "each of the fiscal years 1989 through 1995, or"; and

(III) by inserting after subparagraph (G), the following new subparagraph:

"(H) $4,593,000 with respect to fiscal year 1996 and each fiscal year thereafter."; and

(B) in subsection (d), by striking "(exclusive of any amounts" and all that follows through "section 403(k) applies)".

(g) AMENDMENT TO TITLE XIV.—Section 1402(a)(7) (42 U.S.C. 1352(a)(7)) is amended by striking

"aid to families with dependent children under the State plan approved under section 402 of this Act" and inserting "assistance under a State program funded under part A of title IV".

(h) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE TERRITORIES.—Section 1602(a)(11), as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972 (42 U.S.C. 1382 note), is amended by striking "aid under the State plan approved" and inserting "assistance under a State program funded".

(i) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE STATES.—Section 1611(c)(5)(A) (42 U.S.C. 1382(c)(5)(A)) is amended to read as follows: "(A) a State program funded under part A of title IV,".

SEC. 7214. CONFORMING AMENDMENTS TO THE FOOD STAMP ACT OF 1977 AND RELATED PROVISIONS.

(a) Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in the second sentence of subsection (a), by striking "plan approved" and all that follows through "title IV of the Social Security Act" and inserting "program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that

the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995'';

(2) in subsection (d)(5)—

(A) by striking ''assistance to families with dependent children'' and inserting ''assistance under a State program funded''; and

(B) by striking paragraph (13) and redesignating paragraphs (14), (15), and (16) as paragraphs (13), (14), and (15), respectively;

(3) in subsection (j), by striking ''plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.)'' and inserting ''program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995''.

(b) Section 6 of such Act (7 U.S.C. 2015) is amended—

(1) in subsection (c)(5), by striking ''the State plan approved'' and inserting ''the State program funded'';

(2) in subsection (e)—

(A) by striking ''aid to families with dependent children'' and inserting ''benefits under a State program funded''; and

(B) by inserting before the semicolon the following: ''that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995''; and

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

''(i) Notwithstanding any other provision of this Act, a household may not receive benefits under this Act as a result of the household's eligibility under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.''.

(c) Section 16(g)(4) of such Act (7 U.S.C. 2025(g)(4)) is amended by striking ''State plans under the Aid to Families with Dependent Children Program under'' and inserting ''State programs funded under part A of''.

(d) Section 17 of such Act (7 U.S.C. 2026) is amended—

(1) in the first sentence of subsection (b)(1)(A), by striking ''to aid to families with dependent children under part A of title IV of the Social Security Act'' and inserting ''or are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)''; and

(2) in subsection (b)(3), by adding at the end the following new subparagraph:

''(I) The Secretary may not grant a waiver under this paragraph on or after October 1, 1995. Any reference in this paragraph to a provision of title IV of the Social Security Act shall be deemed to be a reference to such provision as in effect on September 30, 1995.'';

(e) Section 20 of such Act (7 U.S.C. 2029) is amended—

(1) in subsection (a)(2)(B) by striking ''operating—'' and all that follows through ''(ii) any other'' and inserting ''operating any''; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking ''(b)(1) A household'' and inserting ''(b) A household''; and

(ii) in subparagraph (B), by striking ''training program'' and inserting ''activity'';

(B) by striking paragraph (2); and

(C) by redesignating subparagraphs (A) through (F) as paragraphs (1) through (6), respectively.

(f) Section 5(h)(1) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–186; 7 U.S.C. 612c note) is amended by striking ''the program for aid to families with dependent children'' and inserting ''the State program funded''.

(g) Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(C)(ii)(II)—

(i) by striking ''program for aid to families with dependent children'' and inserting ''State program funded''; and

(ii) by inserting before the period at the end the following: ''that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995''; and

(B) in paragraph (6)—

(i) in subparagraph (A)(ii)—

(I) by striking ''an AFDC assistance unit (under the aid to families with dependent children program authorized'' and inserting ''a family (under the State program funded''; and

(II) by striking '', in a State'' and all that follows through ''9902(2)))'' and inserting ''that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to

or more restrictive than those in effect on June 1, 1995''; and

(ii) in subparagraph (B), by striking ''aid to families with dependent children'' and inserting ''assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995''; and

(2) in subsection (d)(2)(C)—

(A) by striking ''program for aid to families with dependent children'' and inserting ''State program funded''; and

(B) by inserting before the period at the end the following: ''that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995''.

(h) Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(1) in subsection (d)(2)(A)(ii)(II)—

(A) by striking ''program for aid to families with dependent children established'' and inserting ''State program funded''; and

(B) by inserting before the semicolon the following: ''that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995'';

(2) in subsection (e)(4)(A), by striking ''program for aid to families with dependent children'' and inserting ''State program funded''; and

(3) in subsection (f)(1)(C)(iii), by striking ''aid to families with dependent children,'' and inserting ''State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and with the''.

SEC. 7215. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) Subsection (b) of section 508 of the Unemployment Compensation Amendments of 1976 (Public Law 94–566; 90 Stat. 2689) is amended to read as follows:

"(b) PROVISION FOR REIMBURSEMENT OF EXPENSES.—For purposes of section 455 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information requested of such offices—

"(1) pursuant to the third sentence of section 3(a) of the Act entitled 'An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes', approved June 6, 1933 (29 U.S.C. 49b(a)), or

"(2) by a State or local agency charged with the duty of carrying a State plan for child support approved under part D of title IV of the Social Security Act,

shall be considered to constitute expenses incurred in the administration of such State plan.".

(b) Section 9121 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(c) Section 9122 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(d) Section 221 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 602 note), relating to treatment under AFDC of certain rental payments for federally assisted housing, is repealed.

(e) Section 159 of the Tax Equity and Fiscal Responsibility Act of 1982 (42 U.S.C. 602 note) is repealed.

(f) Section 202(d) of the Social Security Amendments of 1967 (81 Stat. 882; 42 U.S.C. 602 note) is repealed.

(g) Section 903 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 11381 note), relating to demonstration projects to reduce number of AFDC families in welfare hotels, is amended—

(1) in subsection (a), by striking ''aid to families with dependent children under a State plan approved'' and inserting ''assistance under a State program funded''; and

(2) in subsection (c), by striking ''aid to families with dependent children in the State under a State plan approved'' and inserting ''assistance in the State under a State program funded''.

(h) The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

(1) in section 404C(c)(3) (20 U.S.C. 1070a–23(c)(3)), by striking ''(Aid to Families with Dependent Children)''; and

(2) in section 480(b)(2) (20 U.S.C. 1087vv(b)(2)), by striking ''aid to families with dependent children under a State plan approved'' and

inserting ''assistance under a State program funded''.

(i) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended—

(1) in section 231(d)(3)(A)(ii) (20 U.S.C. 2341(d)(3)(A)(ii)), by striking ''the program for aid to dependent children'' and inserting ''the State program funded'';

(2) in section 232(b)(2)(B) (20 U.S.C. 2341a(b)(2)(B)), by striking ''the program for aid to families with dependent children'' and inserting ''the State program funded''; and

(3) in section 521(14)(B)(iii) (20 U.S.C. 2471(14)(B)(iii)), by striking ''the program for aid to families with dependent children'' and inserting ''the State program funded''.

(j) The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) in section 1113(a)(5) (20 U.S.C. 6313(a)(5)), by striking ''Aid to Families with Dependent Children Program'' and inserting ''State program funded under part A of title IV of the Social Security Act'';

(2) in section 1124(c)(5) (20 U.S.C. 6333(c)(5)), by striking ''the program of aid to families with dependent children under a State plan approved under'' and inserting ''a State program funded under part A of''; and

(3) in section 5203(b)(2) (20 U.S.C. 7233(b)(2))—

(A) in subparagraph (A)(xi), by striking ''Aid to Families with Dependent Children benefits'' and inserting ''assistance under a State program funded under part A of title IV of the Social Security Act''; and

(B) in subparagraph (B)(viii), by striking ''Aid to Families with Dependent Children'' and inserting ''assistance under the State program funded under part A of title IV of the Social Security Act''.

(k) Chapter VII of title I of Public Law 99–88 (25 U.S.C. 13d–1) is amended to read as follows: ''*Provided further,* That general assistance payments made by the Bureau of Indian Affairs shall be made—

''(1) after April 29, 1985, and before October 1, 1995, on the basis of Aid to Families with Dependent Children (AFDC) standards of need; and

"(2) on and after October 1, 1995, on the basis of standards of need established under the State program funded under part A of title IV of the Social Security Act,

except that where a State ratably reduces its AFDC or State program payments, the Bureau shall reduce general assistance payments in such State by the same percentage as the State has reduced the AFDC or State program payment.".

(l) The Internal Revenue Code of 1986 is amended—

(1) in section 51(d)(9), by striking all that follows "agency as" and inserting "being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance during the 90-day period which immediately precedes the date on which such individual is hired by the employer.";

(2) in section 3304(a)(16), by striking "eligibility for aid or services," and all that follows through "children approved" and inserting "eligibility for assistance, or the amount of such assistance, under a State program funded";

(3) in section 6103(l)(7)(D)(i), by striking "aid to families with dependent children provided under

a State plan approved'' and inserting ''a State program funded'';

(4) in section 6334(a)(11)(A), by striking ''(relating to aid to families with dependent children)''; and

(5) in section 7523(b)(3)(C), by striking ''aid to families with dependent children'' and inserting ''assistance under a State program funded under part A of title IV of the Social Security Act''.

(m) Section 3(b) of the Wagner-Peyser Act (29 U.S.C. 49b(b)) is amended by striking ''State plan approved under part A of title IV'' and inserting ''State program funded under part A of title IV''.

(n) The Job Training Partnership Act (29 U.S.C. 1501 et seq.) is amended—

(1) in section 4(29)(A)(i) (29 U.S.C. 1503(29)(A)(i)), by striking ''(42 U.S.C. 601 et seq.)'';

(2) in section 106(b)(6)(C) (29 U.S.C. 1516(b)(6)(C)), by striking ''State aid to families with dependent children records,'' and inserting ''records collected under the State program funded under part A of title IV of the Social Security Act,'';

(3) in section 121(b)(2) (29 U.S.C. 1531(b)(2))—

(A) by striking ''the JOBS program'' and inserting ''the work activities required under title IV of the Social Security Act''; and

(B) by striking the second sentence;

(4) in section 123(c) (29 U.S.C. 1533(c))—

(A) in paragraph (1)(E), by repealing clause (vi); and

(B) in paragraph (2)(D), by repealing clause (v);

(5) in section 203(b)(3) (29 U.S.C. 1603(b)(3)), by striking '', including recipients under the JOBS program'';

(6) in subparagraphs (A) and (B) of section 204(a)(1) (29 U.S.C. 1604(a)(1) (A) and (B)), by striking ''(such as the JOBS program)'' each place it appears;

(7) in section 205(a) (29 U.S.C. 1605(a)), by striking paragraph (4) and inserting the following:

''(4) the portions of title IV of the Social Security Act relating to work activities;'';

(8) in section 253 (29 U.S.C. 1632)—

(A) in subsection (b)(2), by repealing subparagraph (C); and

(B) in paragraphs (1)(B) and (2)(B) of subsection (c), by striking ''the JOBS program or'' each place it appears;

(9) in section 264 (29 U.S.C. 1644)—

(A) in subparagraphs (A) and (B) of subsection (b)(1), by striking ''(such as the JOBS program)'' each place it appears; and

(B) in subparagraphs (A) and (B) of subsection (d)(3), by striking ''and the JOBS program'' each place it appears;

(10) in section 265(b) (29 U.S.C. 1645(b)), by striking paragraph (6) and inserting the following:

''(6) the portion of title IV of the Social Security Act relating to work activities;'';

(11) in the second sentence of section 429(e) (29 U.S.C. 1699(e)), by striking ''and shall be in an amount that does not exceed the maximum amount that may be provided by the State pursuant to section 402(g)(1)(C) of the Social Security Act (42 U.S.C. 602(g)(1)(C))'';

(12) in section 454(c) (29 U.S.C. 1734(c)), by striking ''JOBS and'';

(13) in section 455(b) (29 U.S.C. 1735(b)), by striking ''the JOBS program,'';

(14) in section 501(1) (29 U.S.C. 1791(1)), by striking ''aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)'' and inserting ''assistance under the State program funded under part A of title IV of the Social Security Act'';

(15) in section 506(1)(A) (29 U.S.C. 1791e(1)(A)), by striking ''aid to families with dependent children'' and inserting ''assistance under the State program funded'';

(16) in section 508(a)(2)(A) (29 U.S.C. 1791g(a)(2)(A)), by striking ''aid to families with dependent children'' and inserting ''assistance under the State program funded''; and

(17) in section 701(b)(2)(A) (29 U.S.C. 1792(b)(2)(A))—

(A) in clause (v), by striking the semicolon and inserting ''; and''; and

(B) by striking clause (vi).

(o) Section 3803(c)(2)(C)(iv) of title 31, United States Code, is amended to read as follows:

''(iv) assistance under a State program funded under part A of title IV of the Social Security Act''.

(p) Section 2605(b)(2)(A)(i) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(2)(A)(i)) is amended to read as follows:

"(i) assistance under the State program funded under part A of title IV of the Social Security Act;".

(q) Section 303(f)(2) of the Family Support Act of 1988 (42 U.S.C. 602 note) is amended—

(1) by striking "(A)"; and

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

(r) The Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.)) is amended—

(1) in section 255(h) (2 U.S.C. 905(h), by striking "Aid to families with dependent children (75–0412–0–1–609);" and inserting "Block grants to States for temporary assistance for needy families;"; and

(2) in section 256 (2 U.S.C. 906)—

(A) by striking subsection (k); and

(B) by redesignating subsection (l) as subsection (k).

(s) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 210(f) (8 U.S.C. 1160(f)), by striking "aid under a State plan approved under"

each place it appears and inserting ''assistance under a State program funded under'';

(2) in section 245A(h) (8 U.S.C. 1255a(h))—

(A) in paragraph (1)(A)(i), by striking ''program of aid to families with dependent children'' and inserting ''State program of assistance''; and

(B) in paragraph (2)(B), by striking ''aid to families with dependent children'' and inserting ''assistance under a State program funded under part A of title IV of the Social Security Act''; and

(3) in section 412(e)(4) (8 U.S.C. 1522(e)(4)), by striking ''State plan approved'' and inserting ''State program funded''.

(t) Section 640(a)(4)(B)(i) of the Head Start Act (42 U.S.C. 9835(a)(4)(B)(i)) is amended by striking ''program of aid to families with dependent children under a State plan approved'' and inserting ''State program of assistance funded''.

(u) Section 9 of the Act of April 19, 1950 (64 Stat. 47, chapter 92; 25 U.S.C. 639) is repealed.

(v) Subparagraph (E) of section 213(d)(6) of the School-To-Work Opportunities Act of 1994 (20 U.S.C. 6143(d)(6)) is amended to read as follows:

"(E) part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) relating to work activities;".

SEC. 7216. SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL FOR TECHNICAL AND CONFORMING AMENDMENTS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation, as appropriate, with the heads of other Federal agencies, shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of subtitle D of title I of this Act, this subtitle, and subtitles D, E, F, and G of this title.

SEC. 7217. EFFECTIVE DATE; TRANSITION RULE.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall take effect on October 1, 1995.

(b) TRANSITION RULE.—

(1) STATE OPTION TO CONTINUE AFDC PROGRAM.—

(A) 9-MONTH EXTENSION.—A State may continue a State program under parts A and F of title IV of the Social Security Act, as in ef-

fect on September 30, 1995 (for purposes of this paragraph, the "State AFDC program") until June 30, 1996.

(B) REDUCTION OF FISCAL YEAR 1996 GRANT.—In the case of any State opting to continue the State AFDC program pursuant to subparagraph (A), the State family assistance grant paid to such State under section 403(a) of the Social Security Act (as added by section 7201 and as in effect on and after October 1, 1995) for fiscal year 1996 (after the termination of the State AFDC program) shall be reduced by an amount equal to the total Federal payment to such State under section 403 of the Social Security Act (as in effect on September 30, 1995) for such fiscal year.

(2) CLAIMS, ACTIONS, AND PROCEEDINGS.—The amendments made by this subtitle shall not apply with respect to—

(A) powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, assistance, or services provided before the effective date of this subtitle under the provisions amended; and

(B) administrative actions and proceedings commenced before such date, or authorized before such date to be commenced, under such provisions.

(3) CLOSING OUT ACCOUNT FOR THOSE PROGRAMS TERMINATED OR SUBSTANTIALLY MODIFIED BY THIS SUBTITLE.—In closing out accounts, Federal and State officials may use scientifically acceptable statistical sampling techniques. Claims made under programs which are repealed or substantially amended in this subtitle and which involve State expenditures in cases where assistance or services were provided during a prior fiscal year, shall be treated as expenditures during fiscal year 1995 for purposes of reimbursement even if payment was made by a State on or after October 1, 1995. States shall complete the filing of all claims no later than September 30, 1997. Federal department heads shall—

(A) use the single audit procedure to review and resolve any claims in connection with the close out of programs, and

(B) reimburse States for any payments made for assistance or services provided during a prior fiscal year from funds for fiscal year

1995, rather than the funds authorized by this subtitle.

(c) SUNSET.—The amendment made by section 7201(b) shall be effective only during the 5-year period beginning on October 1, 1995.

Subtitle D—Supplemental Security Income

CHAPTER 1—ELIGIBILITY RESTRICTIONS

SEC. 7251. DENIAL OF SUPPLEMENTAL SECURITY INCOME BENEFITS BY REASON OF DISABILITY TO DRUG ADDICTS AND ALCOHOLICS.

(a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:

''(I) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.''.

(b) REPRESENTATIVE PAYEE REQUIREMENTS.—

(1) Section 1631(a)(2)(A)(ii)(II) (42 U.S.C. 1383(a)(2)(A)(ii)(II)) is amended to read as follows:

''(II) In the case of an individual eligible for benefits under this title by reason of disability, if such individual

also has an alcoholism or drug addiction condition (as determined by the Commissioner of Social Security), the payment of such benefits to a representative payee shall be deemed to serve the interest of the individual. In any case in which such payment is so deemed under this subclause to serve the interest of an individual, the Commissioner shall include, in the individual's notification of such eligibility, a notice that such alcoholism or drug addiction condition accompanies the disability upon which such eligibility is based and that the Commissioner is therefore required to pay the individual's benefits to a representative payee.''.

(2) Section 1631(a)(2)(B)(vii) (42 U.S.C. 1383(a)(2)(B)(vii)) is amended by striking ''eligible for benefits'' and all that follows through ''is disabled'' and inserting ''described in subparagraph (A)(ii)(II)''.

(3) Section 1631(a)(2)(B)(ix)(II) (42 U.S.C. 1383(a)(2)(B)(ix)(II)) is amended by striking all that follows ''15 years, or'' and inserting ''described in subparagraph (A)(ii)(II)''.

(4) Section 1631(a)(2)(D)(i)(II) (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking ''eligible for benefits'' and all that follows through ''is dis-

abled'' and inserting ''described in subparagraph (A)(ii)(II)''.

(c) TREATMENT SERVICES FOR INDIVIDUALS WITH A SUBSTANCE ABUSE CONDITION.—

(1) IN GENERAL.—Title XVI (42 U.S.C. 1381 et seq.) is amended by adding at the end the following new section:

''TREATMENT SERVICES FOR INDIVIDUALS WITH A SUBSTANCE ABUSE CONDITION

''SEC. 1636. (a) In the case of any individual eligible for benefits under this title by reason of disability who is identified as having a substance abuse condition, the Commissioner of Social Security shall make provision for referral of such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.).

''(b) No individual described in subsection (a) shall be an eligible individual or eligible spouse for purposes of this title if such individual refuses without good cause to accept the referred services described under subsection (a).

(2) CONFORMING AMENDMENT.—Section 1614(a)(4) (42 U.S.C. 1382c(a)(4)) is amended by inserting after the second sentence the following new

sentence: ''For purposes of the preceding sentence, any individual identified by the Commissioner as having a substance abuse condition shall seek and complete appropriate treatment as needed.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 1611(e) (42 U.S.C. 1382(e)) is amended by striking paragraph (3).

(2) Section 1634 (42 U.S.C. 1383c) is amended by striking subsection (e).

(3) Section 201(c)(1) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is amended—

(A) by striking ''—'' and all that follows through ''(A)'' the 1st place it appears;

(B) by striking ''and'' the 3rd place it appears;

(C) by striking subparagraph (B);

(D) by striking ''either subparagraph (A) or subparagraph (B)'' and inserting ''the preceding sentence''; and

(E) by striking ''subparagraph (A) or (B)'' and inserting ''the preceding sentence''.

(e) SUPPLEMENTAL FUNDING FOR ALCOHOL AND SUBSTANCE ABUSE TREATMENT PROGRAMS.—

(1) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are hereby appropriated to supplement State and Tribal programs funded under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33), $50,000,000 for each of the fiscal years 1997 and 1998.

(2) ADDITIONAL FUNDS.—Amounts appropriated under paragraph (1) shall be in addition to any funds otherwise appropriated for allotments under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33) and shall be allocated pursuant to such section 1933.

(3) USE OF FUNDS.—A State or Tribal government receiving an allotment under this subsection shall consider as priorities, for purposes of expending funds allotted under this subsection, activities relating to the treatment of the abuse of alcohol and other drugs.

SEC. 7252. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES.

Section 1614(a) (42 U.S.C. 1382c(a)) is amended by adding at the end the following new paragraph:

''(5) An individual shall not be considered an eligible individual for purposes of this title during the 10-year period beginning on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under programs that are funded under part A of title IV, title XXI, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI.''.

SEC. 7253. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.

(a) IN GENERAL.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 7251(c)(1), is amended by inserting after paragraph (2) the following new paragraph:

"(3) A person shall not be an eligible individual or eligible spouse for purposes of this title with respect to any month if during such month the person is—

"(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(B) violating a condition of probation or parole imposed under Federal or State law.".

(b) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Section 1631(e) (42 U.S.C. 1383(e)) is amended by inserting after paragraph (3) the following new paragraph:

"(4) Notwithstanding any other provision of law, the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of benefits under this title, if the officer furnishes the agency with the name of the recipient and notifies the agency that—

"(A) the recipient—

"(i) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State;

"(ii) is violating a condition of probation or parole imposed under Federal or State law; or

"(iii) has information that is necessary for the officer to conduct the officer's official duties; and

"(B) the location or apprehension of the recipient is within the officer's official duties.".

SEC. 7254. EFFECTIVE DATES; APPLICATION TO CURRENT RECIPIENTS.

(a) SECTION 7251.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by section 7251 shall apply to applicants for benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) APPLICATION TO CURRENT RECIPIENTS.—

(A) APPLICATION AND NOTICE.—Notwithstanding any other provision of law, in the case of an individual who is receiving supplemental security income benefits under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits would terminate by reason of the amendments made by section 7251, such amendments shall apply with respect to the benefits of such individual, including such individual's treatment (if any) provided pursuant to such title as in effect on the day before the date of such enactment, for months beginning on or after January 1, 1997, and the Commissioner of Social Security shall so notify the individual not later than 90 days after the date of the enactment of this Act.

(B) REAPPLICATION.—

(i) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, each individual notified pursuant to subparagraph (A) who desires to reapply for benefits under title XVI of the Social Security Act, as amended by this

title, shall reapply to the Commissioner of Social Security.

(ii) DETERMINATION OF ELIGIBILITY.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall determine the eligibility of each individual who reapplies for benefits under clause (i) pursuant to the procedures of such title.

(3) ADDITIONAL APPLICATION OF PAYEE REPRESENTATIVE REQUIREMENTS.—The amendments made by section 7251(b) shall also apply—

(A) in the case of any individual who is receiving supplemental security income benefits under title XVI of the Social Security Act as of the date of the enactment of this Act, on and after the date of such individual's first continuing disability review occurring after such date of enactment, and

(B) in the case of any individual who receives supplemental security income benefits under title XVI of the Social Security Act and has attained age 65, in such manner as determined appropriate by the Commissioner of Social Security.

(b) OTHER AMENDMENTS.—The amendments made by sections 7252 and 7253 shall take effect on the date of the enactment of this Act.

CHAPTER 2—BENEFITS FOR DISABLED CHILDREN

SEC. 7261. DEFINITION AND ELIGIBILITY RULES.

(a) DEFINITION OF CHILDHOOD DISABILITY.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)), as amended by section 7251(a), is amended—

(1) in subparagraph (A), by striking ''An individual'' and inserting ''Except as provided in subparagraph (C), an individual'';

(2) in subparagraph (A), by striking ''(or, in the case of an individual under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)'';

(3) by redesignating subparagraphs (C) through (I) as subparagraphs (D) through (J), respectively;

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

''(C) An individual under the age of 18 shall be considered disabled for the purposes of this title if that individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death

or which has lasted or can be expected to last for a continuous period of not less than 12 months.''; and

(5) in subparagraph (F), as redesignated by paragraph (3), by striking ''(D)'' and inserting ''(E)''.

(b) CHANGES TO CHILDHOOD SSI REGULATIONS.—

(1) MODIFICATION TO MEDICAL CRITERIA FOR EVALUATION OF MENTAL AND EMOTIONAL DISORDERS.—The Commissioner of Social Security shall modify sections 112.00C.2. and 112.02B.2.c.(2) of appendix 1 to subpart P of part 404 of title 20, Code of Federal Regulations, to eliminate references to maladaptive behavior in the domain of personal/behavorial function.

(2) DISCONTINUANCE OF INDIVIDUALIZED FUNCTIONAL ASSESSMENT.—The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in sections 416.924d and 416.924e of title 20, Code of Federal Regulations.

(c) EFFECTIVE DATE; REGULATIONS; APPLICATION TO CURRENT RECIPIENTS.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to applicants for benefits for months beginning on or after the date

of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) REGULATIONS.—The Commissioner of Social Security shall issue such regulations as the Commissioner determines to be necessary to implement the amendments made by subsections (a) and (b) not later than 60 days after the date of the enactment of this Act.

(3) APPLICATION TO CURRENT RECIPIENTS.—

(A) ELIGIBILITY DETERMINATIONS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall redetermine the eligibility of any individual under age 18 who is receiving supplemental security income benefits based on a disability under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the amendments made by subsection (a) or (b). With respect to any redetermination under this subparagraph—

(i) section 1614(a)(4) of the Social Security Act (42 U.S.C. 1382c(a)(4)) shall not apply;

(ii) the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under title XVI of such Act;

(iii) the Commissioner shall give such redetermination priority over all continuing eligibility reviews and other reviews under such title; and

(iv) such redetermination shall be counted as a review or redetermination otherwise required to be made under section 208 of the Social Security Independence and Program Improvements Act of 1994 or any other provision of title XVI of the Social Security Act.

(B) GRANDFATHER PROVISION.—The amendments made by subsections (a) and (b), and the redetermination under subparagraph (A), shall only apply with respect to the benefits of an individual described in subparagraph (A) for months beginning on or after January 1, 1997.

(C) NOTICE.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify an indi-

vidual described in subparagraph (A) of the provisions of this paragraph.

SEC. 7262. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS.

(a) CONTINUING DISABILITY REVIEWS RELATING TO CERTAIN CHILDREN.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as redesignated by section 7261(a)(3), is amended—

(1) by inserting ''(i)'' after ''(H)''; and

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

''(ii)(I) Not less frequently than once every 3 years, the Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this title of each individual who has not attained 18 years of age and is eligible for such benefits by reason of an impairment (or combination of impairments) which may improve (or, which is unlikely to improve, at the option of the Commissioner).

''(II) A parent or guardian of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition

which was the basis for providing benefits under this title.''.

(b) DISABILITY ELIGIBILITY REDETERMINATIONS REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS OF AGE.—

(1) IN GENERAL.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsection (a), is amended by adding at the end the following new clause:

''(iii) If an individual is eligible for benefits under this title by reason of disability for the month preceding the month in which the individual attains the age of 18 years, the Commissioner shall redetermine such eligibility—

''(I) during the 1-year period beginning on the individual's 18th birthday; and

''(II) by applying the criteria used in determining the initial eligibility for applicants who have attained the age of 18 years.

With respect to a redetermination under this clause, paragraph (4) shall not apply and such redetermination shall be considered a substitute for a review or redetermination otherwise required under any other provision of this subparagraph during that 1-year period.''.

(2) CONFORMING REPEAL.—Section 207 of the Social Security Independence and Program Improve-

ments Act of 1994 (42 U.S.C. 1382 note; 108 Stat. 1516) is hereby repealed.

(c) CONTINUING DISABILITY REVIEW REQUIRED FOR LOW BIRTH WEIGHT BABIES.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsections (a) and (b), is amended by adding at the end the following new clause:

''(iv)(I) Not later than 12 months after the birth of an individual, the Commissioner shall review in accordance with paragraph (4) the continuing eligibility for benefits under this title by reason of disability of such individual whose low birth weight is a contributing factor material to the Commissioner's determination that the individual is disabled.

''(II) A review under subclause (I) shall be considered a substitute for a review otherwise required under any other provision of this subparagraph during that 12-month period.

''(III) A parent or guardian of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 7263. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.

(a) TIGHTENING OF REPRESENTATIVE PAYEE REQUIREMENTS.—

(1) CLARIFICATION OF ROLE.—Section 1631(a)(2)(B)(ii) (42 U.S.C. 1383(a)(2)(B)(ii)) is amended by striking ''and'' at the end of subclause (II), by striking the period at the end of subclause (IV) and inserting ''; and'', and by adding after subclause (IV) the following new subclause:

''(V) advise such person through the notice of award of benefits, and at such other times as the Commissioner of Social Security deems appropriate, of specific examples of appropriate expenditures of benefits under this title and the proper role of a representative payee.''.

(2) DOCUMENTATION OF EXPENDITURES REQUIRED.—

(A) IN GENERAL.—Subparagraph (C)(i) of section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended to read as follows:

"(C)(i) In any case where payment is made to a representative payee of an individual or spouse, the Commissioner of Social Security shall—

"(I) require such representative payee to document expenditures and keep contemporaneous records of transactions made using such payment; and

"(II) implement statistically valid procedures for reviewing a sample of such contemporaneous records in order to identify instances in which such representative payee is not properly using such payment.".

(B) CONFORMING AMENDMENT WITH RESPECT TO PARENT PAYEES.—Clause (ii) of section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended by striking "Clause (i)" and inserting "Subclauses (II) and (III) of clause (i)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to benefits paid after the date of the enactment of this Act.

(b) DEDICATED SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended by adding at the end the following new clause:

"(xiv) Notwithstanding clause (x), the Commissioner of Social Security may, at the request of the representative payee, pay any lump sum payment for the benefit of a child into a dedicated savings account that could only be used to purchase for such child—

"(I) education and job skills training;

"(II) special equipment or housing modifications or both specifically related to, and required by the nature of, the child's disability; and

"(III) appropriate therapy and rehabilitation.".

(2) DISREGARD OF TRUST FUNDS.—Section 1613(a) (42 U.S.C. 1382b) is amended—

(A) by striking "and" at the end of paragraph (9),

(B) by striking the period at the end of paragraph (10) the first place it appears and inserting a semicolon,

(C) by redesignating paragraph (10) the second place it appears as paragraph (11) and striking the period at the end of such paragraph and inserting "; and", and

(D) by inserting after paragraph (11), as so redesignated, the following new paragraph:

"(12) all amounts deposited in, or interest credited to, a dedicated savings account described in section 1631(a)(2)(B)(xiv).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after the date of the enactment of this Act.

CHAPTER 3—STUDIES REGARDING SUPPLEMENTAL SECURITY INCOME PROGRAM

SEC. 7271. ANNUAL REPORT ON THE SUPPLEMENTAL SECURITY INCOME PROGRAM.

Title XVI is amended by adding at the end the following new section:

"SEC. 1636. ANNUAL REPORT ON PROGRAM.

"(a) DESCRIPTION OF REPORT.—Not later than May 30 of each year, the Commissioner of Social Security shall prepare and deliver a report annually to the President and the Congress regarding the program under this title, including—

"(1) a comprehensive description of the program;

"(2) historical and current data on allowances and denials, including number of applications and allowance rates at initial determinations, reconsider-

ations, administrative law judge hearings, council of appeals hearings, and Federal court appeal hearings;

"(3) historical and current data on characteristics of recipients and program costs, by recipient group (aged, blind, work disabled adults, and children);

"(4) projections of future number of recipients and program costs, through at least 25 years;

"(5) number of redeterminations and continuing disability reviews, and the outcomes of such redeterminations and reviews;

"(6) data on the utilization of work incentives;

"(7) detailed information on administrative and other program operation costs;

"(8) summaries of relevant research undertaken by the Social Security Administration, or by other researchers;

"(9) State supplementation program operations;

"(10) a historical summary of statutory changes to this title; and

"(11) such other information as the Commissioner deems useful.

"(b) VIEWS OF MEMBERS OF THE SOCIAL SECURITY ADVISORY COUNCIL.—Each member of the Social Security Advisory Council shall be permitted to provide an indi-

vidual report, or a joint report if agreed, of views of the program under this title, to be included in the annual report under this section.''.

SEC. 7272. IMPROVEMENTS TO DISABILITY EVALUATION.

(a) REQUEST FOR COMMENTS.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Commissioner of Social Security shall issue a request for comments in the Federal Register regarding improvements to the disability evaluation and determination procedures for individuals under age 18 to ensure the comprehensive assessment of such individuals, including—

(A) additions to conditions which should be presumptively disabling at birth or ages 0 through 3 years;

(B) specific changes in individual listings in the Listing of Impairments set forth in appendix 1 of subpart P of part 404 of title 20, Code of Federal Regulations;

(C) improvements in regulations regarding determinations based on regulations providing for medical and functional equivalence to such Listing of Impairments, and consideration of multiple impairments; and

(D) any other changes to the disability determination procedures.

(2) REVIEW AND REGULATORY ACTION.—The Commissioner of Social Security shall promptly review such comments and issue any regulations implementing any necessary changes not later than 18 months after the date of the enactment of this Act.

SEC. 7273. STUDY OF DISABILITY DETERMINATION PROCESS.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and from funds otherwise appropriated, the Commissioner of Social Security shall make arrangements with the National Academy of Sciences, or other independent entity, to conduct a study of the disability determination process under titles II and XVI of the Social Security Act. This study shall be undertaken in consultation with professionals representing appropriate disciplines.

(b) STUDY COMPONENTS.—The study described in subsection (a) shall include—

(1) an initial phase examining the appropriateness of, and making recommendations regarding—

(A) the definitions of disability in effect on the date of the enactment of this Act and the

advantages and disadvantages of alternative definitions; and

(B) the operation of the disability determination process, including the appropriate method of performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(2) a second phase, which may be concurrent with the initial phase, examining the validity, reliability, and consistency with current scientific knowledge of the standards and individual listings in the Listing of Impairments set forth in appendix 1 of subpart P of part 404 of title 20, Code of Federal Regulations, and of related evaluation procedures as promulgated by the Commissioner of Social Security; and

(3) such other issues as the applicable entity considers appropriate.

(c) REPORTS AND REGULATIONS.—

(1) REPORTS.—The Commissioner of Social Security shall request the applicable entity, to submit an interim report and a final report of the findings and recommendations resulting from the study described in this section to the President and the Congress not later than 18 months and 24 months, re-

spectively, from the date of the contract for such study, and such additional reports as the Commissioner deems appropriate after consultation with the applicable entity.

(2) REGULATIONS.—The Commissioner of Social Security shall review both the interim and final reports, and shall issue regulations implementing any necessary changes following each report.

SEC. 7274. STUDY BY GENERAL ACCOUNTING OFFICE.

Not later than January 1, 1998, the Comptroller General of the United States shall study and report on the impact of the amendments made by, and the provisions of, this title on the supplemental security income program under title XVI of the Social Security Act.

CHAPTER 4—NATIONAL COMMISSION ON THE FUTURE OF DISABILITY

SEC. 7281. ESTABLISHMENT.

There is established a commission to be known as the National Commission on the Future of Disability (referred to in this subtitle as the ''Commission''), the expenses of which shall be paid from funds otherwise appropriated for the Social Security Administration.

SEC. 7282. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall develop and carry out a comprehensive study of all matters related

to the nature, purpose, and adequacy of all Federal programs serving individuals with disabilities. In particular, the Commission shall study the disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such Act.

(b) MATTERS STUDIED.—The Commission shall prepare an inventory of Federal programs serving individuals with disabilities, and shall examine—

(1) trends and projections regarding the size and characteristics of the population of individuals with disabilities, and the implications of such analyses for program planning;

(2) the feasibility and design of performance standards for the Nation's disability programs;

(3) the adequacy of Federal efforts in rehabilitation research and training, and opportunities to improve the lives of individuals with disabilities through all manners of scientific and engineering research; and

(4) the adequacy of policy research available to the Federal Government, and what actions might be undertaken to improve the quality and scope of such research.

(c) RECOMMENDATIONS.—The Commission shall submit to the appropriate committees of the Congress and to the President recommendations and, as appropriate, proposals for legislation, regarding—

(1) which (if any) Federal disability programs should be eliminated or augmented;

(2) what new Federal disability programs (if any) should be established;

(3) the suitability of the organization and location of disability programs within the Federal Government;

(4) other actions the Federal Government should take to prevent disabilities and disadvantages associated with disabilities; and

(5) such other matters as the Commission considers appropriate.

SEC. 7283. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) IN GENERAL.—The Commission shall be composed of 15 members, of whom—

(A) five shall be appointed by the President, of whom not more than 3 shall be of the same major political party;

(B) three shall be appointed by the Majority Leader of the Senate;

(C) two shall be appointed by the Minority Leader of the Senate;

(D) three shall be appointed by the Speaker of the House of Representatives; and

(E) two shall be appointed by the Minority Leader of the House of Representatives.

(2) REPRESENTATION.—The Commission members shall be chosen based on their education, training, or experience. In appointing individuals as members of the Commission, the President and the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives shall seek to ensure that the membership of the Commission reflects the diversity of individuals with disabilities in the United States.

(b) COMPTROLLER GENERAL.—The Comptroller General shall serve on the Commission as an ex officio member of the Commission to advise and oversee the methodology and approach of the study of the Commission.

(c) PROHIBITION AGAINST OFFICER OR EMPLOYEE.—No officer or employee of any government shall be appointed under subsection (a).

(d) DEADLINE FOR APPOINTMENT; TERM OF APPOINTMENT.—Members of the Commission shall be ap-

pointed not later than 60 days after the date of the enactment of this Act. The members shall serve on the Commission for the life of the Commission.

(e) MEETINGS.—The Commission shall locate its headquarters in the District of Columbia, and shall meet at the call of the Chairperson, but not less than 4 times each year during the life of the Commission.

(f) QUORUM.—Ten members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—Not later than 15 days after the members of the Commission are appointed, such members shall designate a Chairperson and Vice Chairperson from among the members of the Commission.

(h) CONTINUATION OF MEMBERSHIP.—If a member of the Commission becomes an officer or employee of any government after appointment to the Commission, the individual may continue as a member until a successor member is appointed.

(i) VACANCIES.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made not later than 30 days after the Commission is given notice of the vacancy.

(j) COMPENSATION.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(k) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 7284. STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—

(1) APPOINTMENT.—Upon consultation with the members of the Commission, the Chairperson shall appoint a Director of the Commission.

(2) COMPENSATION.—The Director shall be paid the rate of basic pay for level V of the Executive Schedule.

(b) STAFF.—With the approval of the Commission, the Director may appoint such personnel as the Director considers appropriate.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist in carrying out the duties of the Commission under this subtitle.

(f) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress and agencies and elected representatives of the executive and legislative branches of the Federal Government. The Chairperson of the Commission shall make requests for such access in writing when necessary.

(g) PHYSICAL FACILITIES.—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning of the Commission.

SEC. 7285. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may conduct public hearings or forums at the discretion of the Commission,

at any time and place the Commission is able to secure facilities and witnesses, for the purpose of carrying out the duties of the Commission under this subtitle.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable the Commission to carry out its duties under this subtitle. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of a Federal agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 7286. REPORTS.

(a) INTERIM REPORT.—Not later than 1 year prior to the date on which the Commission terminates pursuant to section 7287, the Commission shall submit an interim report to the President and to the Congress. The interim report shall contain a detailed statement of the findings and conclusions of the Commission, together with the Commission's recommendations for legislative and administrative action, based on the activities of the Commission.

(b) FINAL REPORT.—Not later than the date on which the Commission terminates, the Commission shall submit to the Congress and to the President a final report containing—

(1) a detailed statement of final findings, conclusions, and recommendations; and

(2) an assessment of the extent to which recommendations of the Commission included in the interim report under subsection (a) have been implemented.

(c) PRINTING AND PUBLIC DISTRIBUTION.—Upon receipt of each report of the Commission under this section, the President shall—

(1) order the report to be printed; and

(2) make the report available to the public upon request.

SEC. 7287. TERMINATION.

The Commission shall terminate on the date that is 2 years after the date on which the members of the Commission have met and designated a Chairperson and Vice Chairperson.

CHAPTER 5—STATE SUPPLEMENTATION PROGRAMS

SEC. 7291. REPEAL OF MAINTENANCE OF EFFORT REQUIREMENTS APPLICABLE TO OPTIONAL STATE PROGRAMS FOR SUPPLEMENTATION OF SSI BENEFITS.

(a) IN GENERAL.—Section 1618 (42 U.S.C. 1382g) is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply with respect to calendar quarters beginning after September 30, 1995.

CHAPTER 6—RETIREMENT AGE ELIGIBILITY

SEC. 7295. ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME BENEFITS BASED ON SOCIAL SECURITY RETIREMENT AGE.

(a) IN GENERAL.—Section 1614(a)(1)(A) (42 U.S.C. 1382C(a)(1)(A)) is amended by striking ''is 65 years of age or older,'' and inserting ''has attained retirement age.''.

(b) RETIREMENT AGE DEFINED.—Section 1614 (42 U.S.C. 1382c) is amended by adding at the end the following new subsection:

"Retirement Age

"(g) For purposes of this title, the term 'retirement age' has the meaning given such term by section 216(l)(1).".

(c) CONFORMING AMENDMENTS.—Sections 1601, 1612(b)(4), 1615(a)(1), and 1620(b)(2) (42 U.S.C. 1381, 1382a(b)(4), 1382d(a)(1), and 1382i(b)(2)) are amended by striking "age 65" each place it appears and inserting "retirement age".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to applicants for benefits for months beginning after September 30, 1995.

Subtitle E—Child Support

CHAPTER 1—ELIGIBILITY FOR SERVICES; DISTRIBUTION OF PAYMENTS

SEC. 7301. STATE OBLIGATION TO PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES.

(a) STATE PLAN REQUIREMENTS.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking paragraph (4) and inserting the following new paragraph:

"(4) provide that the State will—

"(A) provide services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations, as appropriate, under the plan with respect to—

"(i) each child for whom (I) assistance is provided under the State program funded under part A of this title, (II) benefits or services are provided under the State program funded under part E of this title, or (III) medical assistance is provided under the State plan approved under title XXI, unless the State agency administering the plan determines (in accordance with paragraph (29)) that it is against the best interests of the child to do so; and

"(ii) any other child, if an individual applies for such services with respect to the child; and

"(B) enforce any support obligation established with respect to—

"(i) a child with respect to whom the State provides services under the plan; or

"(ii) the custodial parent of such a child."; and

(2) by striking paragraph (6) and inserting the following new subparagraph:

''(6) provide that—

''(A) services under the plan shall be made available to nonresidents on the same terms as to residents; and

''(B) application and collection fees are imposed and collected and costs in excess of such fees are collected in accordance with section 454C with respect to services under the plan for—

''(i) any individual not receiving assistance under any State program funded under part A; or

''(ii) any individual receiving such assistance but solely through a program funded under section 419);''.

(b) CONTINUATION OF SERVICES FOR FAMILIES CEASING TO RECEIVE ASSISTANCE UNDER THE STATE PROGRAM FUNDED UNDER PART A.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking ''and'' at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting ''; and''; and

(3) by adding after paragraph (24) the following new paragraph:

''(25) provide that when a family with respect to which services are provided under the plan ceases to receive assistance under the State program funded under part A, the State shall provide appropriate notice to the family and continue to provide such services, subject to the same conditions and on the same basis as in the case of individuals to whom services are furnished under this section, except that an application or other request to continue services shall not be required of such a family and certain fees shall be imposed with respect to such family under section 454C(a)(1).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 452(b) (42 U.S.C. 652(b)) is amended by striking ''454(6)'' and inserting ''454(4)''.

(2) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended by striking ''454(6)'' each place it appears and inserting ''454(4)(A)(ii)''.

(3) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking ''in the case of overdue support which a State has agreed to collect

under section 454(6)'' and inserting ''in any other case''.

(4) Section 466(e) (42 U.S.C. 666(e)) is amended by striking ''paragraph (4) or (6) of section 454'' and inserting ''section 454(4)''.

SEC. 7302. DISTRIBUTION OF CHILD SUPPORT COLLECTIONS.

(a) IN GENERAL.—Section 457 (42 U.S.C. 657) is amended to read as follows:

''SEC. 457. DISTRIBUTION OF COLLECTED SUPPORT.

''(a) IN GENERAL.—An amount collected on behalf of a family as support by a State pursuant to a plan approved under this part shall be distributed as follows:

''(1) FAMILIES RECEIVING ASSISTANCE.—In the case of a family receiving assistance from the State, the State shall—

''(A) retain, or distribute to the family, the State share of the amount so collected; and

''(B) pay to the Federal Government the Federal share of the amount so collected.

''(2) FAMILIES THAT FORMERLY RECEIVED ASSISTANCE.—In the case of a family that formerly received assistance from the State:

''(A) CURRENT SUPPORT PAYMENTS.—The State shall, with regard to amounts collected

which represent amounts owed for the current month, distribute the amounts so collected to the family.

"(B) PAYMENT OF ARREARAGES.—The State shall, with regard to amounts collected which exceed amounts owed for the current month, distribute the amounts so collected as follows:

"(i) DISTRIBUTION TO THE FAMILY TO SATISFY ARREARAGES THAT ACCRUED AFTER THE FAMILY RECEIVED ASSISTANCE.—The State shall distribute the amount so collected to the family to the extent necessary to satisfy any support arrearages with respect to the family that accrued after the family stopped receiving assistance from the State.

"(ii) DISTRIBUTION TO THE FAMILY TO SATISFY ARREARAGES THAT ACCRUED BEFORE OR WHILE THE FAMILY RECEIVED ASSISTANCE TO THE EXTENT PAYMENTS EXCEED ASSISTANCE RECEIVED.—In the case of arrearages of support obligations with respect to the family that were assigned to the State making or receiving the

collection, as a condition of receiving assistance from the State, and which accrued before or while the family received such assistance, the State may retain all or a part of the State share and if the State does so retain, shall retain and pay to the Federal Government the Federal share of amounts so collected, to the extent the amount so retained does not exceed the amount of assistance provided to the family by the State.

"(iii) DISTRIBUTION OF THE REMAINDER TO THE FAMILY.—To the extent that neither clause (i) nor clause (ii) applies to the amount so collected, the State shall distribute the amount to the family.

"(3) FAMILIES THAT NEVER RECEIVED ASSISTANCE.—In the case of any other family, the State shall distribute the amount so collected to the family.

"(4) FAMILIES UNDER CERTAIN AGREEMENTS.—In the case of a family receiving assistance from an Indian tribe, distribute the amount so collected pursuant to an agreement entered into pursuant to a State plan under section 454(32).

"(b) TRANSITION RULE.—Any rights to support obligations which were assigned to a State as a condition of receiving assistance from the State under part A before the effective date of the Balanced Budget Reconciliation Act of 1995 shall remain assigned after such date.

"(c) DEFINITIONS.—As used in subsection (a):

"(1) ASSISTANCE.—The term 'assistance from the State' means—

"(A) assistance under the State program funded under part A or under the State plan approved under part A of this title (as in effect before October 1, 1995); or

"(B) benefits under the State plan approved under part E of this title.

"(2) FEDERAL SHARE.—The term 'Federal share' means, with respect to an amount collected by the State to satisfy a support obligation owed to a family for a time period—

"(A) the greatest Federal medical assistance percentage in effect for the State for fiscal year 1995 or any succeeding fiscal year; or

"(B) if support is not owed to the family for any month for which the family received aid to families with dependent children under the State plan approved under part A of this title

(as in effect before October 1, 1995), the Federal reimbursement percentage for the fiscal year in which the time period occurs.

''(3) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means—

''(A) the Federal medical assistance percentage (as defined in section 2122(c)) in the case of any State for which subparagraph (B) does not apply; or

''(B) the Federal medical assistance percentage (as defined in section 1118), in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

''(4) FEDERAL REIMBURSEMENT PERCENTAGE.—The term 'Federal reimbursement percentage' means, with respect to a fiscal year—

''(A) the total amount paid to the State under section 403 for the fiscal year; divided by

''(B) the total amount expended by the State to carry out the State program under part A during the fiscal year.

''(5) STATE SHARE.—The term 'State share' means 100 percent minus the Federal share.''.

(b) CONFORMING AMENDMENT.—Section 464(a)(1) (42 U.S.C. 664(a)(1)) is amended by striking ''section 457(b)(4) or (d)(3)'' and inserting ''section 457''.

(c) CLERICAL AMENDMENTS.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (11)—

(A) by striking ''(11)'' and inserting ''(11)(A)''; and

(B) by inserting after the semicolon ''and''; and

(2) by redesignating paragraph (12) as subparagraph (B) of paragraph (11).

(d) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), the amendment made by subsection (a) shall become effective on October 1, 1999.

(2) EARLIER EFFECTIVE DATE FOR RULES RELATING TO DISTRIBUTION OF SUPPORT COLLECTED FOR FAMILIES RECEIVING ASSISTANCE.—Section 457(a)(1) of the Social Security Act, as added by the amendment made by subsection (a), shall become effective on October 1, 1995.

(3) SPECIAL RULE.—A State may elect to have the amendment made by subsection (a) become ef-

fective on a date earlier than October 1, 1999, which date shall coincide with the operation of the single statewide automated data processing and information retrieval system required by section 454A of the Social Security Act (as added by section 7344(a)(2)) and the State disbursement unit required by section 454B of the Social Security Act (as added by section 7312(b)), and the existence of State requirements for assignment of support as a condition of eligibility for assistance under part A of the Social Security Act (as added by subtitle C).

(4) CLERICAL AMENDMENTS.—The amendments made by subsection (b) shall become effective on October 1, 1995.

SEC. 7303. RIGHTS TO NOTIFICATION AND HEARINGS.

(a) IN GENERAL.—Section 454 (42 U.S.C. 654), as amended by section 7302(b), is amended by inserting after paragraph (11) the following new paragraph:

"(12) establish procedures to provide that—

"(A) individuals who are applying for or receiving services under this part, or are parties to cases in which services are being provided under this part—

"(i) receive notice of all proceedings in which support obligations might be established or modified; and

"(ii) receive a copy of any order establishing or modifying a child support obligation, or (in the case of a petition for modification) a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination; and

"(B) individuals applying for or receiving services under this part have access to a fair hearing or other formal complaint procedure that meets standards established by the Secretary and ensures prompt consideration and resolution of complaints (but the resort to such procedure shall not stay the enforcement of any support order);".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997.

SEC. 7304. PRIVACY SAFEGUARDS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by section 7301(b), is amended—

(1) by striking ''and'' at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting ''; and''; and

(3) by adding after paragraph (25) the following new paragraph:

''(26) will have in effect safeguards, applicable to all confidential information handled by the State agency, that are designed to protect the privacy rights of the parties, including—

''(A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish or enforce support;

''(B) prohibitions against the release of information on the whereabouts of 1 party to another party against whom a protective order with respect to the former party has been entered; and

''(C) prohibitions against the release of information on the whereabouts of 1 party to another party if the State has reason to believe that the release of the information may result in physical or emotional harm to the former party.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997.

CHAPTER 2—LOCATE AND CASE TRACKING

SEC. 7311. STATE CASE REGISTRY.

Section 454A, as added by section 7344(a)(2), is amended by adding at the end the following new subsections:

"(e) STATE CASE REGISTRY.—

"(1) CONTENTS.—The automated system required by this section shall include a registry (which shall be known as the 'State case registry') that contains records with respect to—

"(A) each case in which services are being provided by the State agency under the State plan approved under this part; and

"(B) each support order established or modified in the State on or after October 1, 1998.

"(2) LINKING OF LOCAL REGISTRIES.—The State case registry may be established by linking local case registries of support orders through an automated information network, subject to this section.

"(3) USE OF STANDARDIZED DATA ELEMENTS.—Such records shall use standardized data elements for both parents (such as names, social security numbers and other uniform identification numbers, dates of birth, and case identification numbers), and contain such other information (such as on-case status) as the Secretary may require.

"(4) PAYMENT RECORDS.—Each case record in the State case registry with respect to which services are being provided under the State plan approved under this part and with respect to which a support order has been established shall include a record of—

"(A) the amount of monthly (or other periodic) support owed under the order, and other amounts (including arrearages, interest or late payment penalties, and fees) due or overdue under the order;

"(B) any amount described in subparagraph (A) that has been collected;

"(C) the distribution of such collected amounts;

"(D) the birth date of any child for whom the order requires the provision of support; and

"(E) the amount of any lien imposed with respect to the order pursuant to section 466(a)(4).

"(5) UPDATING AND MONITORING.—The State agency operating the automated system required by this section shall promptly establish and maintain, and regularly monitor, case records in the State case registry with respect to which services are being provided under the State plan approved under this part, on the basis of—

"(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;

"(B) information obtained from comparison with Federal, State, or local sources of information;

"(C) information on support collections and distributions; and

"(D) any other relevant information.

"(f) INFORMATION COMPARISONS AND OTHER DISCLOSURES OF INFORMATION.—The State shall use the automated system required by this section to extract information from (at such times, and in such standardized format or formats, as may be required by the Secretary), to share and compare information with, and to receive infor-

mation from, other data bases and information comparison services, in order to obtain (or provide) information necessary to enable the State agency (or the Secretary or other State or Federal agencies) to carry out this part, subject to section 6103 of the Internal Revenue Code of 1986. Such information comparison activities shall include the following:

"(1) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—Furnishing to the Federal Case Registry of Child Support Orders established under section 453(h) (and update as necessary, with information including notice of expiration of orders) the minimum amount of information on child support cases recorded in the State case registry that is necessary to operate the registry (as specified by the Secretary in regulations).

"(2) FEDERAL PARENT LOCATOR SERVICE.—Exchanging information with the Federal Parent Locator Service for the purposes specified in section 453.

"(3) TEMPORARY FAMILY ASSISTANCE AND MEDICAID AGENCIES.—Exchanging information with State agencies (of the State and of other States) administering programs funded under part A, programs operated under State plans under title XXI,

and other programs designated by the Secretary, as necessary to perform State agency responsibilities under this part and under such programs.

''(4) INTRASTATE AND INTERSTATE INFORMATION COMPARISONS.—Exchanging information with other agencies of the State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this part.''.

SEC. 7312. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 7301(b) and 7304(a), is amended—

(1) by striking ''and'' at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting ''; and''; and

(3) by adding after paragraph (26) the following new paragraph:

''(27) provide that, on and after October 1, 1998, the State agency will—

''(A) operate a State disbursement unit in accordance with section 454B; and

"(B) have sufficient State staff (consisting of State employees), and (at State option) private or governmental contractors reporting directly to the State agency, to—

"(i) provide automated monitoring and enforcement of support collections through the unit (including carrying out the automated data processing responsibilities described in section 454A(g)); and

"(ii) take the actions described in section 466(c)(1) in appropriate cases.".

(b) ESTABLISHMENT OF STATE DISBURSEMENT UNIT.—Part D of title IV (42 U.S.C. 651–669), as amended by section 7344(a)(2), is amended by inserting after section 454A the following new section:

"SEC. 454B. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

"(a) STATE DISBURSEMENT UNIT.—

"(1) IN GENERAL.—In order for a State to meet the requirements of this section, the State agency must establish and operate a unit (which shall be known as the 'State disbursement unit') for the collection and disbursement of payments under support orders in all cases being enforced by the State pursuant to section 454(4).

"(2) OPERATION.—The State disbursement unit shall be operated—

"(A) directly by the State agency (or 2 or more State agencies under a regional cooperative agreement), or (to the extent appropriate) by a contractor responsible directly to the State agency; and

"(B) in coordination with the automated system established by the State pursuant to section 454A.

"(3) LINKING OF LOCAL DISBURSEMENT UNITS.—The State disbursement unit may be established by linking local disbursement units through an automated information network, subject to this section. The Secretary must agree that the system will not cost more nor take more time to establish or operate than a centralized system. In addition, employers shall be given 1 location to which income withholding is sent.

"(b) REQUIRED PROCEDURES.—The State disbursement unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures—

"(1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other obligees, the State agency, and the agencies of other States;

"(2) for accurate identification of payments;

"(3) to ensure prompt disbursement of the custodial parent's share of any payment; and

"(4) to furnish to any parent, upon request, timely information on the current status of support payments under an order requiring payments to be made by or to the parent.

"(c) TIMING OF DISBURSEMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the State disbursement unit shall distribute all amounts payable under section 457(a) within 2 business days after receipt from the employer or other source of periodic income, if sufficient information identifying the payee is provided.

"(2) PERMISSIVE RETENTION OF ARREARAGES.—The State disbursement unit may delay the distribution of collections toward arrearages until the resolution of any timely appeal with respect to such arrearages.

"(d) BUSINESS DAY DEFINED.—As used in this section, the term 'business day' means a day on which State offices are open for regular business.".

(c) USE OF AUTOMATED SYSTEM.—Section 454A, as added by section 7344(a)(2) and as amended by section 7311, is amended by adding at the end the following new subsection:

"(g) COLLECTION AND DISTRIBUTION OF SUPPORT PAYMENTS.—

"(1) IN GENERAL.—The State shall use the automated system required by this section, to the maximum extent feasible, to assist and facilitate the collection and disbursement of support payments through the State disbursement unit operated under section 454B, through the performance of functions, including, at a minimum—

"(A) transmission of orders and notices to employers (and other debtors) for the withholding of wages and other income—

"(i) within 2 business days after receipt from a court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State of notice of, and the income source subject to, such withholding; and

"(ii) using uniform formats prescribed by the Secretary;

"(B) ongoing monitoring to promptly identify failures to make timely payment of support; and

"(C) automatic use of enforcement procedures (including procedures authorized pursuant to section 466(c)) where payments are not timely made.

"(2) BUSINESS DAY DEFINED.—As used in paragraph (1), the term 'business day' means a day on which State offices are open for regular business.".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1998.

SEC. 7313. STATE DIRECTORY OF NEW HIRES.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 7301(b), 7304(a) and 7312(a), is amended—

(1) by striking "and" at the end of paragraph (26);

(2) by striking the period at the end of paragraph (27) and inserting "; and"; and

(3) by adding after paragraph (27) the following new paragraph:

"(28) provide that, on and after October 1, 1997, the State will operate a State Directory of New Hires in accordance with section 453A.".

(b) STATE DIRECTORY OF NEW HIRES.—Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 453 the following new section:

"SEC. 453A. STATE DIRECTORY OF NEW HIRES.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Not later than October 1, 1997, each State shall establish an automated directory (to be known as the 'State Directory of New Hires') which shall contain information supplied in accordance with subsection (b) by employers on each newly hired employee.

"(2) DEFINITIONS.—As used in this section:

"(A) EMPLOYEE.—The term 'employee'—

"(i) means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986; and

"(ii) does not include an employee of a Federal or State agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting pursuant to paragraph (1) with respect to the employee could endan-

ger the safety of the employee or compromise an ongoing investigation or intelligence mission.

"(B) EMPLOYER.—The term 'employer' includes—

"(i) any governmental entity, and

"(ii) any labor organization.

"(C) LABOR ORGANIZATION.—The term 'labor organization' shall have the meaning given such term in section 2(5) of the National Labor Relations Act, and includes any entity (also known as a 'hiring hall') which is used by the organization and an employer to carry out requirements described in section 8(f)(3) of such Act of an agreement between the organization and the employer.

"(b) EMPLOYER INFORMATION.—

"(1) REPORTING REQUIREMENT.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), each employer shall furnish to the Directory of New Hires of the State in which a newly hired employee works, a report that contains the name, address, and social security number of the employee, and the name of, and identifying number assigned

under section 6109 of the Internal Revenue Code of 1986 to, the employer.

"(B) MULTISTATE EMPLOYERS.—An employer that has employees who are employed in 2 or more States and that transmits reports magnetically or electronically may comply with subparagraph (A) by designating 1 State in which such employer has employees to which it will transmit the report described in subparagraph (A), and transmitting such report to such State. Any employer that transmits reports pursuant to this subparagraph shall notify the Secretary in writing as to which State such employer designates for the purpose of sending reports.

"(C) FEDERAL GOVERNMENT EMPLOYERS.—Any department, agency, or instrumentality of the United States shall comply with subparagraph (A) by transmitting the report described in subparagraph (A) to the National Directory of New Hires established pursuant to section 453.

"(2) TIMING OF REPORT.—The report required by paragraph (1) with respect to an employee shall be made not later than the later of—

"(A) 30 days after the date the employer hires the employee; or

"(B) in the case of an employer that reports by magnetic or electronic means, the 1st business day of the week following the date on which the employee 1st receives wages or other compensation from the employer.

"(c) REPORTING FORMAT AND METHOD.—Each report required by subsection (b) shall be made on a W–4 form and may be transmitted by 1st class mail, magnetically, or electronically.

"(d) CIVIL MONEY PENALTIES ON NONCOMPLYING EMPLOYERS.—The State shall have the option to set a State civil money penalty which shall be less than—

"(1) $25; or

"(2) $500 if, under State law, the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report.

"(e) ENTRY OF EMPLOYER INFORMATION.—Information shall be entered into the data base maintained by the State Directory of New Hires within 5 business days of receipt from an employer pursuant to subsection (b).

"(f) INFORMATION COMPARISONS.—

"(1) IN GENERAL.—Not later than October 1, 1998, an agency designated by the State shall, directly or by contract, conduct automated comparisons of the social security numbers reported by employers pursuant to subsection (b) and the social security numbers appearing in the records of the State case registry for cases being enforced under the State plan.

"(2) NOTICE OF MATCH.—When an information comparison conducted under paragraph (1) reveals a match with respect to the social security number of an individual required to provide support under a support order, the State Directory of New Hires shall provide the agency administering the State plan approved under this part of the appropriate State with the name, address, and social security number of the employee to whom the social security number is assigned, and the name of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

"(g) TRANSMISSION OF INFORMATION.—

"(1) TRANSMISSION OF WAGE WITHHOLDING NOTICES TO EMPLOYERS.—Within 2 business days after the date information regarding a newly hired employee is entered into the State Directory of New

Hires, the State agency enforcing the employee's child support obligation shall transmit a notice to the employer of the employee directing the employer to withhold from the wages of the employee an amount equal to the monthly (or other periodic) child support obligation of the employee, unless the employee's wages are not subject to withholding pursuant to section 466(b)(3).

"(2) TRANSMISSIONS TO THE NATIONAL DIRECTORY OF NEW HIRES.—

"(A) NEW HIRE INFORMATION.—Within 2 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State Directory of New Hires shall furnish the information to the National Directory of New Hires.

"(B) WAGE AND UNEMPLOYMENT COMPENSATION INFORMATION.—The State Directory of New Hires shall, on a quarterly basis, furnish to the National Directory of New Hires extracts of the reports required under section 303(a)(6) to be made to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals, by such dates, in such format, and containing such information

as the Secretary of Health and Human Services shall specify in regulations.

"(3) BUSINESS DAY DEFINED.—As used in this subsection, the term 'business day' means a day on which State offices are open for regular business.

"(h) OTHER USES OF NEW HIRE INFORMATION.—

"(1) LOCATION OF CHILD SUPPORT OBLIGORS.—The agency administering the State plan approved under this part shall use information received pursuant to subsection (f)(2) to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations.

"(2) VERIFICATION OF ELIGIBILITY FOR CERTAIN PROGRAMS.—A State agency responsible for administering a program specified in section 1137(b) shall have access to information reported by employers pursuant to subsection (b) of this section for purposes of verifying eligibility for the program.

"(3) ADMINISTRATION OF EMPLOYMENT SECURITY AND WORKERS' COMPENSATION.—State agencies operating employment security and workers' compensation programs shall have access to information reported by employers pursuant to subsection

(b) for the purposes of administering such programs.''.

(c) QUARTERLY WAGE REPORTING.—Section 1137(a)(3) (42 U.S.C. 1320b–7(a)(3)) is amended—

(1) by inserting ''(including State and local governmental entities)'' after ''employers''; and

(2) by inserting '', and except that no report shall be filed with respect to an employee of a State agency performing intelligence or counterintelligence functions, if the head of such agency has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission'' after ''paragraph (2)''.

SEC. 7314. AMENDMENTS CONCERNING INCOME WITHHOLDING.

(a) MANDATORY INCOME WITHHOLDING.—

(1) IN GENERAL.—Section 466(a)(1) (42 U.S.C. 666(a)(1)) is amended to read as follows:

''(1)(A) Procedures described in subsection (b) for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.

''(B) Procedures under which the wages of a person with a support obligation imposed by a support order issued (or modified) in the State before

October 1, 1996, if not otherwise subject to withholding under subsection (b), shall become subject to withholding as provided in subsection (b) if arrearages occur, without the need for a judicial or administrative hearing.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 466(b) (42 U.S.C. 666(b)) is amended in the matter preceding paragraph (1), by striking ''subsection (a)(1)'' and inserting ''subsection (a)(1)(A)''.

(B) Section 466(b)(4) (42 U.S.C. 666(b)(4)) is amended to read as follows:

''(4)(A) Such withholding must be carried out in full compliance with all procedural due process requirements of the State, and the State must send notice to each absent parent to whom paragraph (1) applies—

''(i) that the withholding has commenced; and

''(ii) of the procedures to follow if the absent parent desires to contest such withholding on the grounds that the withholding or the amount withheld is improper due to a mistake of fact.

"(B) The notice under subparagraph (A) shall include the information provided to the employer under paragraph (6)(A).".

(C) Section 466(b)(5) (42 U.S.C. 666(b)(5)) is amended by striking all that follows "administered by" and inserting "the State through the State disbursement unit established pursuant to section 454B, in accordance with the requirements of section 454B.".

(D) Section 466(b)(6)(A) (42 U.S.C. 666(b)(6)(A)) is amended—

(i) in clause (i), by striking "to the appropriate agency" and all that follows and inserting "to the State disbursement unit within 2 business days after the date the amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part.";

(ii) in clause (ii), by inserting "be in a standard format prescribed by the Secretary, and" after "shall"; and

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

"(iii) As used in this subparagraph, the term 'business day' means a day on which State offices are open for regular business.".

(E) Section 466(b)(6)(D) (42 U.S.C. 666(b)(6)(D)) is amended by striking "any employer" and all that follows and inserting "any employer who—

"(i) discharges from employment, refuses to employ, or takes disciplinary action against any absent parent subject to wage withholding required by this subsection because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer; or

"(ii) fails to withhold support from wages, or to pay such amounts to the State disbursement unit in accordance with this subsection.".

(F) Section 466(b) (42 U.S.C. 666(b)) is amended by adding at the end the following new paragraph:

"(11) Procedures under which the agency administering the State plan approved under this part may execute a withholding order through electronic means and without advance notice to the obligor.".

(b) CONFORMING AMENDMENT.—Section 466(c) (42 U.S.C. 666(c)) is repealed.

SEC. 7315. LOCATOR INFORMATION FROM INTERSTATE NETWORKS.

Section 466(a) (42 U.S.C. 666(a)) is amended by adding at the end the following new paragraph:

"(12) Procedures to ensure that all Federal and State agencies conducting activities under this part have access to any system used by the State to locate an individual for purposes relating to motor vehicles or law enforcement.".

SEC. 7316. EXPANSION OF THE FEDERAL PARENT LOCATOR SERVICE.

(a) EXPANDED AUTHORITY TO LOCATE INDIVIDUALS AND ASSETS.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (a), by striking all that follows "subsection (c))" and inserting ", for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, or enforcing child visitation orders—

"(1) information on, or facilitating the discovery of, the location of any individual—

"(A) who is under an obligation to pay child support or provide child visitation rights;

"(B) against whom such an obligation is sought;

"(C) to whom such an obligation is owed, including the individual's social security number (or numbers), most recent address, and the name, address, and employer identification number of the individual's employer;

"(2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

"(3) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual."; and

(2) in subsection (b), in the matter preceding paragraph (1), by striking "social security" and all that follows through "absent parent" and inserting "information described in subsection (a)".

(b) AUTHORIZED PERSON FOR INFORMATION REGARDING VISITATION RIGHTS.—Section 453(c) (42 U.S.C. 653(c)) is amended—

(1) in paragraph (1), by striking "support" and inserting "support or to seek to enforce orders providing child visitation rights";

(2) in paragraph (2), by striking ", or any agent of such court; and" and inserting "or to issue an order against a resident parent for visitation rights, or any agent of such court;";

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

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

"(4) the absent parent, only with regard to a court order against a resident parent for child visitation rights.".

(c) REIMBURSEMENT FOR INFORMATION FROM FEDERAL AGENCIES.—Section 453(e)(2) (42 U.S.C. 653(e)(2)) is amended in the 4th sentence by inserting "in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information)" before the period.

(d) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES.—Section 453 (42 U.S.C. 653) is amended by adding at the end the following new subsection:

"(g) The Secretary may reimburse Federal and State agencies for the costs incurred by such entities in furnishing information requested by the Secretary under this sec-

tion in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information).''.

(e) TECHNICAL AMENDMENTS.—

(1) Sections 452(a)(9), 453(a), 453(b), 463(a), 463(e), and 463(f) (42 U.S.C. 652(a)(9), 653(a), 653(b), 663(a), 663(e), and 663(f)) are each amended by inserting ''Federal'' before ''Parent'' each place such term appears.

(2) Section 453 (42 U.S.C. 653) is amended in the heading by adding ''FEDERAL'' before ''PARENT''.

(f) NEW COMPONENTS.—Section 453 (42 U.S.C. 653), as amended by subsection (d) of this section, is amended by adding at the end the following new subsection:

''(h)(1) Not later than October 1, 1998, in order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry (which shall be known as the 'Federal Case Registry of Child Support Orders'), which shall contain abstracts of support orders and

other information described in paragraph (2) with respect to each case in each State case registry maintained pursuant to section 454A(e), as furnished (and regularly updated), pursuant to section 454A(f), by State agencies administering programs under this part.

''(2) The information referred to in paragraph (1) with respect to a case shall be such information as the Secretary may specify in regulations (including the names, social security numbers or other uniform identification numbers, and State case identification numbers) to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have the case.

''(i)(1) In order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall, not later than October 1, 1996, establish and maintain in the Federal Parent Locator Service an automated directory to be known as the National Directory of New Hires, which shall contain the information supplied pursuant to section 453A(g)(2).

"(2) Information shall be entered into the data base maintained by the National Directory of New Hires within 2 business days of receipt pursuant to section 453A(g)(2).

"(3) The Secretary of the Treasury shall have access to the information in the National Directory of New Hires for purposes of administering section 32 of the Internal Revenue Code of 1986, or the advance payment of the earned income tax credit under section 3507 of such Code, and verifying a claim with respect to employment in a tax return.

"(4) The Secretary shall maintain within the National Directory of New Hires a list of multistate employers that report information regarding newly hired employees pursuant to section 453A(b)(1)(B), and the State which each such employer has designated to receive such information.

"(j)(1)(A) The Secretary shall transmit information on individuals and employers maintained under this section to the Social Security Administration to the extent necessary for verification in accordance with subparagraph (B).

"(B) The Social Security Administration shall verify the accuracy of, correct, or supply to the extent possible, and report to the Secretary, the following information supplied by the Secretary pursuant to subparagraph (A):

"(i) The name, social security number, and birth date of each such individual.

"(ii) The employer identification number of each such employer.

"(2) For the purpose of locating individuals in a paternity establishment case or a case involving the establishment, modification, or enforcement of a support order, the Secretary shall—

"(A) compare information in the National Directory of New Hires against information in the support case abstracts in the Federal Case Registry of Child Support Orders not less often than every 2 business days; and

"(B) within 2 such days after such a comparison reveals a match with respect to an individual, report the information to the State agency responsible for the case.

"(3) To the extent and with the frequency that the Secretary determines to be effective in assisting States to carry out their responsibilities under programs operated under this part and programs funded under part A, the Secretary shall—

"(A) compare the information in each component of the Federal Parent Locator Service maintained under this section against the information in

each other such component (other than the comparison required by paragraph (2)), and report instances in which such a comparison reveals a match with respect to an individual to State agencies operating such programs; and

"(B) disclose information in such registries to such State agencies.

"(4) The National Directory of New Hires shall provide the Commissioner of Social Security with all information in the National Directory, which shall be used to determine the accuracy of payments under the supplemental security income program under title XVI and in connection with benefits under title II.

"(5) The Secretary may provide access to information reported by employers pursuant to section 453A(b) for research purposes found by the Secretary to be likely to contribute to achieving the purposes of part A or this part, but without personal identifiers.

"(k)(1) The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, for the costs incurred by the Commissioner in performing the verification services described in subsection (j).

"(2) The Secretary shall reimburse costs incurred by State directories of new hires in furnishing information

as required by subsection (j)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining such information).

''(3) A State or Federal agency that receives information from the Secretary pursuant to this section shall reimburse the Secretary for costs incurred by the Secretary in furnishing the information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and comparing the information).

''(l) Information in the Federal Parent Locator Service, and information resulting from comparisons using such information, shall not be used or disclosed except as expressly provided in this section, subject to section 6103 of the Internal Revenue Code of 1986.

''(m) The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—

''(1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and

''(2) restrict access to confidential information in the Federal Parent Locator Service to authorized

persons, and restrict use of such information to authorized purposes.

''(n) Each department, agency, and instrumentality of the United States shall on a quarterly basis report to the Federal Parent Locator Service the name and social security number of each employee and the wages paid to the employee during the previous quarter, except that no report shall be filed with respect to an employee of a department, agency, or instrumentality performing intelligence or counterintelligence functions, if the head of such department, agency, or instrumentality has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.''.

(f) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—Section 454(8)(B) (42 U.S.C. 654(8)(B)) is amended to read as follows:

''(B) the Federal Parent Locator Service established under section 453;''.

(2) TO FEDERAL UNEMPLOYMENT TAX ACT.—Section 3304(a)(16) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''Secretary of Health, Education, and Welfare'' each place such term ap-

pears and inserting ''Secretary of Health and Human Services'';

(B) in subparagraph (B), by striking ''such information'' and all that follows and inserting ''information furnished under subparagraph (A) or (B) is used only for the purposes authorized under such subparagraph;'';

(C) by striking ''and'' at the end of subparagraph (A);

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

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

''(B) wage and unemployment compensation information contained in the records of such agency shall be furnished to the Secretary of Health and Human Services (in accordance with regulations promulgated by such Secretary) as necessary for the purposes of the National Directory of New Hires established under section 453(i) of the Social Security Act, and''.

(3) TO STATE GRANT PROGRAM UNDER TITLE III OF THE SOCIAL SECURITY ACT.—Subsection (h) of section 303 (42 U.S.C. 503) is amended to read as follows:

"(h)(1) The State agency charged with the administration of the State law shall, on a reimbursable basis—

"(A) disclose quarterly, to the Secretary of Health and Human Services wage and claim information, as required pursuant to section 453(i)(1), contained in the records of such agency;

"(B) ensure that information provided pursuant to subparagraph (A) meets such standards relating to correctness and verification as the Secretary of Health and Human Services, with the concurrence of the Secretary of Labor, may find necessary; and

"(C) establish such safeguards as the Secretary of Labor determines are necessary to insure that information disclosed under subparagraph (A) is used only for purposes of section 453(i)(1) in carrying out the child support enforcement program under title IV.

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such failure. Until the

Secretary of Labor is so satisfied, the Secretary shall make no future certification to the Secretary of the Treasury with respect to the State.

"(3) For purposes of this subsection—

"(A) the term 'wage information' means information regarding wages paid to an individual, the social security account number of such individual, and the name, address, State, and the Federal employer identification number of the employer paying such wages to such individual; and

"(B) the term 'claim information' means information regarding whether an individual is receiving, has received, or has made application for, unemployment compensation, the amount of any such compensation being received (or to be received by such individual), and the individual's current (or most recent) home address.".

SEC. 7317. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR USE IN CHILD SUPPORT ENFORCEMENT.

(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by section 7315, is amended by adding at the end the following new paragraph:

"(13) Procedures requiring that the social security number of—

"(A) any applicant for a professional license, commercial driver's license, occupational license, or marriage license be recorded on the application;

"(B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and

"(C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate.

For purposes of subparagraph (A), if a State allows the use of a number other than the social security number, the State shall so advise any applicants.".

(b) CONFORMING AMENDMENTS.—Section 205(c)(2)(C) (42 U.S.C. 405(c)(2)(C)), as amended by section 321(a)(9) of the Social Security Independence and Program Improvements Act of 1994, is amended—

(1) in clause (i), by striking "may require" and inserting "shall require";

(2) in clause (ii), by inserting after the 1st sentence the following: "In the administration of any law involving the issuance of a marriage certificate or license, each State shall require each party named in the certificate or license to furnish to the State

(or political subdivision thereof), or any State agency having administrative responsibility for the law involved, the social security number of the party.'';

(3) in clause (ii), by inserting ''or marriage certificate'' after ''Such numbers shall not be recorded on the birth certificate'';

(4) in clause (vi), by striking ''may'' and inserting ''shall''; and

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

''(x) An agency of a State (or a political subdivision thereof) charged with the administration of any law concerning the issuance or renewal of a license, certificate, permit, or other authorization to engage in a profession, an occupation, or a commercial activity shall require all applicants for issuance or renewal of the license, certificate, permit, or other authorization to provide the applicant's social security number to the agency for the purpose of administering such laws, and for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.

"(xi) All divorce decrees, support orders, and paternity determinations issued, and all paternity acknowledgments made, in each State shall include the social security number of each party to the decree, order, determination, or acknowledgement in the records relating to the matter, for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.".

CHAPTER 3—STREAMLINING AND UNIFORMITY OF PROCEDURES

SEC. 7321. ADOPTION OF UNIFORM STATE LAWS.

Section 466 (42 U.S.C. 666) is amended by adding at the end the following new subsection:

"(f)(1) In order to satisfy section 454(20)(A) on or after January 1, 1997, each State must have in effect the Uniform Interstate Family Support Act, as approved by the National Conference of Commissioners on Uniform State Laws in August 1992 (with the modifications and additions specified in this subsection), and the procedures required to implement such Act.

"(2) The State law enacted pursuant to paragraph (1) may be applied to any case involving an order which

is established or modified in a State and which is sought to be modified or enforced in another State.

"(3) The State law enacted pursuant to paragraph (1) of this subsection shall contain the following provision in lieu of section 611(a)(1) of the Uniform Interstate Family Support Act:

"'(1) the following requirements are met:

"'(i) the child, the individual obligee, and the obligor—

"'(I) do not reside in the issuing State; and

"'(II) either reside in this State or are subject to the jurisdiction of this State pursuant to section 201; and

"'(ii) in any case where another State is exercising or seeks to exercise jurisdiction to modify the order, the conditions of section 204 are met to the same extent as required for proceedings to establish orders; or'.

"(4) The State law enacted pursuant to paragraph (1) shall provide that, in any proceeding subject to the law, process may be served (and proved) upon persons in the State by any means acceptable in any State which is the initiating or responding State in the proceeding.".

SEC. 7322. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

Section 1738B of title 28, United States Code, is amended—

(1) in subsection (a)(2), by striking ''subsection (e)'' and inserting ''subsections (e), (f), and (i)'';

(2) in subsection (b), by inserting after the 2nd undesignated paragraph the following:

'' 'child's home State' means the State in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the 6-month period.'';

(3) in subsection (c), by inserting ''by a court of a State'' before ''is made'';

(4) in subsection (c)(1), by inserting ''and subsections (e), (f), and (g)'' after ''located'';

(5) in subsection (d)—

(A) by inserting ''individual'' before ''contestant''; and

(B) by striking ''subsection (e)'' and inserting ''subsections (e) and (f)'';

(6) in subsection (e), by striking ''make a modification of a child support order with respect to a child that is made'' and inserting ''modify a child support order issued'';

(7) in subsection (e)(1), by inserting ''pursuant to subsection (i)'' before the semicolon;

(8) in subsection (e)(2)—

(A) by inserting ''individual'' before ''contestant'' each place such term appears; and

(B) by striking ''to that court's making the modification and assuming'' and inserting ''with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume'';

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(10) by inserting after subsection (e) the following new subsection:

''(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If 1 or more child support orders have been issued in this or another State with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

"(1) If only 1 court has issued a child support order, the order of that court must be recognized.

"(2) If 2 or more courts have issued child support orders for the same obligor and child, and only 1 of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

"(3) If 2 or more courts have issued child support orders for the same obligor and child, and more than 1 of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

"(4) If 2 or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court may issue a child support order, which must be recognized.

"(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction.";

(11) in subsection (g) (as so redesignated)—

(A) by striking ''PRIOR'' and inserting ''MODIFIED''; and

(B) by striking ''subsection (e)'' and inserting ''subsections (e) and (f)'';

(12) in subsection (h) (as so redesignated)—

(A) in paragraph (2), by inserting ''including the duration of current payments and other obligations of support'' before the comma; and

(B) in paragraph (3), by inserting ''arrears under'' after ''enforce''; and

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

''(i) REGISTRATION FOR MODIFICATION.—If there is no individual contestant or child residing in the issuing State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification.''.

SEC. 7323. ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 7315 and 7317(a), is amended by adding at the end the following new paragraph:

''(14) Procedures under which—

"(A)(i) the State shall respond within 5 business days to a request made by another State to enforce a support order; and

"(ii) the term 'business day' means a day on which State offices are open for regular business;

"(B) the State may, by electronic or other means, transmit to another State a request for assistance in a case involving the enforcement of a support order, which request—

"(i) shall include such information as will enable the State to which the request is transmitted to compare the information about the case to the information in the data bases of the State; and

"(ii) shall constitute a certification by the requesting State—

"(I) of the amount of support under the order the payment of which is in arrears; and

"(II) that the requesting State has complied with all procedural due process requirements applicable to the case;

"(C) if the State provides assistance to another State pursuant to this paragraph with respect to a case, neither State shall consider the case to be transferred to the caseload of such other State; and

"(D) the State shall maintain records of—

"(i) the number of such requests for assistance received by the State;

"(ii) the number of cases for which the State collected support in response to such a request; and

"(iii) the amount of such collected support.".

SEC. 7324. USE OF FORMS IN INTERSTATE ENFORCEMENT.

(a) PROMULGATION.—Section 452(a) (42 U.S.C. 652(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

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

"(11) not later than 60 days after the date of the enactment of the Balance Budget Reconciliation Act of 1995, establish an advisory committee, which

shall include State directors of programs under this part, and not later than June 30, 1996, after consultation with the advisory committee, promulgate forms to be used by States in interstate cases for—

"(A) collection of child support through income withholding;

"(B) imposition of liens; and

"(C) administrative subpoenas.".

(b) USE BY STATES.—Section 454(9) (42 U.S.C. 654(9)) is amended—

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

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

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

"(E) no later than October 1, 1996, in using the forms promulgated pursuant to section 452(a)(11) for income withholding, imposition of liens, and issuance of administrative subpoenas in interstate child support cases;".

SEC. 7325. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466 (42 U.S.C. 666), as amended by section 7314, is amended—

(1) in subsection (a)(2), by striking the 1st sentence and inserting the following: ''Expedited administrative and judicial procedures (including the procedures specified in subsection (c)) for establishing paternity and for establishing, modifying, and enforcing support obligations.''; and

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

''(c) The procedures specified in this subsection are the following:

''(1) Procedures which give the State agency the authority to take the following actions relating to establishment or enforcement of support orders, without the necessity of obtaining an order from any other judicial or administrative tribunal, and to recognize and enforce the authority of State agencies of other States) to take the following actions:

''(A) To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).

''(B) To subpoena any financial or other information needed to establish, modify, or enforce a support order, and to impose penalties for failure to respond to such a subpoena.

"(C) To require all entities in the State (including for-profit, nonprofit, and governmental employers) to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor, and to sanction failure to respond to any such request.

"(D) To obtain access, subject to safeguards on privacy and information security, to the following records (including automated access, in the case of records maintained in automated data bases):

"(i) Records of other State and local government agencies, including—

"(I) vital statistics (including records of marriage, birth, and divorce);

"(II) State and local tax and revenue records (including information on residence address, employer, income and assets);

"(III) records concerning real and titled personal property;

"(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

"(V) employment security records;

"(VI) records of agencies administering public assistance programs;

"(VII) records of the motor vehicle department; and

"(VIII) corrections records.

"(ii) Certain records held by private entities, including—

"(I) customer records of public utilities and cable television companies; and

"(II) information (including information on assets and liabilities) on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought) held by financial institutions (subject

to limitations on liability of such entities arising from affording such access), as provided pursuant to agreements described in subsection (a)(18).

"(E) In cases where support is subject to an assignment in order to comply with a requirement imposed pursuant to part A or section 2136, or to a requirement to pay through the State disbursement unit established pursuant to section 454B, upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.

"(F) To order income withholding in accordance with subsections (a)(1) and (b) of section 466.

"(G) In cases in which there is a support arrearage, to secure assets to satisfy the arrearage by—

"(i) intercepting or seizing periodic or lump-sum payments from—

"(I) a State or local agency, including unemployment compensation, workers' compensation, and other benefits; and

"(II) judgments, settlements, and lotteries;

"(ii) attaching and seizing assets of the obligor held in financial institutions;

"(iii) attaching public and private retirement funds; and

"(iv) imposing liens in accordance with subsection (a)(4) and, in appropriate cases, to force sale of property and distribution of proceeds.

"(H) For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages, subject to such conditions or limitations as the State may provide.

Such procedures shall be subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal.

"(2) The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all proceedings to establish paternity or to establish, modify, or enforce support orders:

"(A) Procedures under which—

"(i) each party to any paternity or child support proceeding is required (subject to privacy safeguards) to file with the tribunal and the State case registry upon entry of an order, and to update as appropriate, information on location and identity of the party, including social security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and name and telephone number of employer; and

"(ii) in any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the tribunal may deem State due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the tribunal pursuant to clause (i).

"(B) Procedures under which—

"(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties; and

"(ii) in a State in which orders are issued by courts or administrative tribunals, a case may be transferred between local jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.".

(b) AUTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section 7344(a)(2) and as amended by sections 7311 and 7312(c), is amended by adding at the end the following new subsection:

"(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—The automated system required by this section shall be used, to the maximum extent feasible, to implement the expedited administrative procedures required by section 466(c).".

CHAPTER 4—PATERNITY ESTABLISHMENT

SEC. 7331. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) (42 U.S.C. 666(a)(5)) is amended to read as follows:

"(5)(A)(i) Procedures which permit the establishment of the paternity of a child at any time before the child attains 21 years of age.

"(ii) As of August 16, 1984, clause (i) shall also apply to a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because a statute of limitations of less than 21 years was then in effect in the State.

"(B)(i) Procedures under which the State is required, in a contested paternity case, unless otherwise barred by State law, to require the child and all other parties (other than individuals found under section 454(29) to have good cause for refusing to cooperate) to submit to genetic tests upon the request of any such party if the request is supported by a sworn statement by the party—

"(I) alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

"(II) denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties.

"(ii) Procedures which require the State agency in any case in which the agency orders genetic testing—

"(I) to pay costs of such tests, subject to recoupment (where the State so elects) from the alleged father if paternity is established; and

"(II) to obtain additional testing in any case where an original test result is contested, upon request and advance payment by the contestant.

"(C)(i) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the mother and the putative father must be given notice, orally and in writing, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

"(ii) Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child, subject to such good cause and other exceptions as the State shall establish and taking into account the best interests of the child.

"(iii)(I) Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

"(II)(aa) The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies.

"(bb) The Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, use the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as the provision of such services is

evaluated by, voluntary paternity establishment programs of hospitals and birth record agencies.

''(iv) Such procedures must require the State to develop and use an affidavit for the voluntary acknowledgment of paternity which includes the minimum requirements of the affidavit developed by the Secretary under section 452(a)(7) for the voluntary acknowledgment of paternity, and to give full faith and credit to such an affidavit signed in any other State according to its procedures.

''(D)(i) Procedures under which the name of the father shall be included on the record of birth of the child only—

''(I) if the father and mother have signed a voluntary acknowledgment of paternity; or

''(II) pursuant to an order issued in a judicial or administrative proceeding.

Nothing in this clause shall preclude a State agency from obtaining an admission of paternity from the father for submission in a judicial or administrative proceeding, or prohibit an order issued in a judicial or administrative proceeding which bases a legal finding of paternity on an admission of paternity by the father and any other additional showing required by State law.

"(ii) Procedures under which—

"(I) a voluntary acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within 60 days;

"(II) after the 60-day period referred to in subclause (I), a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown; and

"(III) judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.

"(E) Procedures under which judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.

"(F) Procedures—

"(i) requiring the admission into evidence, for purposes of establishing paternity, of the results of any genetic test that is—

"(I) of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary; and

"(II) performed by a laboratory approved by such an accreditation body;

"(ii) requiring an objection to genetic testing results to be made in writing not later than a specified number of days before any hearing at which the results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of the results); and

"(iii) making the test results admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy, unless objection is made.

"(G) Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability that the alleged father is the father of the child.

"(H) Procedures requiring a default order to be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by State law.

"(I) Procedures providing that the parties to an action to establish paternity are not entitled to a trial by jury.

"(J) Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, where there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

"(K) Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child.

"(L) Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.

"(M) Procedures under which voluntary acknowledgments and adjudications of paternity by judicial or administrative processes are filed with the

State registry of birth records for comparison with information in the State case registry.''.

(b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended by inserting '', and develop an affidavit to be used for the voluntary acknowledgment of paternity which shall include the social security number of each parent'' before the semicolon.

(c) TECHNICAL AMENDMENT.—Section 468 (42 U.S.C. 668) is amended by striking ''a simple civil process for voluntarily acknowledging paternity and''.

SEC. 7332. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

Section 454(23) (42 U.S.C. 654(23)) is amended by inserting ''and will publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support by means the State deems appropriate'' before the semicolon.

SEC. 7333. COOPERATION BY APPLICANTS FOR AND RECIPIENTS OF TEMPORARY FAMILY ASSISTANCE.

Section 454 (42 U.S.C. 654), as amended by sections 7301(b), 7304(a), 7312(a), and 7313(a), is amended—

(1) by striking ''and'' at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by inserting after paragraph (28) the following new paragraph:

"(29) provide that the State agency responsible for administering the State plan—

"(A) shall make the determination (and redetermination at appropriate intervals) as to whether an individual who has applied for or is receiving assistance under the State program funded under part A or the State program under title XXI is cooperating in good faith with the State in establishing the paternity of, or in establishing, modifying, or enforcing a support order for, any child of the individual by providing the State agency with the name of, and such other information as the State agency may require with respect to, the noncustodial parent of the child, subject to such good cause and other exceptions as the State shall establish and taking into account the best interests of the child;

"(B) shall require the individual to supply additional necessary information and appear at interviews, hearings, and legal proceedings;

"(C) shall require the individual and the child to submit to genetic tests pursuant to judicial or administrative order; and

"(D) shall promptly notify the individual and the State agency administering the State program funded under part A and the State agency administering the State program under title XXI of each such determination, and if noncooperation is determined, the basis therefore.".

CHAPTER 5—PROGRAM ADMINISTRATION AND FUNDING

SEC. 7341. PERFORMANCE-BASED INCENTIVES AND PENALTIES.

(a) INCENTIVE PAYMENTS.—

(1) IN GENERAL.—Section 458 (42 U.S.C. 658) is amended—

(A) in subsection (a), by striking "aid to families" and all through the end period, and inserting "assistance under a program funded under part A, and regardless of the economic circumstances of their parents, the Secretary shall, from the support collected which would otherwise represent the reimbursement to the Federal government under section 457, pay to

each State for each fiscal year, on a quarterly basis (as described in subsection (e)) beginning with the quarter commencing October 1, 1999, an incentive payment in an amount determined under subsections (b) and (c).'';

(B) by striking subsections (b) and (c) and inserting the following:

''(b)(1) Not later than 60 days after the date of the enactment of the Balanced Budget Reconciliation Act of 1995, the Secretary shall establish a committee which shall include State directors of programs under this part and which shall develop for the Secretary's approval a formula for the distribution of incentive payments to the States.

''(2) The formula developed and approved under paragraph (1)—

''(A) shall result in a percentage of the collections described in subsection (a) being distributed to each State based on the State's comparative performance in the following areas and any other areas approved by the Secretary under this subsection:

''(i) The IV-D paternity establishment percentage, as defined in section 452(g)(2).

''(ii) The percentage of cases with a support order with respect to which services are

being provided under the State plan approved under this part.

''(iii) The percentage of cases with a support order in which child support is paid with respect to which services are being so provided.

''(iv) In cases receiving services under the State plan approved under this part, the amount of child support collected compared to the amount of outstanding child support owed.

''(v) The cost-effectiveness of the State program;

''(B) shall take into consideration—

''(i) the impact that incentives can have on reducing the need to provide public assistance and on permanently removing families from public assistance;

''(ii) the need to balance accuracy and fairness with simplicity of understanding and data gathering;

''(iii) the need to reward performance which improves short- and long-term program outcomes, especially establishing paternity and support orders and encouraging the timely payment of support;

"(iv) the Statewide paternity establishment percentage;

"(v) baseline data on current performance and projected costs of performance increases to assure that top performing States can actually achieve the top incentive levels with a reasonable resource investment;

"(vi) performance outcomes which would warrant an increase in the total incentive payments made to the States; and

"(vii) the use or distribution of any portion of the total incentive payments in excess of the total of the payments which may be distributed under subsection (c);

"(C) shall be determined so as to distribute to the States total incentive payments equal to the total incentive payments for all States in fiscal year 1994, plus a portion of any increase in the reimbursement to the Federal Government under section 457 from fiscal year 1999 or any other increase based on other performance outcomes approved by the Secretary under this subsection;

"(D) shall use a definition of the term 'State' which does not include any area within the jurisdiction of an Indian tribal government; and

"(E) shall use a definition of the term 'State-wide paternity establishment percentage' to mean with respect to a State and a fiscal year—

"(i) the total number of children in the State who were born out of wedlock, who have not attained 1 year of age and for whom paternity is established or acknowledged during the fiscal year; divided by

"(ii) the total number of children born out of wedlock in the State during the fiscal year.

"(c) The total amount of the incentives payment made by the Secretary to a State in a fiscal year shall not exceed 90 percent of the total amounts expended by such State during such year for the operation of the plan approved under section 454, less payments to the State pursuant to section 455 for such year.";

(2) in subsection (d), by striking ", and any amounts" through "shall be excluded".

(b) PAYMENTS TO POLITICAL SUBDIVISIONS.—Section 454(22) (42 U.S.C. 654(22)) is amended by inserting before the semicolon the following: ", but a political subdivision shall not be entitled to receive, and the State may retain, any amount in excess of the amount the political subdivision expends on the State program under this part,

less the amount equal to the percentage of that expenditure paid by the Secretary under section 455''.

(c) CALCULATION OF IV–D PATERNITY ESTABLISHMENT PERCENTAGE.—

(1) Section 452(g)(1) (42 U.S.C. 652(g)(1)) is amended—

(A) in the matter preceding subparagraph (A) by inserting ''its overall performance in child support enforcement is satisfactory (as defined in section 458(b) and regulations of the Secretary), and'' after ''1994,''; and

(B) in each of subparagraphs (A) and (B), by striking ''75'' and inserting ''90''.

(2) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended in the matter preceding clause (i)—

(A) by striking ''paternity establishment percentage'' and inserting ''IV–D paternity establishment percentage''; and

(B) by striking ''(or all States, as the case may be)''.

(3) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is amended—

(A) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(B) in subparagraph (A) (as so redesignated), by striking ''the percentage of children born out-of-wedlock in a State'' and inserting ''the percentage of children in a State who are born out of wedlock or for whom support has not been established''; and

(C) in subparagraph (B) (as so redesignated)—

(i) by inserting ''and overall performance in child support enforcement'' after ''paternity establishment percentages''; and

(ii) by inserting ''and securing support'' before the period.

(d) EFFECTIVE DATES.—

(1) INCENTIVE ADJUSTMENTS.—

(A) IN GENERAL.—The amendments made by subsections (a) and (b) shall become effective on the date of the enactment of this Act, except to the extent provided in subparagraph (B).

(B) EXCEPTION.—Section 458 of the Social Security Act, as in effect before the date of

the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years before fiscal year 2000.

(2) PENALTY REDUCTIONS.—The amendments made by subsection (c) shall become effective with respect to calendar quarters beginning on and after the date of the enactment of this Act.

SEC. 7342. FEDERAL AND STATE REVIEWS AND AUDITS.

(a) STATE AGENCY ACTIVITIES.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (14), by striking ''(14)'' and inserting ''(14)(A)'';

(2) by redesignating paragraph (15) as subparagraph (B) of paragraph (14); and

(3) by inserting after paragraph (14) the following new paragraph:

''(15) provide for—

''(A) a process for annual reviews of and reports to the Secretary on the State program operated under the State plan approved under this part, including such information as may be necessary to measure State compliance with Federal requirements for expedited procedures, using such standards and procedures as are required by the Secretary, under which the State

agency will determine the extent to which the program is operated in compliance with this part; and

"(B) a process of extracting from the automated data processing system required by paragraph (16) and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including IV–D paternity establishment percentages and overall performance in child support enforcement) to the extent necessary for purposes of sections 452(g) and 458.".

(b) FEDERAL ACTIVITIES.—Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended to read as follows:

"(4)(A) review data and calculations transmitted by State agencies pursuant to section 454(15)(B) on State program accomplishments with respect to performance indicators for purposes of subsection (g) of this section and section 458;

"(B) review annual reports submitted pursuant to section 454(15)(A) and, as appropriate, provide to the State comments, recommendations for additional or alternative corrective actions, and technical assistance; and

"(C) conduct audits, in accordance with the Government auditing standards of the Comptroller General of the United States—

"(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet the requirements of this part concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used in calculating performance indicators under subsection (g) of this section and section 458;

"(ii) of the adequacy of financial management of the State program operated under the State plan approved under this part, including assessments of—

"(I) whether Federal and other funds made available to carry out the State program are being appropriately expended, and are properly and fully accounted for; and

"(II) whether collections and disbursements of support payments are carried out correctly and are fully accounted for; and

"(iii) for such other purposes as the Secretary may find necessary;".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning 12 months or more after the date of the enactment of this Act.

SEC. 7343. REQUIRED REPORTING PROCEDURES.

(a) ESTABLISHMENT.—Section 452(a)(5) (42 U.S.C. 652(a)(5)) is amended by inserting ", and establish procedures to be followed by States for collecting and reporting information required to be provided under this part, and establish uniform definitions (including those necessary to enable the measurement of State compliance with the requirements of this part relating to expedited processes) to be applied in following such procedures" before the semicolon.

(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 7301(b), 7304(a), 7312(a), 7313(a), and 7333, is amended—

(1) by striking "and" at the end of paragraph (28);

(2) by striking the period at the end of paragraph (29) and inserting "; and"; and

(3) by adding after paragraph (29) the following new paragraph:

"(30) provide that the State shall use the definitions established under section 452(a)(5) in collecting and reporting information as required under this part.".

SEC. 7344. AUTOMATED DATA PROCESSING REQUIREMENTS.

(a) REVISED REQUIREMENTS.—

(1) IN GENERAL.—Section 454(16) (42 U.S.C. 654(16)) is amended—

(A) by striking ", at the option of the State,";

(B) by inserting "and operation by the State agency" after "for the establishment";

(C) by inserting "meeting the requirements of section 454A" after "information retrieval system";

(D) by striking "in the State and localities thereof, so as (A)" and inserting "so as";

(E) by striking "(i)"; and

(F) by striking "(including" and all that follows and inserting a semicolon.

(2) AUTOMATED DATA PROCESSING.—Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 454 the following new section:

"SEC. 454A. AUTOMATED DATA PROCESSING.

"(a) IN GENERAL.—In order for a State to meet the requirements of this section, the State agency administering the State program under this part shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section with the frequency and in the manner required by or under this part.

"(b) PROGRAM MANAGEMENT.—The automated system required by this section shall perform such functions as the Secretary may specify relating to management of the State program under this part, including—

"(1) controlling and accounting for use of Federal, State, and local funds in carrying out the program; and

"(2) maintaining the data necessary to meet Federal reporting requirements under this part on a timely basis.

"(c) CALCULATION OF PERFORMANCE INDICATORS.—In order to enable the Secretary to determine the incentive and penalty adjustments required by sections 452(g) and 458, the State agency shall—

"(1) use the automated system—

"(A) to maintain the requisite data on State performance with respect to paternity es-

tablishment and child support enforcement in the State; and

"(B) to calculate the IV–D paternity establishment percentage and overall performance in child support enforcement for the State for each fiscal year; and

"(2) have in place systems controls to ensure the completeness and reliability of, and ready access to, the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B).

"(d) INFORMATION INTEGRITY AND SECURITY.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use of data in the automated system required by this section, which shall include the following (in addition to such other safeguards as the Secretary may specify in regulations):

"(1) POLICIES RESTRICTING ACCESS.—Written policies concerning access to data by State agency personnel, and sharing of data with other persons, which—

"(A) permit access to and use of data only to the extent necessary to carry out the State program under this part; and

"(B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data.

"(2) SYSTEMS CONTROLS.—Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies described in paragraph (1).

"(3) MONITORING OF ACCESS.—Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms, to guard against and promptly identify unauthorized access or use.

"(4) TRAINING AND INFORMATION.—Procedures to ensure that all personnel (including State and local agency staff and contractors) who may have access to or be required to use confidential program data are informed of applicable requirements and penalties (including those in section 6103 of the Internal Revenue Code of 1986), and are adequately trained in security procedures.

"(5) PENALTIES.—Administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential data.".

(3) REGULATIONS.—The Secretary of Health and Human Services shall prescribe final regulations for implementation of section 454A of the Social Security Act not later than 2 years after the date of the enactment of this Act.

(4) IMPLEMENTATION TIMETABLE.—Section 454(24) (42 U.S.C. 654(24)), as amended by sections 7304(a)(2) and 7312(a)(1), is amended to read as follows:

"(24) provide that the State will have in effect an automated data processing and information retrieval system—

"(A) by October 1, 1997, which meets all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988; and

"(B) by October 1, 1999, which meets all requirements of this part enacted on or before the date of the enactment of the Balanced Budget Reconciliation Act of 1995, except that such deadline shall be extended by 1 day for each day (if any) by which the Secretary fails to meet the deadline imposed by section 7344(a)(3) of the Balanced Budget Reconciliation Act of 1995.".

(b) SPECIAL FEDERAL MATCHING RATE FOR DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.—

(1) IN GENERAL.—Section 455(a) (42 U.S.C. 655(a)) is amended—

(A) in paragraph (1)(B)—

(i) by striking ''90 percent'' and inserting ''the percent specified in paragraph (3)'';

(ii) by striking ''so much of''; and

(iii) by striking ''which the Secretary'' and all that follows and inserting '', and''; and

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

''(3)(A) The Secretary shall pay to each State, for each quarter in fiscal years 1996 and 1997, 90 percent of so much of the State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16) (as in effect on the day before the date of the enactment of the Balanced Budget Reconciliation Act of 1995), but limited to the amount approved for States in the advance planning documents of such States submitted on or before May 1, 1995.

"(B)(i) The Secretary shall pay to each State, for each quarter in fiscal years 1997 through 2001, the percentage specified in clause (ii) of so much of the State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements of sections 454(16) and 454A.

"(ii) The percentage specified in this clause is the greater of—

"(I) 80 percent; or

"(II) the percentage otherwise applicable to Federal payments to the State under subparagraph (A) (as adjusted pursuant to section 458).".

(2) TEMPORARY LIMITATION ON PAYMENTS UNDER SPECIAL FEDERAL MATCHING RATE.—

(A) IN GENERAL.—The Secretary of Health and Human Services may not pay more than $260,000,000 in the aggregate under section 455(a)(3) of the Social Security Act for fiscal years 1996, 1997, 1998, 1999, and 2000.

(B) ALLOCATION OF LIMITATION AMONG STATES.—The total amount payable to a State under section 455(a)(3) of such Act for fiscal years 1996, 1997, 1998, 1999, and 2000 shall not exceed the limitation determined for the

State by the Secretary of Health and Human Services in regulations.

(C) ALLOCATION FORMULA.—The regulations referred to in subparagraph (B) shall prescribe a formula for allocating the amount specified in subparagraph (A) among States with plans approved under part D of title IV of the Social Security Act, which shall take into account—

(i) the relative size of State caseloads under such part; and

(ii) the level of automation needed to meet the automated data processing requirements of such part.

(c) CONFORMING AMENDMENT.—Section 123(c) of the Family Support Act of 1988 (102 Stat. 2352; Public Law 100–485) is repealed.

SEC. 7345. TECHNICAL ASSISTANCE.

(a) FOR TRAINING OF FEDERAL AND STATE STAFF, RESEARCH AND DEMONSTRATION PROGRAMS, AND SPECIAL PROJECTS OF REGIONAL OR NATIONAL SIGNIFICANCE.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following new subsection:

''(j) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appro-

priated to the Secretary for each fiscal year an amount equal to 1 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the 3rd calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for—

"(1) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs under this part (including technical assistance concerning State automated systems required by this part); and

"(2) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.".

(b) OPERATION OF FEDERAL PARENT LOCATOR SERVICE.—Section 453 (42 U.S.C. 653), as amended by section 7316(f), is amended by adding at the end the following new subsection:

"(n) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount

equal to 2 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the 3rd calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for operation of the Federal Parent Locator Service under this section, to the extent such costs are not recovered through user fees.''.

SEC. 7346. REPORTS AND DATA COLLECTION BY THE SECRETARY.

(a) ANNUAL REPORT TO CONGRESS.—

(1) Section 452(a)(10)(A) (42 U.S.C. 652(a)(10)(A)) is amended—

(A) by striking ''this part;'' and inserting ''this part, including—''; and

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

''(i) the total amount of child support payments collected as a result of services furnished during the fiscal year to individuals receiving services under this part;

''(ii) the cost to the States and to the Federal Government of so furnishing the services; and

"(iii) the number of cases involving families—

"(I) who became ineligible for assistance under State programs funded under part A during a month in the fiscal year; and

"(II) with respect to whom a child support payment was received in the month;".

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) in the matter preceding clause (i)—

(i) by striking "with the data required under each clause being separately stated for cases" and inserting "separately stated for (1) cases";

(ii) by striking "cases where the child was formerly receiving" and inserting "or formerly received";

(iii) by inserting "or 2136" after "471(a)(17)"; and

(iv) by inserting "(2)" before "all other";

(B) in each of clauses (i) and (ii), by striking ", and the total amount of such obligations";

(C) in clause (iii), by striking "described in" and all that follows and inserting "in which support was collected during the fiscal year;";

(D) by striking clause (iv); and

(E) by redesignating clause (v) as clause (vii), and inserting after clause (iii) the following new clauses:

"(iv) the total amount of support collected during such fiscal year and distributed as current support;

"(v) the total amount of support collected during such fiscal year and distributed as arrearages;

"(vi) the total amount of support due and unpaid for all fiscal years; and".

(3) Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G)) is amended by striking "on the use of Federal courts and".

(4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended—

(A) in subparagraph (H), by striking "and";

(B) in subparagraph (I), by striking the period and inserting "; and"; and

(C) by inserting after subparagraph (I) the following new subparagraph:

"(J) compliance, by State, with the standards established pursuant to subsections (h) and (i).".

(5) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended by striking all that follows subparagraph (J), as added by paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to fiscal year 1996 and succeeding fiscal years.

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

SEC. 7351. NATIONAL CHILD SUPPORT GUIDELINES COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the National Child Support Guidelines Commission (in this section referred to as the "Commission").

(b) GENERAL DUTIES.—

(1) IN GENERAL.—The Commission shall determine—

(A) whether it is appropriate to develop a national child support guideline for consideration by the Congress or for adoption by individual States; or

(B) based on a study of various guideline models, the benefits and deficiencies of such models, and any needed improvements.

(2) DEVELOPMENT OF MODELS.—If the Commission determines under paragraph (1)(A) that a national child support guideline is needed or under paragraph (1)(B) that improvements to guideline models are needed, the Commission shall develop such national guideline or improvements.

(c) MATTERS FOR CONSIDERATION BY THE COMMISSION.—In making the recommendations concerning guidelines required under subsection (b), the Commission shall consider—

(1) the adequacy of State child support guidelines established pursuant to section 467;

(2) matters generally applicable to all support orders, including—

(A) the feasibility of adopting uniform terms in all child support orders;

(B) how to define income and under what circumstances income should be imputed; and

(C) tax treatment of child support payments;

(3) the appropriate treatment of cases in which either or both parents have financial obligations to more than 1 family, including the effect (if any) to be given to—

(A) the income of either parent's spouse; and

(B) the financial responsibilities of either parent for other children or stepchildren;

(4) the appropriate treatment of expenses for child care (including care of the children of either parent, and work-related or job-training-related child care);

(5) the appropriate treatment of expenses for health care (including uninsured health care) and other extraordinary expenses for children with special needs;

(6) the appropriate duration of support by 1 or both parents, including—

(A) support (including shared support) for postsecondary or vocational education; and

(B) support for disabled adult children;

(7) procedures to automatically adjust child support orders periodically to address changed eco-

nomic circumstances, including changes in the Consumer Price Index or either parent's income and expenses in particular cases;

(8) procedures to help noncustodial parents address grievances regarding visitation and custody orders to prevent such parents from withholding child support payments until such grievances are resolved; and

(9) whether, or to what extent, support levels should be adjusted in cases in which custody is shared or in which the noncustodial parent has extended visitation rights.

(d) MEMBERSHIP.—

(1) NUMBER; APPOINTMENT.—

(A) IN GENERAL.—The Commission shall be composed of 12 individuals appointed not later than January 15, 1997, of which—

(i) 2 shall be appointed by the Chairman of the Committee on Finance of the Senate, and 1 shall be appointed by the ranking minority member of the Committee;

(ii) 2 shall be appointed by the Chairman of the Committee on Ways and Means of the House of Representatives, and 1

shall be appointed by the ranking minority member of the Committee; and

(iii) 6 shall be appointed by the Secretary of Health and Human Services.

(B) QUALIFICATIONS OF MEMBERS.—Members of the Commission shall have expertise and experience in the evaluation and development of child support guidelines. At least 1 member shall represent advocacy groups for custodial parents, at least 1 member shall represent advocacy groups for noncustodial parents, and at least 1 member shall be the director of a State program under part D of title IV of the Social Security Act.

(2) TERMS OF OFFICE.—Each member shall be appointed for a term of 2 years. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(e) COMMISSION POWERS, COMPENSATION, ACCESS TO INFORMATION, AND SUPERVISION.—The 1st sentence of subparagraph (C), the 1st and 3rd sentences of subparagraph (D), subparagraph (F) (except with respect to the conduct of medical studies), clauses (ii) and (iii) of subparagraph (G), and subparagraph (H) of section 1886(e)(6) of the Social Security Act shall apply to the

Commission in the same manner in which such provisions apply to the Prospective Payment Assessment Commission.

(f) REPORT.—Not later than 2 years after the appointment of members, the Commission shall submit to the President, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a recommended national child support guideline and a final assessment of issues relating to such a proposed national child support guideline.

(g) TERMINATION.—The Commission shall terminate 6 months after the submission of the report described in subsection (e).

SEC. 7352. SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS.

Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amended to read as follows:

"(10) Procedures under which the State shall review and adjust each support order being enforced under this part upon the request of either parent or the State if there is an assignment. Such procedures shall provide the following:

"(A) The State shall review and, as appropriate, adjust the support order every 3 years,

taking into account the best interests of the child involved.

"(B)(i) The State may elect to review and, if appropriate, adjust an order pursuant to subparagraph (A) by—

"(I) reviewing and, if appropriate, adjusting the order in accordance with the guidelines established pursuant to section 467(a) if the amount of the child support award under the order differs from the amount that would be awarded in accordance with the guidelines; or

"(II) applying a cost-of-living adjustment to the order in accordance with a formula developed by the State and permit either party to contest the adjustment, within 30 days after the date of the notice of the adjustment, by making a request for review and, if appropriate, adjustment of the order in accordance with the child support guidelines established pursuant to section 467(a).

"(ii) Any adjustment under clause (i) shall be made without a requirement for proof or showing of a change in circumstances.

"(C) The State may use automated methods (including automated comparisons with wage or State income tax data) to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders eligible for adjustment under the threshold established by the State.

"(D)(i) The State shall, at the request of either parent subject to such an order or of any State child support enforcement agency, review and, if appropriate, adjust the order in accordance with the guidelines established pursuant to section 467(a) based upon a substantial change in the circumstances of either parent.

"(ii) The State shall provide notice to the parents subject to such an order informing them of their right to request the State to review and, if appropriate, adjust the order pursuant to clause (i). The notice may be included in the order.".

SEC. 7353. FURNISHING CONSUMER REPORTS FOR CERTAIN PURPOSES RELATING TO CHILD SUPPORT.

Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by adding at the end the following new paragraphs:

"(4) In response to a request by the head of a State or local child support enforcement agency (or a State or local government official authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that—

"(A) the consumer report is needed for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of such payments;

"(B) the paternity of the consumer for the child to which the obligation relates has been established or acknowledged by the consumer in accordance with State laws under which the obligation arises (if required by those laws);

"(C) the person has provided at least 10 days' prior notice to the consumer whose report is requested, by certified or registered mail to the last known address of the consumer, that the report will be requested; and

"(D) the consumer report will be kept confidential, will be used solely for a purpose described in subparagraph (A), and will not be used in connection with any other civil, administrative, or criminal proceeding, or for any other purpose.

"(5) To an agency administering a State plan under section 454 of the Social Security Act (42 U.S.C. 654) for use to set an initial or modified child support award.".

SEC. 7354. NONLIABILITY FOR DEPOSITORY INSTITUTIONS PROVIDING FINANCIAL RECORDS TO STATE CHILD SUPPORT ENFORCEMENT AGENCIES IN CHILD SUPPORT CASES.

(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, a depository institution shall not be liable under any Federal or State law to any person for disclosing any financial record of an individual to a State child support enforcement agency attempting to establish, modify, or enforce a child support obligation of such individual.

(b) PROHIBITION OF DISCLOSURE OF FINANCIAL RECORD OBTAINED BY STATE CHILD SUPPORT ENFORCEMENT AGENCY.—A State child support enforcement agency which obtains a financial record of an individual

from a financial institution pursuant to subsection (a) may disclose such financial record only for the purpose of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation of such individual.

(c) CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE.—

(1) DISCLOSURE BY STATE OFFICER OR EMPLOYEE.—If any person knowingly, or by reason of negligence, discloses a financial record of an individual in violation of subsection (b), such individual may bring a civil action for damages against such person in a district court of the United States.

(2) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this subsection with respect to any disclosure which results from a good faith, but erroneous, interpretation of subsection (b).

(3) DAMAGES.—In any action brought under paragraph (1), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

(A) the greater of—

(i) $1,000 for each act of unauthorized disclosure of a financial record with

respect to which such defendant is found liable; or

(ii) the sum of—

(I) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure; plus

(II) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages; plus

(B) the costs (including attorney's fees) of the action.

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

(1) The term ''depository institution'' means—

(A) a depository institution, as defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

(B) an institution-affiliated party, as defined in section 3(u) of such Act (12 U.S.C. 1813(v)); and

(C) any Federal credit union or State credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752), including an institution-affiliated party of such a

credit union, as defined in section 206(r) of such Act (12 U.S.C. 1786(r)).

(2) The term ''financial record'' has the meaning given such term in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401).

(3) The term ''State child support enforcement agency'' means a State agency which administers a State program for establishing and enforcing child support obligations.

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

SEC. 7361. INTERNAL REVENUE SERVICE COLLECTION OF ARREARAGES.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 6305(a) of the Internal Revenue Code of 1986 (relating to collection of certain liability) is amended—

(1) by striking ''and'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting '', and'';

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

''(5) no additional fee may be assessed for adjustments to an amount previously certified pursu-

ant to such section 452(b) with respect to the same obligor.''; and

(4) by striking ''Secretary of Health, Education, and Welfare'' each place it appears and inserting ''Secretary of Health and Human Services''.

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1997.

SEC. 7362. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) CONSOLIDATION AND STREAMLINING OF AUTHORITIES.—Section 459 (42 U.S.C. 659) is amended to read as follows:

''SEC. 459. CONSENT BY THE UNITED STATES TO INCOME WITHHOLDING, GARNISHMENT, AND SIMILAR PROCEEDINGS FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS.

''(a) CONSENT TO SUPPORT ENFORCEMENT.—Notwithstanding any other provision of law (including section 207 of this Act and section 5301 of title 38, United States Code), effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof) to any individual, including members of the Armed Forces of the United States, shall be subject,

in like manner and to the same extent as if the United States or the District of Columbia were a private person, to withholding in accordance with State law enacted pursuant to subsections (a)(1) and (b) of section 466 and regulations of the Secretary under such subsections, and to any other legal process brought, by a State agency administering a program under a State plan approved under this part or by an individual obligee, to enforce the legal obligation of the individual to provide child support or alimony.

"(b) CONSENT TO REQUIREMENTS APPLICABLE TO PRIVATE PERSON.—With respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 466, or any other order or process to enforce support obligations against an individual (if the order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), each governmental entity specified in subsection (a) shall be subject to the same requirements as would apply if the entity were a private person, except as otherwise provided in this section.

"(c) DESIGNATION OF AGENT; RESPONSE TO NOTICE OR PROCESS—

"(1) DESIGNATION OF AGENT.—The head of each agency subject to this section shall—

"(A) designate an agent or agents to receive orders and accept service of process in matters relating to child support or alimony; and

"(B) annually publish in the Federal Register the designation of the agent or agents, identified by title or position, mailing address, and telephone number.

"(2) RESPONSE TO NOTICE OR PROCESS.—If an agent designated pursuant to paragraph (1) of this subsection receives notice pursuant to State procedures in effect pursuant to subsection (a)(1) or (b) of section 466, or is effectively served with any order, process, or interrogatory, with respect to an individual's child support or alimony payment obligations, the agent shall—

"(A) as soon as possible (but not later than 15 days) thereafter, send written notice of the notice or service (together with a copy of the notice or service) to the individual at the duty station or last-known home address of the individual;

"(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to such State

procedures, comply with all applicable provisions of section 466; and

"(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatory, respond to the order, process, or interrogatory.

"(d) PRIORITY OF CLAIMS.—If a governmental entity specified in subsection (a) receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than 1 person—

"(1) support collection under section 466(b) must be given priority over any other process, as provided in section 466(b)(7);

"(2) allocation of moneys due or payable to an individual among claimants under section 466(b) shall be governed by section 466(b) and the regulations prescribed under such section; and

"(3) such moneys as remain after compliance with paragraphs (1) and (2) shall be available to satisfy any other such processes on a 1st-come, 1st-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.

"(e) NO REQUIREMENT TO VARY PAY CYCLES.—A governmental entity that is affected by legal process served for the enforcement of an individual's child support or alimony payment obligations shall not be required to vary its normal pay and disbursement cycle in order to comply with the legal process.

"(f) RELIEF FROM LIABILITY.—

"(1) Neither the United States, nor the government of the District of Columbia, nor any disbursing officer shall be liable with respect to any payment made from moneys due or payable from the United States to any individual pursuant to legal process regular on its face, if the payment is made in accordance with this section and the regulations issued to carry out this section.

"(2) No Federal employee whose duties include taking actions necessary to comply with the requirements of subsection (a) with regard to any individual shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by the employee in connection with the carrying out of such actions.

"(g) REGULATIONS.—Authority to promulgate regulations for the implementation of this section shall, insofar

as this section applies to moneys due from (or payable by)—

"(1) the United States (other than the legislative or judicial branches of the Federal Government) or the government of the District of Columbia, be vested in the President (or the designee of the President);

"(2) the legislative branch of the Federal Government, be vested jointly in the President pro tempore of the Senate and the Speaker of the House of Representatives (or their designees), and

"(3) the judicial branch of the Federal Government, be vested in the Chief Justice of the United States (or the designee of the Chief Justice).

"(h) MONEYS SUBJECT TO PROCESS.—

"(1) IN GENERAL.—Subject to paragraph (2), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section—

"(A) consist of—

"(i) compensation paid or payable for personal services of the individual, whether the compensation is denominated as wages, salary, commission, bonus, pay, allowances,

or otherwise (including severance pay, sick pay, and incentive pay);

"(ii) periodic benefits (including a periodic benefit as defined in section 228(h)(3)) or other payments—

"(I) under the insurance system established by title II;

"(II) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

"(III) as compensation for death under any Federal program;

"(IV) under any Federal program established to provide 'black lung' benefits; or

"(V) by the Secretary of Veterans Affairs as pension, or as compensation for a service-connected disability or death (except any compensa-

tion paid by the Secretary to a member of the Armed Forces who is in receipt of retired or retainer pay if the member has waived a portion of the retired pay of the member in order to receive the compensation); and

''(iii) workers' compensation benefits paid under Federal or State law; but

''(B) do not include any payment—

''(i) by way of reimbursement or otherwise, to defray expenses incurred by the individual in carrying out duties associated with the employment of the individual; or

''(ii) as allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, United States Code, as prescribed by the Secretaries concerned (defined by section 101(5) of such title) as necessary for the efficient performance of duty.

''(2) CERTAIN AMOUNTS EXCLUDED.—In determining the amount of any moneys due from, or payable by, the United States to any individual, there shall be excluded amounts which—

"(A) are owed by the individual to the United States;

"(B) are required by law to be, and are, deducted from the remuneration or other payment involved, including Federal employment taxes, and fines and forfeitures ordered by court-martial;

"(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1986 may be permitted only when the individual presents evidence of a tax obligation which supports the additional withholding);

"(D) are deducted as health insurance premiums;

"(E) are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage); or

"(F) are deducted as normal life insurance premiums from salary or other remuneration

for employment (not including amounts deducted for supplementary coverage).

"(i) DEFINITIONS.—As used in this section:

"(1) UNITED STATES.—The term 'United States' includes any department, agency, or instrumentality of the legislative, judicial, or executive branch of the Federal Government, the United States Postal Service, the Postal Rate Commission, any Federal corporation created by an Act of Congress that is wholly owned by the Federal Government, and the governments of the territories and possessions of the United States.

"(2) CHILD SUPPORT.—The term 'child support', when used in reference to the legal obligations of an individual to provide such support, means periodic payments of funds for the support and maintenance of a child or children with respect to which the individual has such an obligation, and (subject to and in accordance with State law) includes payments to provide for health care, education, recreation, clothing, or to meet other specific needs of such a child or children, and includes attorney's fees, interest, and court costs, when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued

in accordance with applicable State law by a court of competent jurisdiction.

"(3) ALIMONY.—The term 'alimony', when used in reference to the legal obligations of an individual to provide the same, means periodic payments of funds for the support and maintenance of the spouse (or former spouse) of the individual, and (subject to and in accordance with State law) includes separate maintenance, alimony pendente lite, maintenance, and spousal support, and includes attorney's fees, interest, and court costs when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction. Such term does not include any payment or transfer of property or its value by an individual to the spouse or a former spouse of the individual in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

"(4) PRIVATE PERSON.—The term 'private person' means a person who does not have sovereign or other special immunity or privilege which causes the person not to be subject to legal process.

"(5) LEGAL PROCESS.—The term 'legal process' means any writ, order, summons, or other similar process in the nature of garnishment—

"(A) which is issued by—

"(i) a court of competent jurisdiction in any State, territory, or possession of the United States;

"(ii) a court of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor the process; or

"(iii) an authorized official pursuant to an order of such a court of competent jurisdiction or pursuant to State or local law; and

"(B) which is directed to, and the purpose of which is to compel, a governmental entity which holds moneys which are otherwise payable to an individual to make a payment from the moneys to another party in order to satisfy a legal obligation of the individual to provide child support or make alimony payments.".

(b) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV.—Sections 461 and 462 (42 U.S.C. 661 and 662) are repealed.

(2) TO TITLE 5, UNITED STATES CODE.—Section 5520a of title 5, United States Code, is amended, in subsections (h)(2) and (i), by striking ''sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)'' and inserting ''section 459 of the Social Security Act (42 U.S.C. 659)''.

(c) MILITARY RETIRED AND RETAINER PAY.—

(1) DEFINITION OF COURT.—Section 1408(a)(1) of title 10, United States Code, is amended—

(A) by striking ''and'' at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(C) by adding after subparagraph (C) the following new subparagraph:

''(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a program under a State plan approved under part D of title IV of the Social Security Act), and, for purposes of this

subparagraph, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.''.

(2) DEFINITION OF COURT ORDER.—Section 1408(a)(2) of such title is amended by inserting ''or a court order for the payment of child support not included in or accompanied by such a decree or settlement,'' before ''which—''.

(3) PUBLIC PAYEE.—Section 1408(d) of such title is amended—

(A) in the heading, by inserting ''(OR FOR BENEFIT OF)'' before ''SPOUSE OR''; and

(B) in paragraph (1), in the 1st sentence, by inserting ''(or for the benefit of such spouse or former spouse to a State disbursement unit established pursuant to section 454B of the Social Security Act or other public payee designated by a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D)'' before ''in an amount sufficient''.

(4) RELATIONSHIP TO PART D OF TITLE IV.—Section 1408 of such title is amended by adding at the end the following new subsection:

"(j) RELATIONSHIP TO OTHER LAWS.—In any case involving an order providing for payment of child support (as defined in section 459(i)(2) of the Social Security Act) by a member who has never been married to the other parent of the child, the provisions of this section shall not apply, and the case shall be subject to the provisions of section 459 of such Act.".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of the enactment of this Act.

SEC. 7363. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.

(a) AVAILABILITY OF LOCATOR INFORMATION.—

(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Transportation, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

(2) TYPE OF ADDRESS.—

(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service established under section 453 of the Social Security Act.

(b) FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS.—

(1) REGULATIONS.—The Secretary of each military department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to facilitate the granting of leave to a member of the Armed Forces under the jurisdiction of that Secretary in a case in which—

(A) the leave is needed for the member to attend a hearing described in paragraph (2);

(B) the member is not serving in or with a unit deployed in a contingency operation (as defined in section 101 of title 10, United States Code); and

(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.

(2) COVERED HEARINGS.—Paragraph (1) applies to a hearing that is conducted by a court or pursuant to an administrative process established under State law, in connection with a civil action—

(A) to determine whether a member of the Armed Forces is a natural parent of a child; or

(B) to determine an obligation of a member of the Armed Forces to provide child support.

(3) DEFINITIONS.—For purposes of this subsection:

(A) The term ''court'' has the meaning given that term in section 1408(a) of title 10, United States Code.

(B) The term ''child support'' has the meaning given such term in section 459(i) of the Social Security Act (42 U.S.C. 659(i)).

(c) PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH CHILD SUPPORT ORDERS.—

(1) DATE OF CERTIFICATION OF COURT ORDER.—Section 1408 of title 10, United States Code, as amended by section 7362(c)(4), is amended—

(A) by redesignating subsections (i) and (j) as subsections (j) and (k), respectively; and

(B) by inserting after subsection (h) the following new subsection:

''(i) CERTIFICATION DATE.—It is not necessary that the date of a certification of the authenticity or completeness of a copy of a court order for child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt by the Secretary.''.

(2) PAYMENTS CONSISTENT WITH ASSIGNMENTS OF RIGHTS TO STATES.—Section 1408(d)(1) of such title is amended by inserting after the 1st sentence the following: ''In the case of a spouse or former spouse who assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights.''.

(3) ARREARAGES OWED BY MEMBERS OF THE UNIFORMED SERVICES.—Section 1408(d) of such title is amended by adding at the end the following new paragraph:

''(6) In the case of a court order for which effective service is made on the Secretary concerned on or after the date of the enactment of this paragraph and which

provides for payments from the disposable retired pay of a member to satisfy the amount of child support set forth in the order, the authority provided in paragraph (1) to make payments from the disposable retired pay of a member to satisfy the amount of child support set forth in a court order shall apply to payment of any amount of child support arrearages set forth in that order as well as to amounts of child support that currently become due.''.

(4) PAYROLL DEDUCTIONS.—The Secretary of Defense shall begin payroll deductions within 30 days after receiving notice of withholding, or for the 1st pay period that begins after such 30-day period.

SEC. 7364. VOIDING OF FRAUDULENT TRANSFERS.

Section 466 (42 U.S.C. 666), as amended by section 7321, is amended by adding at the end the following new subsection:

''(g) In order to satisfy section 454(20)(A), each State must have in effect—

''(1)(A) the Uniform Fraudulent Conveyance Act of 1981;

''(B) the Uniform Fraudulent Transfer Act of 1984; or

''(C) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a

child support creditor, which the Secretary finds affords comparable rights to child support creditors; and

"(2) procedures under which, in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must—

"(A) seek to void such transfer; or

"(B) obtain a settlement in the best interests of the child support creditor.".

SEC. 7365. WORK REQUIREMENT FOR PERSONS OWING CHILD SUPPORT.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 7301(a), 7315, 7317(a), and 7323, is amended by adding at the end the following new paragraph:

"(15) Procedures requiring the State, in any case in which an individual owes support with respect to a child receiving services under this part, to seek a court order or administrative order that requires the individual to—

"(A) pay such support in accordance with a plan approved by the court; or

"(B) if the individual is not working and is not incapacitated, participate in work activities (including, at State option, work activities

as defined in section 482) as the court deems appropriate.''.

SEC. 7366. DEFINITION OF SUPPORT ORDER.

Section 453 (42 U.S.C. 653) as amended by sections 7316 and 7345(b), is amended by adding at the end the following new subsection:

''(o) As used in this part, the term 'support order' means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other relief.''.

SEC. 7367. REPORTING ARREARAGES TO CREDIT BUREAUS.

Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended to read as follows:

''(7)(A) Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) the name of any

absent parent who is delinquent in the payment of support, and the amount of overdue support owed by such parent.

''(B) Procedures ensuring that, in carrying out subparagraph (A), information with respect to an absent parent is reported—

''(i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and

''(ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency.''.

SEC. 7368. LIENS.

Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended to read as follows:

''(4) Procedures under which—

''(A) liens arise by operation of law against real and personal property for amounts of overdue support owed by an absent parent who resides or owns property in the State; and

''(B) the State accords full faith and credit to liens described in subparagraph (A) arising

in another State, without registration of the underlying order.''.

SEC. 7369. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 7315, 7317(a), 7323, and 7365, is amended by adding at the end the following new paragraph:

''(16) Procedures under which the State has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of, driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.''.

SEC. 7370. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT.

(a) HHS CERTIFICATION PROCEDURE.—

(1) SECRETARIAL RESPONSIBILITY.—Section 452 (42 U.S.C. 652), as amended by section 7345, is amended by adding at the end the following new subsection:

''(k)(1) If the Secretary receives a certification by a State agency in accordance with the requirements of section 454(31) that an individual owes arrearages of child

support in an amount exceeding $5,000, the Secretary shall transmit such certification to the Secretary of State for action (with respect to denial, revocation, or limitation of passports) pursuant to section 7370(b) of the Balanced Budget Reconciliation Act of 1995.

''(2) The Secretary shall not be liable to an individual for any action with respect to a certification by a State agency under this section.''.

(2) STATE CSE AGENCY RESPONSIBILITY.—Section 454 (42 U.S.C. 654), as amended by sections 7301(b), 7304(a), 7312(b), 7313(a), 7333, and 7343(a), is amended—

(A) by striking ''and'' at the end of paragraph (29);

(B) by striking the period at the end of paragraph (30) and inserting ''; and''; and

(C) by adding after paragraph (30) the following new paragraph:

''(31) provide that the State agency will have in effect a procedure (which may be combined with the procedure for tax refund offset under section 464) for certifying to the Secretary, for purposes of the procedure under section 452(k) (concerning denial of passports), determinations that individuals owe ar-

rearages of child support in an amount exceeding $5,000, under which procedure—

"(A) each individual concerned is afforded notice of such determination and the consequences thereof, and an opportunity to contest the determination; and

"(B) the certification by the State agency is furnished to the Secretary in such format, and accompanied by such supporting documentation, as the Secretary may require.".

(b) STATE DEPARTMENT PROCEDURE FOR DENIAL OF PASSPORTS.—

(1) IN GENERAL.—The Secretary of State shall, upon certification by the Secretary of Health and Human Services transmitted under section 452(k) of the Social Security Act, refuse to issue a passport to such individual, and may revoke, restrict, or limit a passport issued previously to such individual.

(2) LIMIT ON LIABILITY.—The Secretary of State shall not be liable to an individual for any action with respect to a certification by a State agency under this section.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective October 1, 1996.

SEC. 7371. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

The Secretary of State is authorized to negotiate reciprocal agreements with foreign nations on behalf of the States, territories, and possessions of the United States regarding the international enforcement of child support obligations and designating the Department of Health and Human Services as the central authority for such enforcement.

SEC. 7372. DENIAL OF MEANS-TESTED FEDERAL BENEFITS TO NONCUSTODIAL PARENTS WHO ARE DELINQUENT IN PAYING CHILD SUPPORT.

(a) IN GENERAL.—Notwithstanding any other provision of law, a non-custodial parent who is more then 2 months delinquent in paying child support shall not be eligible to receive any means-tested Federal benefits.

(b) EXCEPTION.—

(1) IN GENERAL.—Subsection (a) shall not apply to an unemployed non-custodial parent who is more then 2 months delinquent in paying child support if such parent—

(A) enters into a schedule of repayment for past due child support with the entity that issued the underlying child support order; and

(B) meets all of the terms of repayment specified in the schedule of repayment as enforced by the appropriate disbursing entity.

(2) 2-YEAR EXCLUSION.—(A) A non-custodial parent who becomes delinquent in child support a second time or any subsequent time shall not be eligible to receive any means-tested Federal benefits for a 2-year period beginning on the date that such parent failed to meet such terms.

(B) At the end of that two-year period, paragraph (A) shall once again apply to that individual.

(c) MEANS-TESTED FEDERAL BENEFITS.— For purposes of this section, the term ''means-tested Federal benefits'' means benefits under any program of assistance, funded in whole or in part, by the Federal Government, for which eligibility for benefits is based on need.

SEC. 7373. CHILD SUPPORT ENFORCEMENT FOR INDIAN TRIBES.

(a) CHILD SUPPORT ENFORCEMENT AGREEMENTS.—Section 454 (42 U.S.C. 654), as amended by sections 7301(b), 7304(a), 7312(b), 9313(a), 7333, 7343(a), and 7370(a)(2) is amended—

(1) by striking ''and'' at the end of paragraph (30);

(2) by striking the period at the end of paragraph (31) and inserting "; and"; and

(3) by adding after paragraph (31) the following new paragraph:

"(32) provide that a State that receives funding pursuant to section 429 and that has within its borders Indian country (as defined in section 1151 of title 18, United States Code) shall, through the State administering agency, make reasonable efforts to enter into cooperative agreements with an Indian tribe or tribal organization (as defined in paragraphs (1) and (2) of section 428(c)), if the Indian tribe or tribal organization demonstrates that such tribe or organization has an established tribal court system or a Court of Indian Offenses with the authority to establish paternity, establish and enforce support orders, and to enter support orders in accordance with child support guidelines established by such tribe or organization, under which the State and tribe or organization shall provide for the cooperative delivery of child support enforcement services in Indian country and for the forwarding of all funding collected pursuant to the functions performed by the tribe or organization to the State agency, or conversely, by the State agency to the tribe or organization, which

shall distribute such funding in accordance with such agreement.''.

(b) DIRECT FEDERAL FUNDING TO INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—Section 455 (42 U.S.C. 655) is amended by adding at the end the following new subsection:

''(b) The Secretary may, in appropriate cases, make direct payments under this part to an Indian tribe or tribal organization which has an approved child support enforcement plan under this title. In determining whether such payments are appropriate, the Secretary shall, at a minimum, consider whether services are being provided to eligible Indian recipients by the State agency through an agreement entered into pursuant to section 454(32). The Secretary shall provide for an appropriate adjustment to the State allotment under this section to take into account any payments made under this subsection to Indian tribes or tribal organizations located within such State.''.

(c) COOPERATIVE ENFORCEMENT AGREEMENTS.—Paragraph (7) of section 454 (42 U.S.C. 654) is amended by inserting ''and Indian tribes or tribal organizations (as defined in section 450(b) of title 25, United States Code)'' after ''law enforcement officials''.

SEC. 7374. FINANCIAL INSTITUTION DATA MATCHES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 7315, 7317(a), 7323, 7365, and 7369, is amended by adding at the end the following new paragraph:

"(17) Procedures under which the State agency shall enter into agreements with financial institutions doing business within the State to develop and operate a data match system, using automated data exchanges to the maximum extent feasible, in which such financial institutions are required to provide for each calendar quarter the name, record address, social security number, and other identifying information for each absent parent identified by the State who maintains an account at such institution and, in response to a notice of lien or levy, to encumber or surrender, as the case may be, assets held by such institution on behalf of any absent parent who is subject to a child support lien pursuant to paragraph (4). For purposes of this paragraph, the term 'financial institution' means Federal and State commercial savings banks, including savings and loan associations and cooperative banks, Federal and State chartered credit unions, benefit associations, insurance companies, safe deposit companies, money-market mutual funds, and any similar entity authorized to do business in the State, and the term

'account' means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.''.

SEC. 7375. CHILD SUPPORT ENFORCEMENT FEES FOR NON-ASSISTANCE FAMILIES.

(a) IN GENERAL.—Part D of title IV (42 U.S.C. 651–669), as amended by sections 7312(b) and 7344(a)(2), is amended by inserting after section 454B the following new section:

''SEC. 454C. COLLECTION OF CHILD SUPPORT ENFORCEMENT COSTS AND FEES FOR NON-ASSISTANCE FAMILIES.

''(a) MANDATORY ENFORCEMENT FEES.—

''(1) IN GENERAL.—With respect to individuals described in section 454(6)(B) for services described in section 454(4), the State, under the State plan, shall impose and collect an amount equal to the sum of the following fees:

''(A) APPLICATION FEES.—An application fee of $25 per applicant.

''(B) COLLECTION FEES.—In addition to any child support collected, a collection fee in an amount equal to the applicable percentage of the amount of child support collected.

"(2) RULES REGARDING ENFORCEMENT FEES.—

"(A) IN GENERAL.—At the option of the State, the fees described in paragraph (1) may be—

"(i) paid by individuals applying for the services described in section 454(4);

"(ii) recovered from absent parents; or

"(iii) paid by the State out of its own funds, the payment of which from State funds shall not be considered as an administrative cost of the State for the operation of the plan, and shall be considered income to the program.

"(B) LIMITATION OF COLLECTION FEES APPLIED TO CERTAIN CUSTODIAL PARENTS.—With respect to any individual to whom such services are made available—

"(i) whose family income is below 185 percent of the poverty line applicable to the size of the family involved (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such sec-

tion), no fee under paragraph (1)(B) may be collected from such individual;

"(ii) whose family income is not less than 185 percent nor more than 300 percent of such poverty line, such fee collected from such individual may not exceed 2 percent of the amount of child support collected; and

"(iii) whose family income is more than 300 percent of such poverty line, such fee collected from such individual may not exceed the amount of such fee collected from the absent parent.

"(C) MEANS-TESTED.—The State at its option may vary the amount of the fees under paragraph (1) among individuals on the basis of ability to pay.

"(D) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)(B), the applicable percentage for any State shall equal such percentage as is required, after taking into account subparagraphs (B) and (C), to provide an amount of total fees under paragraph (1) which equals the amount which would be provided by imposing the fee under paragraph (1)(A) and a

6.6 percent fee under paragraph (1)(B) without regard to such subparagraphs.

"(E) DISPOSITION OF COLLECTION FEES.—Notwithstanding any other provision of this part, 100 percent of any amount representing collection fees under paragraph (1)(B) shall be remitted to the Federal Government.

"(b) PERMISSIVE FEES.—With respect to any individual described in section 454(6)(B), the State may impose—

"(1) a fee of not more than $25 in any case where the State requests the Secretary of the Treasury to withhold past-due support owed to or on behalf of such individual from a tax refund pursuant to section 464(a)(2), and

"(2) a fee (in accordance with regulations of the Secretary) for performing genetic tests.

"(c) COLLECTION OF EXCESS COSTS OF ENFORCEMENT.—With respect to any individual described in section 454(6)(B), any costs of enforcement under this part in excess of the fees imposed under this section may be collected—

"(1) from the parent who owes the child or spousal support obligation involved, or

"(2) at the option of the State, from the individual to whom such services are made available, but only if such State has in effect a procedure whereby all persons in such State having authority to order child or spousal support are informed that such costs are to be collected from the individual to whom such services were made available.".

(b) SENSE OF THE SENATE.—It is the sense of the Senate that although States have the overall choice as to how to collect enforcement costs under part D of title IV of the Social Security Act, such States should pursue such collection from—

(1) any noncustodial parent who denies paternity and is later determined to be the father; and

(2) any noncustodial parent who does not voluntarily comply with judicial or administrative enforcement orders under such part.

SEC. 7376. ENFORCEMENT OF ORDERS AGAINST PATERNAL GRANDPARENTS IN CASES OF MINOR PARENTS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 7315, 7317(a), 7323, 7365, 7369, and 7374, is amended by adding at the end the following new paragraph:

"(18) Procedures under which any child support order enforced under this part with respect to a child of minor parents, if the mother of such child is receiving assistance under the State grant under part A, shall be enforceable, jointly and severally, against the paternal grandparents of such child.".

SEC. 7377. SENSE OF THE SENATE REGARDING THE INABILITY OF THE NON-CUSTODIAL PARENT TO PAY CHILD SUPPORT.

It is the sense of the Senate that—

(a) States should diligently continue their efforts to enforce child support payments by the non-custodial parent to the custodial parent, regardless of the employment status or location of the non-custodial parent; and

(b) States are encouraged to pursue pilot programs in which the parents of a non-adult, non-custodial parent who refuses to or is unable to pay child support must—

(1) pay or contribute to the child support owed by the non-custodial parent; or

(2) otherwise fulfill all financial obligations and meet all conditions imposed on the non-custodial parent, such as participation in a work program or other related activity.

CHAPTER 8—MEDICAL SUPPORT

SEC. 7378. 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 through an administrative process established under State law 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

1st plan year beginning on or after January 1, 1996, if—

(A) during the period after the date before the date of the enactment of this Act and before such 1st plan year, the plan is operated in accordance with the requirements of the amendments made by this section; and

(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such 1st plan year.

A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.

SEC. 7379. ENFORCEMENT OF ORDERS FOR HEALTH CARE COVERAGE.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 7315, 7317(a), 7323, 7365, 7369, 7374, and 7376, is amended by adding at the end the following new paragraph:

"(19) Procedures under which all child support orders enforced under this part shall include a provision for the health care coverage of the child, and in the case in which an absent parent provides such

coverage and changes employment, and the new employer provides health care coverage, the State agency shall transfer notice of the provision to the employer, which notice shall operate to enroll the child in the absent parent's health plan, unless the absent parent contests the notice.''.

CHAPTER 9—ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NONRESIDENTIAL PARENTS

SEC. 7381. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

Part D of title IV (42 U.S.C. 651–669) is amended by adding at the end the following new section:

''SEC. 469A. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

''(a) IN GENERAL.—The Administration for Children and Families shall make grants under this section to enable States to establish and administer programs to support and facilitate absent parents' access to and visitation of their children, by means of activities including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision and neutral drop-off and pickup), and development of guidelines for visitation and alternative custody arrangements.

"(b) AMOUNT OF GRANT.—The amount of the grant to be made to a State under this section for a fiscal year shall be an amount equal to the lesser of—

"(1) 90 percent of State expenditures during the fiscal year for activities described in subsection (a); or

"(2) the allotment of the State under subsection (c) for the fiscal year.

"(c) ALLOTMENTS TO STATES.—

"(1) IN GENERAL.—The allotment of a State for a fiscal year is the amount that bears the same ratio to the amount appropriated for grants under this section for the fiscal year as the number of children in the State living with only 1 biological parent bears to the total number of such children in all States.

"(2) MINIMUM ALLOTMENT.—The Administration for Children and Families shall adjust allotments to States under paragraph (1) as necessary to ensure that no State is allotted less than—

"(A) $50,000 for fiscal year 1996 or 1997; or

"(B) $100,000 for any succeeding fiscal year.

"(d) NO SUPPLANTATION OF STATE EXPENDITURES FOR SIMILAR ACTIVITIES.—A State to which a grant is made under this section may not use the grant to supplant expenditures by the State for activities specified in subsection (a), but shall use the grant to supplement such expenditures at a level at least equal to the level of such expenditures for fiscal year 1995.

"(e) STATE ADMINISTRATION.—Each State to which a grant is made under this section—

"(1) may administer State programs funded with the grant, directly or through grants to or contracts with courts, local public agencies, or nonprofit private entities;

"(2) shall not be required to operate such programs on a statewide basis; and

"(3) shall monitor, evaluate, and report on such programs in accordance with regulations prescribed by the Secretary.".

CHAPTER 10—EFFECT OF ENACTMENT

SEC. 7391. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise specifically provided (but subject to subsections (b) and (c))—

(1) the provisions of this subtitle requiring the enactment or amendment of State laws under section 466 of the Social Security Act, or revision of

State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996; and

(2) all other provisions of this subtitle shall become effective upon the date of the enactment of this Act.

(b) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of this subtitle shall become effective with respect to a State on the later of—

(1) the date specified in this subtitle, or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions, but in no event later than the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) GRACE PERIOD FOR STATE CONSTITUTIONAL AMENDMENT.—A State shall not be found out of compliance with any requirement enacted by this subtitle if the State is unable to so comply without amending the State constitution until the earlier of—

(1) 1 year after the effective date of the necessary State constitutional amendment; or

(2) 5 years after the date of the enactment of this subtitle.

Subtitle F—Noncitizens

SEC. 7401. STATE OPTION TO PROHIBIT ASSISTANCE FOR CERTAIN ALIENS.

(a) IN GENERAL.—A State may, at its option, prohibit the use of any Federal funds received for the provision of assistance under any means-tested public assistance program for any individual who is a noncitizen of the United States.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) any individual who is described in subclause (II), (III), or (IV) of section 1614(a)(1)(B)(i) of the Social Security Act (42 U.S.C. 1382c(a)(1)(B)(i)); and

(2) any program described in section 7402(f)(2).

SEC. 7402. DEEMED INCOME REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.

(a) DEEMING REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Subject to subsection (d), for purposes of determining the eligibility of an indi-

vidual (whether a citizen or national of the United States or an alien) for assistance and the amount of assistance, under any Federal program of assistance provided or funded, in whole or in part, by the Federal Government for which eligibility is based on need, the income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such individual.

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection include the following:

(1) The income and resources of any person who, as a sponsor of such individual's entry into the United States, or in order to enable such individual lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such individual.

(2) The income and resources of the sponsor's spouse.

(c) LENGTH OF DEEMING PERIOD.—The requirement of subsection (a) shall apply for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such individual, or for a period of 5 years beginning on the date such individual was first

lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(d) LIMITATION ON MEASUREMENT OF DEEMED INCOME AND RESOURCES.—

(1) IN GENERAL.—If a determination described in paragraph (2) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored individual shall not exceed the amount actually provided, for a period beginning on the date of such determination and lasting 12 months or, if the address of the sponsor is unknown to the sponsored individual on the date of such determination, for 12 months after the address becomes known to the sponsored individual or to the agency (which shall inform such individual within 7 days).

(2) DETERMINATION.—The determination described in this paragraph is a determination by an agency that a sponsored individual would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the individual's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.

(e) DEEMING AUTHORITY TO STATE AND LOCAL AGENCIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, but subject to an exception equivalent to that in subsection (d), the State or local government may, for purposes of determining the eligibility of an individual (whether a citizen or national of the United States or an alien) for assistance, and the amount of assistance, under any State or local program of assistance for which eligibility is based on need, or any need-based program of assistance administered by a State or local government other than a program described in subsection (a), require that the income and resources described in paragraph (2) be deemed to be the income and resources of such individual.

(2) DEEMED INCOME AND RESOURCES.—The income and resources described in this paragraph include the following:

(A) The income and resources of any person who, as a sponsor of such individual's entry into the United States, or in order to enable such individual lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such individual.

(B) The income and resources of the sponsor's spouse.

(3) LENGTH OF DEEMED INCOME PERIOD.—Subject to an exception equivalent to subsection (d), a State or local government may impose a requirement described in paragraph (1) for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such individual, or for a period of 5 years beginning on the date such individual was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(f) APPLICABILITY OF SECTION.—

(1) INDIVIDUALS.—The provisions of this section shall not apply to the eligibility of any individual who is described in subclause (II), (III), or (IV) of section 1614(a)(1)(B)(i) of the Social Security Act (42 U.S.C. 1382c(a)(1)(B)(i)).

(2) PROGRAMS.—The provisions of this section shall not apply to eligibility for—

(A) emergency medical services under title XXI of the Social Security Act;

(B) short-term emergency disaster relief;

(C) assistance or benefits under the National School Lunch Act;

(D) assistance or benefits under the Child Nutrition Act of 1966;

(E) public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases if the Secretary of Health and Human Services determines that such testing and treatment is necessary;

(F) the Head Start program (42 U.S.C. 9801); and

(G) programs specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life, safety, or public health.

(g) CONFORMING AMENDMENTS.—

(1) Section 1621 (42 U.S.C. 1382j) is repealed.

(2) Section 1614(f)(3) (42 U.S.C. 1382c(f)(3)) is amended by striking ''section 1621'' and inserting ''section 7402 of the Balanced Budget Reconciliation Act of 1995''.

SEC. 7403. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) ENFORCEABILITY.—No affidavit of support may be relied upon by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) of the Immigration and Nationality Act unless such affidavit is executed as a contract—

(1) which is legally enforceable against the sponsor by the sponsored individual, by the Federal Government, and by any State, district, territory, or possession of the United States (or any subdivision of such State, district, territory, or possession of the United States) which provides any benefit under a program described in subsection (d)(2), but not later than 10 years after the sponsored individual last receives any such benefit;

(2) in which the sponsor agrees to financially support the sponsored individual, so that he or she will not become a public charge, until the sponsored

individual has worked in the United States for 40 qualifying quarters; and

(3) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (d)(4).

(b) FORMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, the Attorney General, and the Secretary of Health and Human Services shall jointly formulate the affidavit of support described in this section.

(c) NOTIFICATION OF CHANGE OF ADDRESS.—

(1) IN GENERAL.—The sponsor shall notify the Attorney General and the State, district, territory, or possession in which the sponsored individual is currently resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—

(A) not less than $250 or more than $2,000, or

(B) if such failure occurs with knowledge that the sponsored individual has received any benefit described in section 241(a)(5)(C) of the

Immigration and Nationality Act, not less than $2,000 or more than $5,000.

(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

(1) IN GENERAL.—Upon notification that a sponsored individual has received any benefit under a program described in paragraph (2), the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance.

(2) PROGRAMS DESCRIBED.—The programs described in this paragraph include the following:

(A) Assistance under a State program funded under part A of title IV of the Social Security Act.

(B) The medicaid program under title XXI of the Social Security Act.

(C) The food stamp program under the Food Stamp Act of 1977.

(D) The supplemental security income program under title XVI of the Social Security Act.

(E) Any State general assistance program.

(F) Any other program of assistance funded, in whole or in part, by the Federal Govern-

ment or any State or local government entity, for which eligibility for benefits is based on need, except the programs specified in section 7402(f)(2).

(3) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as may be necessary to carry out paragraph (1). Such regulations shall provide for notification to the sponsor by certified mail to the sponsor's last known address.

(4) REIMBURSEMENT.—If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.

(5) ACTION IN CASE OF FAILURE.—If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

(6) STATUTE OF LIMITATIONS.—No cause of action may be brought under this subsection later than 10 years after the sponsored individual last re-

ceived any benefit under a program described in paragraph (2).

(e) JURISDICTION.—For purposes of this section, no State court shall decline for lack of jurisdiction to hear any action brought against a sponsor for reimbursement of the cost of any benefit under a program described in subsection (d)(2) if the sponsored individual received public assistance while residing in the State.

(f) DEFINITIONS.—For the purposes of this section—

(1) the term ''sponsor'' means an individual who—

(A) is a United States citizen or national or an alien who is lawfully admitted to the United States for permanent residence;

(B) is 18 years of age or over;

(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States; and

(D) demonstrates the means to maintain an annual income equal to at least 200 percent of the poverty line for the individual and the individual's family (including the sponsored individual), through evidence that shall include a copy of the individual's Federal income tax re-

turns for his or her most recent two taxable years and a written statement, executed under oath or as permitted under penalty of perjury under section 1746 of title 28, United States Code, that the copies are true copies of such returns;

(2) the term ''poverty line'' has the same meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)); and

(3) the term ''qualifying quarter'' means a three-month period in which the sponsored individual has—

(A) earned at least the minimum necessary for the period to count as one of the 40 calendar quarters required to qualify for social security retirement benefits;

(B) not received need-based public assistance; and

(C) had income tax liability for the tax year of which the period was part.

SEC. 7404. LIMITED ELIGIBILITY OF NONCITIZENS FOR SSI BENEFITS.

(a) IN GENERAL.—Paragraph (1) of section 1614(a) (42 U.S.C. 1382c(a)) is amended—

(1) in subparagraph (B)(i), by striking ''either'' and all that follows through '', or'' and inserting ''(I) a citizen; (II) a noncitizen who is granted asylum under section 208 of the Immigration and Nationality Act or whose deportation has been withheld under section 243(h) of such Act for a period of not more than 5 years after the date of arrival into the United States; (III) a noncitizen who is admitted to the United States as a refugee under section 207 of such Act for not more than such 5-year period; (IV) a noncitizen, lawfully present in any State (or any territory or possession of the United States), who is a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage or who is the spouse or unmarried dependent child of such veteran; or (V) a noncitizen who has worked sufficient calendar quarters of coverage to be a fully insured individual for benefits under title II, or''; and

(2) by adding at the end the following new flush sentence:

''For purposes of subparagraph (B)(i)(IV), the determination of whether a noncitizen is lawfully present in the United States shall be made in accordance with regula-

tions of the Attorney General. A noncitizen shall not be considered to be lawfully present in the United States for purposes of this title merely because the noncitizen may be considered to be permanently residing in the United States under color of law for purposes of any particular program.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to applicants for benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) APPLICATION TO CURRENT RECIPIENTS.—

(A) APPLICATION AND NOTICE.—Notwithstanding any other provision of law, in the case of an individual who is receiving supplemental security income benefits under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits would terminate by reason of the amendments made by subsection (a), such amendments shall apply with respect to the benefits of such individual for months beginning on or after January 1, 1997, and the Commis-

sioner of Social Security shall so notify the individual not later than 90 days after the date of the enactment of this Act.

(B) REAPPLICATION.—

(i) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, each individual notified pursuant to subparagraph (A) who desires to reapply for benefits under title XVI of the Social Security Act shall reapply to the Commissioner of Social Security.

(ii) DETERMINATION OF ELIGIBILITY.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall determine the eligibility of each individual who reapplies for benefits under clause (i) pursuant to the procedures of such title XVI.

SEC. 7405. TREATMENT OF NONCITIZENS.

(a) IN GENERAL.—Notwithstanding any other provision of law, a noncitizen who has entered into the United States on or after the date of the enactment of this Act shall not, during the 5-year period beginning on the date of such noncitizen's entry into the United States, be eligi-

ble to receive any benefits under any program of assistance provided, or funded, in whole or in part, by the Federal Government, for which eligibility for benefits is based on need.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) any individual who is described in subclause (II), (III), (IV), or (V) of section 1614(a)(1)(B)(i) of the Social Security Act (42 U.S.C. 1382c(a)(1)(B)(i));

(2) any program described in section 7402(f)(2); and

(3) payments for foster care and adoption assistance under part E of title IV of the Social Security Act for a child who would, in the absence of this section, be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent or parents of such child are not noncitizens described in subsection (a).

SEC. 7406. INFORMATION REPORTING.

(a) TITLE IV OF THE SOCIAL SECURITY ACT.—Section 405 of the Social Security Act, as added by section 7201(b), is amended by adding at the end the following new subsection:

"(g) STATE REQUIRED TO PROVIDE CERTAIN INFORMATION.—Each State to which a grant is made under section 403 shall, at least 4 times annually and upon request of the Immigration and Naturalization Service, furnish the Immigration and Naturalization Service with the name and address of, and other identifying information on, any individual who the State knows is unlawfully in the United States.".

(b) SSI.—Section 1631(e) (42 U.S.C. 1383(e)) is amended—

(1) by redesignating the paragraphs (6) and (7) inserted by sections 206(d)(2) and 206(f)(1) of the Social Security Independence and Programs Improvement Act of 1994 (Public Law 103–296; 108 Stat. 1514, 1515) as paragraphs (7) and (8), respectively; and

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

"(9) Notwithstanding any other provision of law, the Commissioner shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this paragraph referred to as the 'Service'), furnish the Service with the name and address of, and other identifying information on, any individual who the Commissioner

knows is unlawfully in the United States, and shall ensure that each agreement entered into under section 1616(a) with a State provides that the State shall furnish such information at such times with respect to any individual who the State knows is unlawfully in the United States.''.

(c) HOUSING PROGRAMS.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

''SEC. 27. PROVISION OF INFORMATION TO LAW ENFORCEMENT AND OTHER AGENCIES.

''(a) NOTICE TO IMMIGRATION AND NATURALIZATION SERVICE OF ILLEGAL ALIENS.—Notwithstanding any other provision of law, the Secretary shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this subsection referred to as the 'Service'), furnish the Service with the name and address of, and other identifying information on, any individual who the Secretary knows is unlawfully in the United States, and shall ensure that each contract for assistance entered into under section 6 or 8 of this Act with a public housing agency provides that the public housing agency shall furnish such information at such times with respect to any individual who the public housing agency knows is unlawfully in the United States.''.

SEC. 7407. PROHIBITION ON PAYMENT OF FEDERAL BENEFITS TO CERTAIN PERSONS.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), Federal benefits shall not be paid or provided to any person who is not a person lawfully present within the United States.

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following benefits:

(1) Emergency medical services under title XXI of the Social Security Act.

(2) Short-term emergency disaster relief.

(3) Assistance or benefits under the National School Lunch Act.

(4) Assistance or benefits under the Child Nutrition Act of 1966.

(5) Public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment of such disease.

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

(1) FEDERAL BENEFIT.—The term ''Federal benefit'' means—

(A) the issuance of any grant, contract, loan, professional license, or commercial license

provided by an agency of the United States or by appropriated funds of the United States; and

(B) any retirement, welfare, Social Security, health, disability, public housing, post-secondary education, food stamps, unemployment benefit, or any other similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States.

(2) PERSON LAWFULLY PRESENT WITHIN THE UNITED STATES.—The term ''person lawfully present within the United States'' means a person who, at the time the person applies for, receives, or attempts to receive a Federal benefit, is a United States citizen, a permanent resident alien, an alien whose deportation has been withheld under section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)), an asylee, a refugee, a parolee who has been paroled for a period of at least 1 year, a national, or a national of the United States for purposes of the immigration laws of the United States (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

(d) STATE OBLIGATION.—Notwithstanding any other provision of law, a State that administers a program that

provides a Federal benefit (described in subsection (c)(1)) or provides State benefits pursuant to such a program shall not be required to provide such benefit to a person who is not a person lawfully present within the United States (as defined in subsection (c)(2)) through a State agency or with appropriated funds of such State.

(e) VERIFICATION OF ELIGIBILITY.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Attorney General of the United States, after consultation with the Secretary of Health and Human Services, shall promulgate regulations requiring verification that a person applying for a Federal benefit, including a benefit described in subsection (b), is a person lawfully present within the United States and is eligible to receive such benefit. Such regulations shall, to the extent feasible, require that information requested and exchanged be similar in form and manner to information requested and exchanged under section 1137 of the Social Security Act.

(2) STATE COMPLIANCE.—Not later than 24 months after the date the regulations described in paragraph (1) are adopted, a State that administers a program that provides a Federal benefit described

in such paragraph shall have in effect a verification system that complies with the regulations.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this section.

(f) SEVERABILITY.—If any provision of this section or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this section and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Subtitle G—Additional Provisions Relating to Welfare Reform

CHAPTER 1—REDUCTIONS IN FEDERAL GOVERNMENT POSITIONS

SEC. 7411. REDUCTIONS.

(a) DEFINITIONS.—As used in this section:

(1) APPROPRIATE EFFECTIVE DATE.—The term ''appropriate effective date'', used with respect to a Department referred to in this section, means the date on which all provisions of subtitle D of title I, this subtitle, or subtitles C, D, E, and F of this title that the Department is required to carry out, and amendments and repeals made by such titles and

subtitles to provisions of Federal law that the Department is required to carry out, are effective.

(2) COVERED ACTIVITY.—The term ''covered activity'', used with respect to a Department referred to in this section, means an activity that the Department is required to carry out under—

(A) a provision of subtitle D of title I, this subtitle, or subtitle C, D, E, or F of this title; or

(B) a provision of Federal law that is amended or repealed by any such title or subtitles.

(b) REPORTS.—

(1) CONTENTS.—Not later than December 31, 1995, each Secretary referred to in paragraph (2) shall prepare and submit to the relevant committees described in paragraph (3) a report containing—

(A) the determinations described in subsection (c);

(B) appropriate documentation in support of such determinations; and

(C) a description of the methodology used in making such determinations.

(2) SECRETARY.—The Secretaries referred to in this paragraph are—

(A) the Secretary of Agriculture;

(B) the Secretary of Education;

(C) the Secretary of Labor;

(D) the Secretary of Housing and Urban Development; and

(E) the Secretary of Health and Human Services.

(3) RELEVANT COMMITTEES.—The relevant Committees described in this paragraph are the following:

(A) With respect to each Secretary described in paragraph (2), the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(B) With respect to the Secretary of Agriculture, the Committee on Agriculture and the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(C) With respect to the Secretary of Education, the Committee on Economic and Educational Opportunities of the House of Rep-

resentatives and the Committee on Labor and Human Resources of the Senate.

(D) With respect to the Secretary of Labor, the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(E) With respect to the Secretary of Housing and Urban Development, the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(F) With respect to the Secretary of Health and Human Services, the Committee on Economic and Educational Opportunities of the House of Representatives, the Committee on Labor and Human Resources of the Senate, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate.

(4) REPORT ON CHANGES.—Not later than December 31, 1996, and each December 31 thereafter, each Secretary referred to in paragraph (2) shall prepare and submit to the relevant Committees described in paragraph (3), a report concerning any

changes with respect to the determinations made under subsection (c) for the year in which the report is being submitted.

(c) DETERMINATIONS.—Not later than December 31, 1995, each Secretary referred to in subsection (b)(2) shall determine—

(1) the number of full-time equivalent positions required by the Department headed by such Secretary to carry out the covered activities of the Department, as of the day before the date of enactment of this Act;

(2) the number of such positions required by the Department to carry out the activities, as of the appropriate effective date for the Department; and

(3) the difference obtained by subtracting the number referred to in paragraph (2) from the number referred to in paragraph (1).

(d) ACTIONS.—Not later than 30 days after the appropriate effective date for the Department involved, each Secretary referred to in subsection (b)(2) shall take such actions as may be necessary, including reduction in force actions, consistent with sections 3502 and 3595 of title 5, United States Code, to reduce the number of positions of personnel of the Department by at least the difference referred to in subsection (c)(3).

(e) CONSISTENCY.—

(1) EDUCATION.—The Secretary of Education shall carry out this section in a manner that enables the Secretary to meet the requirements of this section.

(2) LABOR.—The Secretary of Labor shall carry out this section in a manner that enables the Secretary to meet the requirements of this section.

(3) HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services shall carry out this section in a manner that enables the Secretary to meet the requirements of this section and section 7412.

(f) CALCULATION.—In determining, under subsection (c), the number of full-time equivalent positions required by a Department to carry out a covered activity, a Secretary referred to in subsection (b)(2), shall include the number of such positions occupied by personnel carrying out program functions or other functions (including budgetary, legislative, administrative, planning, evaluation, and legal functions) related to the activity.

(g) GENERAL ACCOUNTING OFFICE REPORT.—Not later than July 1, 1996, the Comptroller General of the United States shall prepare and submit to the committees described in subsection (b)(3), a report concerning the de-

terminations made by each Secretary under subsection (c). Such report shall contain an analysis of the determinations made by each Secretary under subsection (c) and a determination as to whether further reductions in full-time equivalent positions are appropriate.

SEC. 7412. REDUCTIONS IN FEDERAL BUREAUCRACY.

(a) IN GENERAL.—The Secretary of Health and Human Services shall reduce the Federal workforce within the Department of Health and Human Services by an amount equal to the sum of—

(1) 75 percent of the full-time equivalent positions at such Department that relate to any direct spending program, or any program funded through discretionary spending, that has been converted into a block grant program under subtitle D of title I, this subtitle, or subtitle C, D, E, or F of this title and the amendments made by such title or subtitles; and

(2) an amount equal to 75 percent of that portion of the total full-time equivalent departmental management positions at such Department that bears the same relationship to the amount appropriated for the programs referred to in paragraph (1) as such amount relates to the total amount appropriated for use by such Department.

(b) REDUCTIONS IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Notwithstanding any other provision of this Act, the Secretary of Health and Human Services shall take such actions as may be necessary, including reductions in force actions, consistent with sections 3502 and 3595 of title 5, United States Code, to reduce the full-time equivalent positions within the Department of Health and Human Services—

(1) by 245 full-time equivalent positions related to the program converted into a block grant under the amendment made by section 7201(b); and

(2) by 60 full-time equivalent managerial positions in the Department.

SEC. 7413. REDUCING PERSONNEL IN WASHINGTON, D.C. AREA.

In making reductions in full-time equivalent positions, the Secretary of Health and Human Services is encouraged to reduce personnel in the Washington, DC, area office (agency headquarters) before reducing field personnel.

CHAPTER 2—BLOCK GRANTS FOR SOCIAL SERVICES

SEC. 7421. REDUCTION IN BLOCK GRANTS FOR SOCIAL SERVICES.

Section 2003(c) (42 U.S.C. 1397b) is amended—

(1) by striking ''and'' at the end of paragraph (4); and

(2) by striking paragraph (5) and inserting the following:

''(5) $2,800,000,000 for each of the fiscal years 1990 through 1996; and

''(6) $2,240,000,000 for each fiscal year after fiscal year 1996.''.

SEC. 7422. ESTABLISHING NATIONAL GOALS TO PREVENT TEENAGE PREGNANCIES.

(a) IN GENERAL.—Not later than January 1, 1997, the Secretary of Health and Human Services shall establish and implement a strategy for—

(1) preventing an additional 2 percent of out-of-wedlock teenage pregnancies a year, and

(2) assuring that at least 25 percent of the communities in the United States have teenage pregnancy prevention programs in place.

(b) REPORT.—Not later than June 30, 1998, and annually thereafter, the Secretary shall report to the Congress with respect to the progress that has been made in meeting the goals described in paragraphs (1) and (2) of subsection (a).

(c) OUT-OF-WEDLOCK AND TEENAGE PREGNANCY PREVENTION PROGRAMS.—Section 2002 (42 U.S.C.

1397a) is amended by adding at the end the following new subsection:

"(f)(1) The Secretary shall conduct a study with respect to State programs that have been implemented to determine the relative effectiveness of the different approaches for reducing out-of-wedlock pregnancies and preventing teenage pregnancy and the approaches that can be best replicated by other States.

"(2) Each State shall provide to the Secretary, in such form and with such frequency as the Secretary requires, data from the programs the State has implemented. The Secretary shall report to the Congress annually on the progress of the programs and shall, not later than June 30, 1998, submit to the Congress a report on the study required under paragraph (1).".

CHAPTER 3—FOSTER CARE MAINTENANCE PAYMENTS PROGRAM

SEC. 7431. LIMITATION ON GROWTH OF ADMINISTRATIVE EXPENSES FOR FOSTER CARE MAINTENANCE PAYMENTS PROGRAM.

Section 474(b) (42 U.S.C. 674) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding the provisions of subparagraphs (D) and (E) of subsection (a)(3), the total amount of the payment under such subparagraphs with respect to

the foster care maintenance payments program for any fiscal year beginning with fiscal year 1996 shall not exceed 110 percent of the total amount of such payment for the preceding fiscal year.''.

CHAPTER 4—MISCELLANEOUS PROVISIONS

SEC. 7441. EXEMPTION OF BATTERED INDIVIDUALS FROM CERTAIN REQUIREMENTS.

(a) IN GENERAL.—Notwithstanding any other provision of, or amendment made by, subtitle D of title I of this Act, this subtitle, or subtitle C, D, E, or F of this title, the applicable administering authority of any specified provision may exempt from (or modify) the application of such provision to any individual who was battered or subjected to extreme cruelty if the physical, mental, or emotional well-being of the individual would be endangered by the application of such provision to such individual. The applicable administering authority may take into consideration the family circumstances and the counseling and other supportive service needs of the individual.

(b) SPECIFIED PROVISIONS.—For purposes of this section, the term ''specified provision'' means any requirement, limitation, or penalty under any of the following:

(1) Sections 404, 405 (a) and (b), 406 (b), (c), and (d), 414(d), 453(c), 469A, and 1614(a)(1) of the Social Security Act.

(2) Sections 5(i) (other than paragraph (3) thereof) and 6 (d) and (j), and the provision relating to work requirements in section 6 of the Food Stamp Act of 1977.

(3) Sections 7401(a) and 7402 of this Act.

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) BATTERED OR SUBJECTED TO EXTREME CRUELTY.—The term ''battered or subjected to extreme cruelty'' includes, but is not limited to—

(A) physical acts resulting in, or threatening to result in, physical injury;

(B) sexual abuse, sexual activity involving a dependent child, forcing the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities, or threats of or attempts at physical or sexual abuse;

(C) mental abuse; and

(D) neglect or deprivation of medical care.

(2) CALCULATION OF PARTICIPATION RATES.—An individual exempted from the work requirements under section 404 of the Social Security Act by reason of subsection (a) shall not be included for purposes of calculating the State's participation rate under such section.

SEC. 7442. SENSE OF THE SENATE ON LEGISLATIVE ACCOUNTABILITY FOR UNFUNDED MANDATES IN WELFARE REFORM LEGISLATION.

(a) FINDINGS.—The Senate finds that the purposes of the Unfunded Mandates Reform Act of 1995 are—

(1) to strengthen the partnership between the Federal Government and State, local and tribal governments;

(2) to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local and tribal governments without adequate Federal funding, in a manner that may displace other essential State, local and tribal governmental priorities;

(3) to assist Congress in its consideration of proposed legislation establishing or revising Federal programs containing Federal mandates affecting State, local and tribal governments, and the private sector by—

(A) providing for the development of information about the nature and size of mandates in proposed legislation; and

(B) establishing a mechanism to bring such information to the attention of the Senate and the House of Representatives before the

Senate and the House of Representatives vote on proposed legislation;

(4) to promote informed and deliberate decisions by Congress on the appropriateness of Federal mandates in any particular instance; and

(5) to require that Congress consider whether to provide funding to assist State, local and tribal governments in complying with Federal mandates.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that prior to the Senate acting on the conference report on either H.R. 4 or any other legislation including welfare reform provisions, the Congressional Budget Office shall prepare an analysis of the conference report to include—

(1) estimates, over each of the next 7 fiscal years, by State and in total, of—

(A) the costs to States of meeting all work requirements in the conference report, including those for single-parent families, two-parent families, and those who have received cash assistance for 2 years;

(B) the resources available to the States to meet these work requirements, defined as Federal appropriations authorized in the conference report for this purpose in addition to what

States are projected to spend under current welfare law; and

(C) the amount of any additional revenue needed by the States to meet the work requirements in the conference report, beyond resources available as defined under subparagraph (B);

(2) an estimate, based on the analysis in paragraph (1), of how many States would opt to pay any penalty provided for by the conference report rather than raise the additional revenue needed to meet the work requirements in the conference report; and

(3) estimates, over each of the next 7 fiscal years, of the costs to States of any other requirements imposed on them by such legislation.

SEC. 7443. SENSE OF THE SENATE REGARDING ENFORCEMENT OF STATUTORY RAPE LAWS.

It is the sense of the Senate that States and local jurisdictions should aggressively enforce statutory rape laws.

SEC. 7444. SANCTIONING FOR TESTING POSITIVE FOR CONTROLLED SUBSTANCES.

Notwithstanding any other provision of law, States shall not be prohibited by the Federal Government from

sanctioning welfare recipients who test positive for use of controlled substances.

SEC. 7445. ABSTINENCE EDUCATION.

(a) INCREASES IN FUNDING.—Section 501(a) (42 U.S.C. 701(a)) is amended in the matter preceding paragraph (1) by striking ''fiscal year 1994 and each fiscal year thereafter'' and inserting ''fiscal years 1994 and 1995 and $761,000,000 for fiscal year 1996 and each fiscal year thereafter''.

(b) ABSTINENCE EDUCATION.—Section 501(a)(1) (42 U.S.C. 701(a)(1)) is amended—

(1) by striking ''and'' at the end of subparagraph (C);

(2) by inserting ''and'' at the end of subparagraph (D); and

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

''(E) to provide abstinence education, and at the option of the State, where appropriate, mentoring, counseling, and adult supervision to promote abstinence from sexual activity, with a focus on those groups which are most likely to bear children out-of-wedlock;''.

(c) ABSTINENCE EDUCATION DEFINED.—Section 501(b) (42 U.S.C. 701(b)) is amended by adding at the end the following new paragraph:

"(5) ABSTINENCE EDUCATION.—The term 'abstinence education' means an educational or motivational program which—

"(A) has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity;

"(B) teaches abstinence from sexual activity outside marriage as the expected standard for all school age children;

"(C) teaches that abstinence from sexual activity is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems;

"(D) teaches that a mutually faithful monogamous relationship in context of marriage is the expected standard of human sexual activity;

"(E) teaches that sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects;

"(F) teaches that bearing children out-of-wedlock is likely to have harmful consequences for the child, the child's parents, and society;

"(G) teaches young people how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances; and

"(H) teaches the importance of attaining self-sufficiency before engaging in sexual activity.".

(d) SET-ASIDE.—

(1) IN GENERAL.—Section 502(c) (42 U.S.C. 702(c)) is amended in the matter preceding paragraph (1) by striking "From" and inserting "Except as provided in subsection (e), from".

(2) SET-ASIDE.—Section 502 (42 U.S.C. 702) is amended by adding at the end the following new subsection:

"(e) Of the amounts appropriated under section 501(a) for any fiscal year, the Secretary shall set aside $75,000,000 for abstinence education in accordance with section 501(a)(1)(E).".

SEC. 7446. FRAUD UNDER MEANS-TESTED WELFARE AND PUBLIC ASSISTANCE PROGRAMS.

(a) IN GENERAL.—If an individual's benefits under a Federal, State, or local law relating to a means-tested

welfare or a public assistance program are reduced because of an act of fraud by the individual under the law or program, the individual may not, for the duration of the reduction, receive an increased benefit under any other means-tested welfare or public assistance program for which Federal funds are appropriated as a result of a decrease in the income of the individual (determined under the applicable program) attributable to such reduction.

(b) WELFARE OR PUBLIC ASSISTANCE PROGRAMS FOR WHICH FEDERAL FUNDS ARE APPROPRIATED.—For purposes of subsection (a), the term ''means-tested welfare or public assistance program for which Federal funds are appropriated'' shall include the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), any program of public or assisted housing under title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), and State programs funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

Subtitle H—Reform of the Earned Income Tax Credit

SEC. 7460. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a

section or other provision of the Internal Revenue Code of 1986.

SEC. 7461. EARNED INCOME CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) (relating to individuals eligible to claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse."

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 is amended by adding at the end the following new subsection:

"(l) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number is-

sued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).''

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) (relating to the definition of mathematical or clerical errors) is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

''(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income tax credit) to be included on a return, and

''(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 7462. REPEAL OF EARNED INCOME CREDIT FOR INDIVIDUALS WITHOUT CHILDREN.

(a) IN GENERAL.—Subparagraph (A) of section 32(c)(1) (defining eligible individual) is amended to read as follows:

"(A) IN GENERAL.—The term 'eligible individual' means any individual who has a qualifying child for the taxable year."

(b) CONFORMING AMENDMENTS.—Each of the tables contained in paragraphs (1) and (2) of section 32(b) are amended by striking the items relating to no qualifying children.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 7463. MODIFICATION OF EARNED INCOME CREDIT AMOUNT AND PHASEOUT.

(a) DECREASE IN CREDIT RATE.—

(1) IN GENERAL.—Subsection (b) of section 32, as amended by section 7462(b), is amended to read as follows:

"(b) PERCENTAGES AND AMOUNTS.—

"(1) IN GENERAL.—The credit percentage shall be determined as follows:

"In the case of an eligible individual with:	The credit percentage is:
1 qualifying child	34
2 or more qualifying children	36

"(2) AMOUNTS.—The earned income amount and the phaseout amount shall be determined as follows:

"In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	$6,000	$11,000
2 or more qualifying children	$8,425	$11,000."

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 32(j) is amended by striking "subsection (b)(2)(A)" and inserting "subsection (b)(2)".

(b) PHASEOUT.—Paragraph (2) of section 32(a) (relating to limitation) is amended to read as follows:

"(2) LIMITATION.—The amount of the credit allowable to a taxpayer under paragraph (1) for any taxable year shall be reduced by 0.66 percent (0.86 percent if only 1 qualifying child) for each $100 or fraction thereof by which the taxpayer's adjusted gross income (or, if greater, earned income) for the taxable year exceeds the phaseout amount."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 7464. RULES RELATING TO DENIAL OF EARNED INCOME CREDIT ON BASIS OF DISQUALIFIED INCOME.

(a) DEFINITION OF DISQUALIFIED INCOME.—Paragraph (2) of section 32(i) (defining disqualified income) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraphs:

''(D) capital gain net income, and

''(E) the excess (if any) of—

''(i) the aggregate income from all passive activities for the taxable year (determined without regard to any amount described in a preceding subparagraph), over

''(ii) the aggregate losses from all passive activities for the taxable year (as so determined).

For purposes of subparagraph (E), the term 'passive activity' has the meaning given such term by section 469.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 7465. MODIFICATION OF ADJUSTED GROSS INCOME DEFINITION FOR EARNED INCOME CREDIT.

(a) IN GENERAL.—Subsections (a)(2), (c)(1)(C), and (f)(2)(B) of section 32 are each amended by striking ''adjusted gross income'' and inserting ''modified adjusted gross income''.

(b) MODIFIED ADJUSTED GROSS INCOME DEFINED.—Section 32(c) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(5) MODIFIED ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—The term 'modified adjusted gross income' means adjusted gross income—

''(i) increased by the sum of the amounts described in subparagraph (B), and

''(ii) determined without regard to—

''(I) the amounts described in subparagraph (C), or

''(II) the deduction allowed under section 172.

''(B) NONTAXABLE INCOME TAKEN INTO ACCOUNT.—Amounts described in this subparagraph are—

"(i) social security benefits (as defined in section 86(d)) received by the taxpayer during the taxable year to the extent not included in gross income,

"(ii) amounts which—

"(I) are received during the taxable year by (or on behalf of) a spouse pursuant to a divorce or separation instrument (as defined in section 71(b)(2)), and

"(II) under the terms of the instrument are fixed as payable for the support of the children of the payor spouse (as determined under section 71(c)),

but only to the extent such amounts exceed $6,000,

"(iii) interest received or accrued during the taxable year which is exempt from tax imposed by this chapter, and

"(iv) amounts received as a pension or annuity, and any distributions or payments received from an individual retirement plan, by the taxpayer during the taxable

year to the extent not included in gross income.

Clause (iv) shall not include any amount which is not includible in gross income by reason of section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), (4), or (5), or 457(e)(10).

"(C) CERTAIN AMOUNTS DISREGARDED.—An amount is described in this subparagraph if it is—

"(i) the amount of losses from sales or exchanges of capital assets in excess of gains from such sales or exchanges to the extent such amount does not exceed the amount under section 1211(b)(1),

"(ii) the net loss from the carrying on of trades or businesses, computed separately with respect to—

"(I) trades or businesses (other than farming) conducted as sole proprietorships,

"(II) trades or businesses of farming conducted as sole proprietorships, and

"(III) other trades or business,

"(iii) the net loss from estates and trusts, and

"(iv) the excess (if any) of amounts described in subsection (i)(2)(C)(ii) over the amounts described in subsection (i)(2)(C)(i) (relating to nonbusiness rents and royalties).

For purposes of clause (ii), there shall not be taken into account items which are attributable to a trade or business which consists of the performance of services by the taxpayer as an employee."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 7466. PROVISIONS TO IMPROVE TAX COMPLIANCE.

(a) INCREASE IN PENALTIES FOR RETURN PREPARERS.—

(1) UNDERSTATEMENT PENALTY.—Section 6694 (relating to understatement of income tax liability by income tax return preparer) is amended—

(A) by striking "$250" in subsection (a) and inserting "$500", and

(B) by striking "$1,000" in subsection (b) and inserting "$2,000".

(2) OTHER ASSESSABLE PENALTIES.—Section 6695 (relating to other assessable penalties) is amended—

(A) by striking ''$50'' and ''$25,000'' in subsections (a), (b), (c), (d), and (e) and inserting ''$100'' and ''$50,000'', respectively, and

(B) by striking ''$500'' in subsection (f) and inserting ''$1,000''.

(b) AIDING AND ABETTING PENALTY.—Section 6701(b) (relating to amount of penalty) is amended—

(1) by striking ''$1,000'' in paragraph (1) and inserting ''2,000'', and

(2) by striking ''10,000'' in paragraph (2) and inserting ''20,000''.

(c) REVIEW OF ELECTRONIC FILING OF EARNED INCOME CREDIT CLAIMS.—The Secretary of the Treasury shall use the maximum review process that is administratively feasible to ensure that originators of electronic returns involving the earned income credit under section 32 of the Internal Revenue Code of 1986 comply with the law.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties with respect to taxable years beginning after December 31, 1995.

Subtitle I—Increase in Public Debt

SEC. 7471. INCREASE IN PUBLIC DEBT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar amount contained therein and inserting ''$5,500,000,000,000''.

Subtitle J—Correction of Cost of Living Adjustments

SEC. 7481. SENSE OF THE SENATE REGARDING CORRECTION OF COST OF LIVING ADJUSTMENTS.

(a) FINDINGS.—The Senate finds that—

(1) the Consumer Price Index overstates the cost of living in the United States; and

(2) overstatement of the cost of living undermines the equitable administration of Federal benefit and tax policies.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that all cost of living adjustments required by Federal law should be corrected as soon as possible to accurately reflect future changes in the cost of living.

TITLE VIII—COMMITTEE ON GOVERNMENTAL AFFAIRS

SEC. 8001. EXTENSION OF DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS THROUGH FISCAL YEAR 2002.

Section 11001(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 408) is amended in the matter preceding paragraph (1) by striking out ''or 1996,'' and inserting in lieu thereof ''1996, 1997, 1998, 1999, 2000, 2001, or 2002,''.

SEC. 8002. INCREASED CONTRIBUTIONS TO FEDERAL CIVILIAN RETIREMENT SYSTEMS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEDUCTIONS.—The first sentence of section 8334(a)(1) of title 5, United States Code, is amended to read as follows: ''The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, or Claims Court judge, as the case may be, the percentage of basic pay applicable under subsection (c).''.

(2) AGENCY CONTRIBUTIONS.—

(A) INCREASE IN AGENCY CONTRIBUTIONS DURING CALENDAR YEARS 1996 THROUGH 2002.—Section 8334(a)(1) of title 5, United States Code (as amended by this section) is further amended—

(i) by inserting ''(A)'' after ''(1)''; and

(ii) by adding at the end thereof the following new subparagraph:

''(B)(i) Notwithstanding subparagraph (A), the agency contribution under the second sentence of such subparagraph, during the period beginning on January 1, 1996, through December 31, 2002—

''(I) for each employing agency (other than the United States Postal Service) shall be 8.5 percent of the basic pay of an employee, Congressional employee, and a Member of Congress, 9 percent of the basic pay of a law enforcement officer and a firefighter, and 9.5 percent of the basic pay of a Claims Court judge, a United States magistrate, a judge of the United States Court of Appeals for the Armed Services, and a bankruptcy judge, as the case may be; and

"(II) for the United States Postal Service shall be 7 percent of the basic pay of an employee and 9 percent of the basic pay of a law enforcement officer.".

(B) NO REDUCTION IN AGENCY CONTRIBUTIONS BY THE POSTAL SERVICE.—Agency contributions by the United States Postal Service under section 8348(h) of title 5, United States Code—

(i) shall not be reduced as a result of the amendments made under paragraph (3) of this subsection; and

(ii) shall be computed as though such amendments had not been enacted.

(3) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—The table under section 8334(c) of title 5, United States Code, is amended—

(A) in the matter relating to an employee by striking out

"7	After December 31, 1969."

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.'';

1 (B) in the matter relating to a Member or
2 employee for Congressional employee service by
3 striking out

''7½	After December 31, 1969.''

4 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.'';

5 (C) in the matter relating to a Member for
6 Member service by striking out

''8	After December 31, 1969.''

7 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.'';

(D) in the matter relating to a law enforcement officer for law enforcement service and firefighter for firefighter service by striking out

"7½	After December 31, 1974."

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.";

(E) in the matter relating to a bankruptcy judge by striking out

"8	After December 31, 1983."

and inserting in lieu thereof the following:

"8	January 1, 1984, to December 31, 1995.
8.25 ...	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.";

(F) in the matter relating to a judge of the United States Court of Appeals for the Armed

1 Forces for service as a judge of that court by
2 striking out

"8	On and after the date of the enactment of the Department of Defense Authorization Act, 1984."

3 and inserting in lieu thereof the following:

"8	The date of the enactment of the Department of Defense Authorization Act, 1984, to December 31, 1995.
8.25 ...	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.";

4 (G) in the matter relating to a United
5 States magistrate by striking out

"8	After September 30, 1987."

6 and inserting in lieu thereof the following:

"8	October 1, 1987, to December 31, 1995.
8.25 ...	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.";

7 and

(H) in the matter relating to a Claims Court judge by striking out

"8	After September 30, 1988."

and inserting in lieu thereof the following:

"8	October 1, 1988, to December 31, 1995.
8.25 ...	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.".

(4) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8334(j) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (5)," after "Except as provided in subparagraph (B),"; and

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

"(5) Effective with respect to any period of military service after December 31, 1995, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee, subject to paragraph (1)(B).".

(B) VOLUNTEER SERVICE.—Section 8334(l) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: ''This paragraph shall be subject to paragraph (4).''; and

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

''(4) Effective with respect to any period of service after December 31, 1995, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee.''.

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—

(A) IN GENERAL.—Section 8422(a) of title 5, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following:

''(2) The percentage to be deducted and withheld from basic pay for any pay period shall be equal to—

''(A) the applicable percentage under paragraph (3), minus

1 "(B) the percentage then in effect under section
2 3101(a) of the Internal Revenue Code of 1986 (re-
3 lating to rate of tax for old-age, survivors, and dis-
4 ability insurance).
5 "(3) The applicable percentage under this paragraph,
6 for civilian service shall be as follows:

	"Percentage of basic pay	Service period
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, 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.

"Percentage of basic pay	Service period
8	January 1, 1998, to December 31, 2002.
7.5	After December 31, 2002.

(B) MILITARY SERVICE.—Section 8422(e) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (6)," after "Except as provided in subparagraph (B),"; and

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

"(6) The percentage of basic pay under section 204 of title 37 payable under paragraph (1), with respect to any period of military service performed during—

"(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent;

"(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent; and

"(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.".

(C) VOLUNTEER SERVICE.—Section 8422(f) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: ''This paragraph shall be subject to paragraph (4).''; and

(ii) by adding at the end the following:

''(4) The percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1), with respect to any period of volunteer service performed during—

''(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent;

''(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent; and

''(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.''.

(2) NO REDUCTION IN AGENCY CONTRIBUTIONS.—Agency contributions under section 8423 (a) and (b) of title 5, United States Code , shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after January 1, 1996.

SEC. 8003. FEDERAL RETIREMENT PROVISIONS RELATING TO MEMBERS OF CONGRESS AND CONGRESSIONAL EMPLOYEES.

(a) RELATING TO THE YEARS OF SERVICE AS A MEMBER OF CONGRESS AND CONGRESSIONAL EMPLOYEES FOR PURPOSES OF COMPUTING AN ANNUITY.—

(1) CSRS.—Section 8339 of title 5, United States Code, is amended—

(A) in subsection (a) by inserting ''or Member'' after ''employee''; and

(B) by striking out subsections (b) and (c).

(2) FERS.—Section 8415 of title 5, United States Code, is amended—

(A) by striking out subsections (b) and (c);

(B) in subsections (a) and (g) by inserting ''or Member'' after ''employee'' each place it appears; and

(C) in subsection (g)(2) by striking out ''Congressional employee''.

(b) ADMINISTRATIVE REGULATIONS.—The Secretary of the Senate and the Clerk of the House of Representatives, in consultation with the Office of Personnel Management, may prescribe regulations to carry out the provisions of this section and the amendments made by this section for applicable employees and Members of Congress.

(c) EFFECTIVE DATES.—

(1) YEARS OF SERVICE; ANNUITY COMPUTATION.—(A) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply only with respect to the computation of an annuity relating to—

(i) the service of a Member of Congress as a Member or as a Congressional employee performed on or after January 1, 1996; and

(ii) the service of a Congressional employee as a Congressional employee performed on or after January 1, 1996.

(B) An annuity shall be computed as though the amendments made under subsection (a) had not been enacted with respect to—

(i) the service of a Member of Congress as a Member or a Congressional employee or military service performed before January 1, 1996; and

(ii) the service of a Congressional employee as a Congressional employee or military service performed before January 1, 1996.

(2) REGULATIONS.—The provisions of subsection (b) shall take effect on the date of the enactment of this Act.

TITLE IX—COMMITTEE ON THE JUDICIARY

SEC. 9001. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking ''1998'' and inserting ''2002'';

(2) in subsection (b)(2) by striking ''1998'' and inserting ''2002''; and

(3) in subsection (c)—

(A) by striking ''through 1998'' and inserting ''through 2002''; and

(B) by adding at the end the following:

''(9) $119,000,000 in fiscal year 1999.

''(10) $119,000,000 in fiscal year 2000.

''(11) $119,000,000 in fiscal year 2001.

''(12) $119,000,000 in fiscal year 2002.''.

TITLE X—COMMITTEE ON LABOR AND HUMAN RESOURCES

SECTION 10001. REFERENCES; GENERAL EFFECTIVE DATE.

(a) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be consid-

ered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(b) GENERAL EFFECTIVE DATE.—Unless otherwise specified in this title, the amendments made by this title shall take effect on January 1, 1996.

SEC. 10002. PARTICIPATION OF INSTITUTIONS AND ADMINISTRATION OF LOAN PROGRAMS.

(a) LIMITATION ON PROPORTION OF LOANS MADE UNDER THE DIRECT LOAN PROGRAM.—Section 453(a) (20 U.S.C. 1087c(a)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) DETERMINATION OF NUMBER OF AGREEMENTS.—The Secretary may enter into agreements under subsections (a) and (b) of section 454 with institutions for participation in the direct loan program under this part, subject to the following:

"(A) For academic year 1994–1995, loans made under this part shall represent not more than 5 percent of new student loan volume for such year.

"(B) For academic year 1995–1996, loans made under this part, including Federal Direct Consolidation Loans, shall represent not more than 30 percent of the new student loan volume

for such year, except that the Secretary shall not enter into such an agreement with an eligible institution that has not applied and been accepted for participation in the direct loan program under this part on or before September 30, 1995.

"(C) For academic year 1996–1997 and for each succeeding academic year, loans made under this part, including Federal Direct Consolidation Loans, shall represent not more than 20 percent of the new student loan volume for such year, except that the Secretary shall not enter into such an agreement with an eligible institution that has not applied and been accepted for participation in the direct loan program under this part on or before September 30, 1995.";

(2) by striking paragraph (3);

(3) by redesignating paragraph (4) as paragraph (3); and

(4) in the second sentence of paragraph (3) (as redesignated by paragraph (3)), by striking "on the most recent program data available" and inserting "on data from the academic year preceding the academic year for which the estimate is made".

(b) ELIMINATION OF CONSCRIPTION.—Section 453(b)(2) (20 U.S.C. 1087c(b)(2)) is amended—

(1) by striking subparagraph (B); and

(2) in subparagraph (A)—

(A) by striking ''(i) categorizing'' and inserting ''categorizing'';

(B) in clause (ii)—

(i) by striking ''beginning''; and

(ii) by striking ''; and'' and inserting a period; and

(C) by redesignating clause (ii) (as amended by subparagraph (B)) as subparagraph (B).

(c) CONTROL OF ADMINISTRATIVE EXPENSES.—Section 458 (10 U.S.C. 1087h) is amended—

(1) by amending subsection (a) to read as follows:

''(a) EXPENSES.—

''(1) IN GENERAL.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), each fiscal year there shall be available to the Secretary from funds not otherwise appropriated, funds to be obligated for subsidy costs under this part. There shall also be available from funds not otherwise appropriated, funds to be obligated for indirect

administrative expenses under this part and part B, not to exceed (from such funds not otherwise appropriated) $260,000,000 for fiscal year 1994, $345,000,000 for fiscal year 1995, $85,000,000 (and such sums as may be necessary for administrative cost allowances for guaranty agencies for costs accrued prior to January 1, 1996) for fiscal year 1996, and $85,000,000 for each of the fiscal years 1997 through 2002.

"(B) REDUCTION.—The amount authorized to be made available for fiscal year 1997 under subparagraph (A) shall be reduced by the amount of any unobligated unexpended funds available to carry out this subsection for any fiscal year prior to fiscal year 1996.

"(C) PROHIBITION.—Notwithstanding any other provision of this subsection, funds made available under this subsection shall not be available for subsidy costs or direct administrative expenses under part B.

"(2) DIRECT AND INDIRECT ADMINISTRATIVE EXPENSES.—

"(A) DIRECT ADMINISTRATIVE EXPENSES.—For purposes of this subsection the

term 'direct administrative expenses' means the cost of—

"(i) activities related to credit extension, loan origination, loan servicing, management of contractors, and payments to contractors, other government entities, and program participants;

"(ii) collection of delinquent loans; and

"(iii) write-off and closeout of loans.

"(B) INDIRECT ADMINISTRATIVE EXPENSES.—For purposes of this subsection the term 'indirect administrative expenses' means the cost of—

"(i) personnel engaged in developing program regulations, policy and administrative guidance;

"(ii) audits of institutions and contractors;

"(iii) program reviews; and

"(iv) other oversight of the program under this part or under part B.

"(C) LIMITATION ON CERTAIN EXPENDITURES.—

"(i) INDIRECT ADMINISTRATIVE EXPENSES.—Expenditures for indirect administrative expenses for loans made pursuant to this part for a fiscal year shall not exceed 50 percent of the amount of funds appropriated under the second sentence of paragraph (1)(A) for such year.

"(ii) DIRECT AND INDIRECT ADMINISTRATIVE EXPENSES.—No funds made available for direct administrative expenses or indirect administrative expenses may be used for marketing, advertising or promotion of the William D. Ford Federal Direct Loan Program, or for the hiring of advertising agencies or other third parties to provide advertising services.

"(3) SUBSIDY COST.—The term 'subsidy cost' means the estimated long-term cost to the Federal Government of direct administrative expenses calculated on a net present value basis."; and

(2) by striking subsection (d).

(d) DEFAULT RATE LIMITATIONS ON DIRECT LENDING.—

(1) INSTITUTIONAL ELIGIBILITY BASED ON DEFAULT RATES.—The first sentence of section

435(a)(2)(A) (20 U.S.C. 1085(a)(2)(A)) is amended by inserting ''or part D'' after ''under this part''.

(2) COHORT DEFAULT RATE.—Section 435(m)(1) (20 U.S.C. 1085(m)(1)) is amended—

(A) in subparagraph (A)—

(i) by striking ''428, 428A, or 428H'' and inserting ''428, 428A, 428H, or part D (other than Federal Direct PLUS Loans)''; and

(ii) by striking ''428C'' and inserting ''428C or 455(g)'';

(B) in subparagraph (B)—

(i) by striking ''only''; and

(ii) by inserting ''and loans made under part D determined by the Secretary to be in default,'' after ''for insurance,'' and

(C) in subparagraph (C), by striking ''428C'' and inserting ''428C or 455(g)''.

(3) TERMINATION OF INSTITUTIONAL PARTICIPATION.—Section 455 (20 U.S.C. 1087e) is amended by adding at the end the following new subsection:

''(l) TERMINATION OF INSTITUTIONS FOR HIGH DEFAULT RATES.—

"(1) METHODOLOGY AND CRITERIA.—After consultation with institutions of higher education and other members of the higher education community, the Secretary shall develop—

"(A) a methodology for the calculation of institutional default rates under the loan programs operated pursuant to this part;

"(B) criteria for the initiation of termination proceedings on the basis of such default rates; and

"(C) procedures for the conduct of such termination proceedings.

"(2) DATA COLLECTION.—

"(A) IN GENERAL.—The Secretary shall compile data on loans subject to repayment schedules under sections 428(b)(1)(E)(i), 428C(c)(2)(A), and 455(e)(4) at the end of each fiscal year setting forth for such year by institution, and by programs under parts B and D individually and combined—

"(i) the number and amount of loans scheduled for payments that did not equal the interest accruing on the loans;

"(ii) the number and amount of loans where no payment was scheduled to be re-

ceived from the borrower due to their low-income status;

"(iii) the number and amount of loans where a scheduled payment was more than 90 days delinquent; and

"(iv) the projected amount of interest and principal to be forgiven at the end of the 25 year repayment period, based on the projected payment schedule for the borrower over that period.

"(B) ANNUAL COLLECTION AND USE.—Such data shall be compiled annually and used in developing the methodology, criteria and procedures required by paragraph (1). Such data shall be available for review by institutions of higher education, members of the higher education community, and the Advisory Committee on Student Financial Assistance established under section 491.

"(3) COMPARABILITY TO PART B.—In developing the methodology, criteria, and procedures required by paragraph (1), the Secretary, to the maximum extent possible, shall establish standards for the termination of institutions from participation in loan programs under this part that are comparable

to the standards established for the termination of institutions from participation in the loan programs under part B. Such procedures shall include provisions for the appeal of default rate calculations based on deficiencies in the servicing of loans under this part that are comparable to the provisions for such appeals based on deficiencies in the servicing of loans under part B.

"(4) LIMITATIONS ON AUTHORIZATION TO ISSUE NEW LOANS UNDER THIS PART.—The methodology, criteria, procedures and standards required by paragraphs (1) and (3) shall be promulgated in final form not later than 120 days after the date of enactment of this paragraph. Notwithstanding any other provision of this part, if such methodology, criteria, procedures and standards have not been promulgated in final form within 120 days after the date of enactment of this paragraph, then no loans under this part shall be made until the Secretary promulgates such methodology, criteria, procedures and standards.".

(e) ELIMINATION OF TRANSITION TO DIRECT LOANS.—The Act (20 U.S.C. 1001 et seq.) is further amended—

(1) in section 422(c)(7) (20 U.S.C. 1072(c)(7)—

(A) in subparagraph (A), by striking ''during the transition'' and all that follows through ''part D of this title''; and

(B) in subparagraph (B), by striking ''section 428(c)(10)(F)(v)'' and inserting ''section 428(c)(9)(F)(v)'';

(2) in section 428(c)(8) (20 U.S.C. 1078(c)(8))—

(A) by striking subparagraph (B); and

(B) by striking ''(A) If'' and inserting ''If'';

(3) in clause (vii) of section 428(c)(9)(F) (20 U.S.C. 1078(c)(9)(F))—

(A) by inserting ''and'' before ''to avoid disruption''; and

(B) by striking '', and to ensure an orderly transition'' and all that follows through the end of such clause and inserting a period;

(4) in section 428(c)(9)(K) (20 U.S.C. 1078(c)(9)(K)), by striking ''the progress of the transition from the loan programs under this part to'' and inserting ''the integrity and administration of'';

(5) in section 428(e)(1)(B)(ii) (20 U.S.C. 1078(e)(1)(B)(ii)), by striking ''during the transition'' and all that follows through ''under part D of this title'';

(6) in section 428(e)(3) (20 U.S.C. 1078(e)(3)), by striking ''of transition'';

(7) in section 428(j)(3) (20 U.S.C. 1078(j)(3))—

(A) in the heading for paragraph (3), by striking ''DURING TRANSITION TO DIRECT LENDING''; and

(B) in subparagraph (A), by striking ''during the transition'' and all that follows through ''part D of this title'';

(8) in the heading for paragraph (2) of section 453(c) (20 U.S.C. 1078c(c)), by striking ''TRANSITION'' and inserting ''INSTITUTIONAL'';

(9) in the heading for paragraph (3) of section 453(c) (20 U.S.C. 1078c(c)), by striking ''AFTER TRANSITION'';

(10) in section 456(b) (20 U.S.C. 1087f(b))—

(A) in paragraph (3), by inserting ''and'' after the semicolon;

(B) by striking paragraph (4);

(C) by redesignating paragraph (5) as paragraph (4);

(D) in paragraph (4) (as redesignated by subparagraph (C)), by striking ''successful operation'' and inserting ''integrity and efficiency''; and

(11) in paragraph (1) of section 422(g)—

(A) in the first sentence, by striking ''or the program authorized by part D of this title''; and

(B) in the second sentence, by striking ''or the program authorized by part D of this title''.

(f) FEES FOR ORIGINATION SERVICES.—Subsection (b) of section 452 (20 U.S.C. 1087b) is repealed.

(g) SCHOOL ORIGINATION PAYMENT.—

(1) PAYMENT.—

(A) FFELP.—Part B of title IV (20 U.S.C. 1071 et seq.) is amended by adding at the end the following new section:

''SEC. 440. LOAN PAYMENTS FROM INSTITUTIONS.

''(a) LOAN PAYMENTS BY ELIGIBLE INSTITUTIONS ON CERTAIN LOANS.—With respect to each loan under this part (other than a consolidation loan under section 428C) for which the first disbursement is made on or after January 1, 1996 for attendance at an eligible institution,

such eligible institution shall pay to the Secretary a payment in an amount equal to 0.85 percent of the principal amount of the loan. Such payment shall be made within 60 days after the close of the calendar quarter in which such loan is disbursed. It is the sense of the Senate that such payment shall not be charged to students attending such institution in the form of increased tuition or student fees.

''(b) DISTRIBUTION OF LOAN PAYMENT.—The Secretary shall deposit all payments collected pursuant to subsection (a) into the insurance fund established in section 431, which payments shall be available to offset the costs of the loan program under this part.''.

(B) DIRECT LOAN PROGRAM.—Section 455 (20 U.S.C. 1087e) is amended by adding at the end the following new subsection:

''(m) LOAN PAYMENTS BY ELIGIBLE INSTITUTIONS ON CERTAIN LOANS.—With respect to each loan under this part (other than a Federal Direct Consolidation Loan) for which the first disbursement is made on or after January 1, 1996, for attendance at an institution of higher education participating in the program under this part, such institution shall pay to the Secretary a payment in an amount equal to 0.85 percent of the principal amount of such loan. It is the sense of the Senate that such pay-

ment shall not be charged to students attending such institution in the form of increased tuition or student fees.''.

(2) ENFORCEMENT.—Section 435(a) (20 U.S.C. 1085(a)) is amended by adding at the end the following new paragraph:

''(4) INSTITUTIONAL PAYMENT REQUIREMENT.—To be an eligible institution under this subsection, for purposes of this part and part D, an eligible institution shall pay the loan payments required under section 440 and 455(l) within 60 days after the close of the calendar quarter in which the loans are disbursed. The first such payment shall be due on May 30, 1996.''.

(h) RISK SHARING.—Section 428(n) (20 U.S.C. 1078(n)) is amended by adding at the end the following new paragraph:

''(5) APPLICABILITY TO PART D LOANS.—The provisions of this subsection shall apply to institutions of higher education participating in direct lending under part D with respect to loans made under such part, and for the purposes of this paragraph, paragraph (4) shall be applied by inserting 'or part D' after 'this part'.''.

SEC. 10003. LOAN TERMS AND CONDITIONS.

(a) ELIMINATION OF GRACE PERIOD INTEREST SUBSIDIES.—Section 428(a)(3) (20 U.S.C. 1078(a)(3)) is amended by adding at the end the following new subparagraph:

"(C) Notwithstanding subparagraph (A), no portion of the interest which accrues after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload (as determined by the institution) and prior to the beginning of the repayment period of the loan shall be paid by the Secretary under this subsection on any loan for which the first disbursement is made on or after January 1, 1996, to an individual who is a new borrower on such date. Interest on the unpaid principal amount of any such loan during the interval described in the preceding sentence shall, at the option of the borrower—

"(i) be paid monthly or quarterly; or

"(ii) be added by the lender to the principal amount of the loan at the commencement of the repayment period.".

(b) PLUS LOAN INTEREST RATE AND SUBSIDY REBATE.—

(1) INTEREST RATE.—

(A) IN GENERAL.—Section 427A(c)(4) (20 U.S.C. 1077a(c)(4)) is amended by adding at the end the following new subparagraph:

"(F) Notwithstanding subparagraphs (A), (D), and (E), for any loan made pursuant to section 428B for which the first disbursement is made on or after January 1, 1996—

"(i) subparagraph (B) shall be applied by substituting '4.0' for '3.25'; and

"(ii) the interest rate shall not exceed 10 percent.".

(B) CONFORMING AMENDMENT.—Section 427A(h) (20 U.S.C. 1077a(h)) is amended—

(i) by striking paragraph (2); and

(ii) by redesignating paragraph (3) as paragraph (4).

(2) INTEREST REBATE.—

(A) AMENDMENT.—Section 428B (20 U.S.C. 1078–2) is amended by adding at the end the following new subsection:

"(f) INTEREST REBATE.—

"(1) REBATE.—Each holder of a loan under this section shall pay to the Secretary, on a biannual basis, an interest rebate in an amount equal to 1 percent of the unpaid principal amount of each loan

made, insured or guaranteed under this section that such holder holds.

"(2) DEPOSIT.—The Secretary shall deposit all rebates collected pursuant to paragraph (1) into the insurance fund established in section 431.".

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.

(c) COMPARABILITY PROVISIONS.—Paragraph (1) of section 455(a) (20 U.S.C. 1087e(a)) is amended to read as follows:

"(1) PARALLEL TERMS, CONDITIONS, ELIGIBILITY REQUIREMENTS, BENEFITS AND AMOUNTS.—Unless otherwise specified in this part, loans made to borrowers under this part shall have the same terms, conditions, eligibility requirements and benefits, be subject to the same administrative requirements for origination, payment and processing of applications, deferments and forbearances, be available in the same amounts, and be subject to the same interest rates and same amount of fees, as the corresponding types of loans made to borrowers under sections 428, 428B, and 428H. The Secretary shall promulgate regulations implementing this paragraph

not later than 120 days after the date of enactment of the Balanced Budget Reconciliation Act of 1995.''.

(d) USE OF ELECTRONIC FORMS.—Section 483(a) (20 U.S.C. 1090(a)) is amended by adding at the end the following new paragraph:

''(5) ELECTRONIC FORMS.—

''(A) The Secretary, in cooperation with representatives of institutions of higher education, eligible lenders, and guaranty agencies, shall prescribe an electronic version of the form described in paragraph (1). Such electronic version shall not require signatures to be collected at the time such version is submitted if the data contained in such version is verified by the student in one or more separate writings. The Secretary shall prescribe such version not later than 120 days after the date of enactment of this subparagraph.

''(B) Nothing in this Act shall be construed to prohibit the use of the electronic version prescribed under subparagraph (A) through software developed, produced, distributed (including by diskette, modem or network communication, or otherwise) and collected, by

an eligible lender, a guaranty agency, or a consortium thereof.

"(C) Each eligible lender, guaranty agency, or consortium that intends to reproduce the electronic version described in subparagraph (A) shall submit to the Secretary for review a copy of such reproduction. If such reproduction is inconsistent with this section, the Secretary shall notify such lender, agency, or consortium of the Secretary's objections within 60 days of such submission, and shall specifically identify the changes necessary to make such reproduction consistent with this section. In the absence of such an objection, such lender, agency, or consortium may use such reproduction as so submitted.

"(D) No fee may be charged to a student or an eligible institution (as defined in section 435(a)) for use of the electronic version described in subparagraph (A), or for any other electronic form used with such version in applying for—

"(i) assistance under this Act; or

"(ii) State student financial assistance.".

(e) APPLICATION FOR PART B LOANS USING FREE FEDERAL APPLICATION.—

(1) IN GENERAL.—Section 483(a) (20 U.S.C. 1090(a)) is further amended—

(A) in paragraph (1)—

(i) by inserting ''B,'' after ''assistance under parts A,'';

(ii) by striking ''part A) and to determine the need of a student for the purpose of part B of this title'' and inserting ''part A)''; and

(iii) by striking the last sentence; and

(B) in paragraph (3)—

(i) by striking ''and States shall receive,'' and inserting '', any guaranty agency authorized by an institution of higher education, and States, shall receive, at their request and''; and

(ii) by inserting ''processing loan applications under part B and'' before ''determining need –and eligibility''.

(2) CONFORMING AMENDMENT.—Section 432(m)(1)(D) is amended by inserting ''or to prohibit the use of the form described in section

483(a)(1) as the application for loans under this part'' before the period.

(f) ABILITY OF PART D BORROWERS TO OBTAIN FEDERAL STAFFORD CONSOLIDATION LOANS.—Section 428C(a)(4) (20 U.S.C. 1078–3(a)(4)) is amended—

(1) by redesignating subparagraphs (B), (C) and (D) as subparagraphs (C), (D) and (E), respectively; and

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

''(B) made under part D of this title;''.

(g) ABILITY OF PART B BORROWERS TO OBTAIN FEDERAL DIRECT CONSOLIDATION LOANS.—Paragraph (5) of section 428C(b) (20 U.S.C. 1078–3(b)) is amended to read as follows:

''(5) DIRECT CONSOLIDATION LOANS FOR BORROWERS IN SPECIFIED CIRCUMSTANCES.—

''(A) Subject to section 453(a)(2)(B), the Secretary may offer a borrower a Federal Direct Consolidation loan if a borrower otherwise eligible for a consolidation loan pursuant to this section is—

''(i) unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1); or

"(ii) unable to obtain a consolidation loan with income contingent repayment terms from a lender with an agreement under subsection (a)(1).

"(B) The Secretary shall establish appropriate certification procedures to verify the eligibility of borrowers for consolidation loans under this paragraph.

"(C) The Secretary shall not offer consolidation loans under this paragraph if, in the Secretary's judgment, the Department does not have the necessary origination and servicing arrangements in place for such loans, or the projected volume in such loans will be destabilizing to the availability of loans otherwise available under this part.".

(h) INCOME CONTINGENT REPAYMENT IN THE FEDERAL FAMILY EDUCATION LOAN PROGRAM.—

(1) INSURANCE PROGRAM AGREEMENTS.—Section 428(b)(1)(E)(i) (20 U.S.C. 1078(b)(1)(E)(i)) is amended by striking "or income sensitive-repayment schedule" and inserting "repayment schedule, an income-sensitive repayment schedule, or an income contingent repayment schedule,".

(2) REPAYMENT SCHEDULES.—The matter preceding clause (i) of section 428C(c)(2)(A) (20 U.S.C. 1078–3(c)(2)(A)) is amended—

(A) in the first sentence, by striking ''or income-sensitive repayment schedules'' and inserting ''repayment schedules, income-sensitive repayment schedules, or income contingent repayment schedules''; and

(B) in the second sentence, by striking ''income-sensitive'' and inserting ''graduated, income-sensitive, or income contingent''.

(3) COMPARABLE TERMS AND CONDITIONS.—Section 428(m) (20 U.S.C. 1078(m)) is amended by adding at the end the following new paragraph:

''(3) INCOME CONTINGENT REPAYMENT SCHEDULES.—For the purpose of this part, income contingent repayment schedules established pursuant to subsections (b)(1)(E)(i) and (c)(2)(A) may have terms and conditions comparable to the terms and conditions established by the Secretary pursuant to section 455(e)(4).''.

SEC. 10004. AMENDMENTS AFFECTING FFELP LENDERS AND LOAN HOLDERS.

(a) RISK SHARING BY THE LOAN HOLDERS.—

(1) AMENDMENT.—Section 428(b)(1)(G) (20 U.S.C. 1078(b)(1)(G)) is amended by striking ''98 percent'' and inserting ''95 percent''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.

(b) EXCEPTIONAL PERFORMANCE INSURANCE REDUCTION.—Section 428I(b)(1) (20 U.S.C. 1078–9(b)(1)) is amended—

(1) in the paragraph heading, by striking ''100 PERCENT''; and

(2) by striking ''100 percent of'' and inserting ''95 percent of''.

(c) LOAN FEES FROM LENDERS.—

(1) AMENDMENT.—Section 438(d)(2) (20 U.S.C. 1087–1(d)(2)) is amended by striking ''0.50 percent'' and inserting ''1.0 percent''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.

(d) LENDER AND HOLDER REBATE.—

(1) AMENDMENT.—Section 438 (20 U.S.C. 1078) is amended by adding at the end the following new subsection:

"(g) SUBSIDY REBATE ON STAFFORD LOANS.—

"(1) REBATE.—Each holder of a subsidized or unsubsidized Federal Stafford loan under this part shall pay to the Secretary, on a biannual basis, a subsidy rebate in an amount equal to .025 percent of the unpaid principal amount of each such loan in repayment that such holder holds.

"(2) DEPOSIT.—The Secretary shall deposit all subsidy rebates collected under paragraph (1) into the insurance fund established in section 431.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.

(e) SMALL LENDER AUDIT EXEMPTION.—Section 428(b)(1)(U)(iii) (20 U.S.C. 1078(b)(1)(U)(iii)) is amended—

(1) by inserting "in the case of any lender that originates or holds more than $5,000,000 in principal on loans made under this title in any fiscal year," before "for (I)";

(2) by inserting ''such'' before ''lender at least once'';

(3) by inserting ''such'' before ''a lender that is audited''; and

(4) by striking ''if the lender'' and inserting ''if such lender''.

SEC. 10005. AMENDMENTS AFFECTING GUARANTY AGENCIES.

(a) USE OF RESERVE FUNDS TO PURCHASE DEFAULTED LOANS.—Section 422 (20 U.S.C. 1072) is amended by adding at the end the following new subsection:

''(h) USE OF RESERVE FUNDS TO PURCHASE DEFAULTED LOANS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a guaranty agency shall use not less than 50 percent of such agency's reserve funds to purchase and hold defaulted loans that are guaranteed by such agency and for which a claim for insurance is filed with such agency by an eligible lender. The amount of such purchases shall be considered as reserve funds under this section and used in the calculation of the minimum reserve level under section 428(c)(9).

"(2) SPECIAL RULE.—A guaranty agency shall not be required to use its reserve funds to purchase and hold defaulted loans in accordance with paragraph (1) to the extent that—

"(A) the dollar volume of insurance claims filed with such agency does not amount to 50 percent of such agency's available reserve funds;

"(B) such use is prohibited by State law; or

"(C) such use will compromise the ability of the guaranty agency to pay program expenses.".

(b) EXTENSION OF PERIOD A GUARANTY AGENCY MUST HOLD A DEFAULTED LOAN.—

(1) EXEMPTION FOR EXTENDED HOLDING PERIOD.—The last sentence of section 428(c)(1)(A) (20 U.S.C. 1078(c)(1)(A)) is amended by striking "A guaranty agency" and inserting "Except as provided in section 428K, a guaranty agency".

(2) NEW EXTENDED HOLDING PERIOD PROGRAM.—

(A) AMENDMENT.—Part B of title IV (20 U.S.C. 1071 et seq.) is amended by inserting after section 428J the following new section:

"SEC. 428K. GUARANTOR PURCHASE OF CLAIMS WITH RESERVE FUNDS.

"(a) LOANS SUBJECT TO EXTENDED HOLDING PERIOD.—Except as provided in subsection (b), a guaranty agency shall file a claim for reimbursement with respect to losses (resulting from the default of a borrower) subject to reimbursement by the Secretary pursuant to section 428(c)(1) not less than 180 days nor more than 225 days after the guaranty agency discharges such agency's insurance obligation on a loan insured under this part. Such claim shall include losses on the unpaid principal and accrued interest of any such loan, including interest accrued from the date of such discharge to the date such agency files the claim for reimbursement from the Secretary.

"(b) LOANS EXCLUDED FROM EXTENDED HOLDING.—A guaranty agency may file a claim with respect to losses subject to reimbursement by the Secretary pursuant to section 428(c)(1) prior to 180 days after the date the guaranty agency discharges such agency's insurance obligation on a loan insured under this part, if—

"(1) such agency used 50 percent or more of such agency's reserve funds to purchase or hold loans in accordance with section 422(h);

"(2) such claim is based on an inability to locate the borrower and the guaranty agency certifies to the Secretary that—

"(A) diligent attempts were made to locate the borrower through the use of reasonable skip-tracing techniques in accordance with section 428(c)(2)(G); and

"(B) such skip-tracing attempts to locate the borrower were unsuccessful; or

"(3) the guaranty agency determines that the borrower is unlikely to possess the financial resources to begin repaying the loan prior to 180 days after default by the borrower.

"(c) GUARANTY AGENCY EFFORTS DURING EXTENDED HOLDING PERIOD.—A guaranty agency shall attempt to bring a loan described in subsection (a) into repayment status during the period prior to 180 days after the date the guaranty agency discharges its insurance obligation on such loan, so that no claim for reimbursement by the Secretary is necessary. Upon securing payments satisfactory to the guaranty agency during such period, such agency shall, if practicable, sell such loan to an eligible lender. Such loan shall not be sold to an eligible lender that the guaranty agency determines has substantially failed to exercise the due diligence required of lenders under this part.

"(d) REGULATION PROHIBITED.—The Secretary shall not promulgate regulations regarding the collection

activity of a guaranty agency with respect to a loan described in subsection (a) for which reinsurance has not been paid under section 428(c)(1).''.

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply with respect to loans for which claims for insurance are filed by eligible lenders on or after January 1, 1996.

(c) ADMINISTRATIVE COST ALLOWANCE.—Section 428(f)(1) (20 U.S.C. 1078(f)(1)) is amended—

(1) in the matter preceding clause (i) of subparagraph (A), by striking ''For a fiscal year prior to fiscal year 1994, the'' and inserting ''The''; and

(2) by amending subparagraph (B) to read as follows:

''(B)(i) The total amount of payments for any fiscal year prior to fiscal year 1994 made under this paragraph shall be equal to 1 percent of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such guaranty agency.

''(ii) For fiscal year 1996 and each succeeding fiscal year, each guaranty agency shall elect to receive an administrative cost allow-

ance, payable quarterly, for such fiscal year calculated on the basis of either of the following:

"(I) 0.85 percent of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such guaranty agency; or

"(II) 0.08 percent of the original principal amount of loans under this part guaranteed by the guaranty agency that was outstanding at the end of the previous fiscal year.

"(iii) The guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of this subparagraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application therefor under this subparagraph.

"(iv) Notwithstanding clauses (ii) and (iii), for each of the fiscal years 1996 through 2002, the Secretary shall pay an aggregate amount for such year of not more than $180,000,000 to all guaranty agencies receiving administrative cost allowances under this subparagraph.

(d) SECRETARY'S EQUITABLE SHARE OF COLLECTIONS ON CONSOLIDATED DEFAULTED LOANS.—Section 428(c)(6)(A) (20 U.S.C. 1078(C)(6)(A) is amended—

(1) in the matter preceding clause (i)—

(A) by inserting ''or on behalf of'' after ''made by''; and

(B) by inserting '', including payments made to discharge loans made under this title to obtain a consolidation loan pursuant to this part or part D,'' after ''borrower''; and

(2) in clause (ii), by inserting after ''an amount equal to'' the following: ''—

''(I) for defaulted loans consolidated pursuant to this part or part D on or after January 1, 1996, 25 percent of the amount of the balance of the principal and accrued interest outstanding at the time of such consolidation; or

''(II) for all other loans,''.

(e) RESERVE FUND REFORMS.—

(1) STRENGTHENING AND STABILIZING GUARANTY AGENCIES.—Section 428(c) (20 U.S.C. 1078(c)) is amended—

(A) in paragraph (8) (as amended by section 10002(e)(2)), by adding at the end the following new sentences: ''Prior to making such determination for guaranty agencies, the Secretary shall, in consultation with guaranty agencies, develop criteria to determine whether such agencies have made adequate collection efforts. Such criteria shall be prescribed by regulations that are developed through negotiated rulemaking and that include procedures for administrative due process. In determining whether a guaranty agency's collection efforts have met such criteria, the Secretary shall consider such agency's record of success in collecting on defaulted loans, the age of the loans, and the amount of recent payments received on the loans.'';

(B) in subparagraph (9)(C), by striking ''80 percent'' and inserting ''78 percent'';

(C) by amending subparagraph (9)(E) to read as follows:

''(E) After providing a guaranty agency notice and opportunity for a hearing on the record, the Secretary may terminate a guaranty

agency's agreement in accordance with subparagraph (F) if—

"(i) such guaranty agency is required to submit a management plan under this paragraph and fails to submit a plan that is acceptable to the Secretary;

"(ii) the Secretary determines that such guaranty agency has failed to improve substantially its administrative and financial condition and that such guaranty agency is in danger of financial collapse; or

"(iii) the Secretary determines that such action is necessary to ensure the continued availability of loans to student or parent borrowers."; and

(D) in paragraph (9)(F)—

(i) in clause (i), by inserting "in accordance with any recommendation, submitted by a State, for a successor agency if such successor agency is not subject to an outstanding limitation, suspension, or termination action" before the semicolon;

(ii) in clause (ii), by inserting "in accordance with any recommendation, submitted by a State, for a successor agency

if such successor agency is not subject to an outstanding limitation, suspension, or termination action'' before the semicolon;

(iii) in clause (iii), by inserting ''and if no guaranty agency is willing to act as a successor guaranty agency under clause (i) or (ii)'' before the semicolon; and

(iv) in clause (vi), by inserting ''dedicated to the functions of the guaranty agency under the loan insurance program under this part'' after ''assets of the guaranty agency''.

(2) STRENGTHENING GUARANTY AGENCY RESERVES.—Section 422(g) (20 U.S.C. 1072(g)) is amended—

(A) in paragraph (1)—

(i) in the sentence preceding subparagraph (A), by inserting ''current and future'' before ''program expenses''; and

(ii) in subparagraph (D)—

(I) by striking ''(A) or'' and inserting ''(A),''; and

(II) by inserting ''or (C)'' before ''shall be based''; and

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting ", after notice and an opportunity for a hearing," after "Secretary determines"; and

(ii) in subparagraph (B), by inserting ", after notice and an opportunity for a hearing," after "direct a guaranty agency".

(3) ADDITIONAL AMENDMENTS.—Section 422 (20 U.S.C. 1072) is further amended—

(A) in the last sentence of subsection (a)(2), by striking "Except as provided in section 428(c)(10) (E) or (F), such" and inserting "Except as provided in subparagraph (E) or (F) of section 428(c)(9), such"; and

(B) in subsection (g), by amending paragraph (4) to read as follows:

"(4) DISPOSITION OF FUNDS RETURNED TO OR RECOVERED BY THE SECRETARY.—Any funds that are returned to or otherwise recovered by the Secretary pursuant to this subsection shall be returned to the Treasury of the United States for purposes of reducing the Federal debt and shall be deposited into the special account under section 3113(d) of title 31, United States Code.".

(f) ELIMINATION OF SUPPLEMENTAL PRECLAIMS ASSISTANCE.—

(1) AMENDMENT.—Section 428(l) (20 U.S.C. 1078(l)) is amended—

(A) by striking paragraph (2); and

(B) by striking ''(l) PRECLAIMS'' and all that follows through ''Upon receipt'' and inserting ''(l) PRECLAIMS ASSISTANCE AND SUPPLEMENTAL PRECLAIMS ASSISTANCE.—Upon receipt''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to loans for which the first delinquency occurs on or after January 1, 1996.

(g) NATIONAL STUDENT LOAN CLEARINGHOUSE.—Section 428(f)(1)(A)(iv) (20 U.S.C. 1078(f)(1)(A)(iv)) is amended by inserting ''whether such monitoring is conducted through the National Student Loan Data System established under section 485B or otherwise'' before the semicolon.

(h) PROHIBITION REGARDING MARKETING, ADVERTISING, AND PROMOTION.—Section 422 (20 U.S.C. 1072) is amended by adding after subsection (h) (as added by subsection (a)) the following new subsection:

"(i) PROHIBITION.—The reserve funds of a guaranty agency may not be used for marketing, advertising, or promotion of the Robert T. Stafford Federal Student Loan Program, or for the hiring of advertising agencies or other third parties to provide advertising services.".

SEC. 10006. REAUTHORIZATION.

Notwithstanding any other provision of law, the authorization of appropriations for each program under part B of title IV (20 U.S.C. 1071 et seq.) and the duration of such program, is extended through fiscal year 2002.

SEC. 10007. CONNIE LEE PRIVATIZATION.

(a) STATUS OF THE CORPORATION AND CORPORATE POWERS; OBLIGATIONS NOT FEDERALLY GUARANTEED.—

(1) STATUS OF THE CORPORATION.—The College Construction Loan Insurance Association (hereafter in this section referred to as the "Corporation") shall not be an agency, instrumentality, or establishment of the United States Government, nor a Government corporation nor a Government controlled corporation as such terms are defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act) shall be allow-

able against the United States based on the actions of the Corporation.

(2) CORPORATE POWERS.—The Corporation shall be subject to the provisions of this section, and, to the extent not inconsistent with this section, to the District of Columbia Business Corporation Act (or the comparable law of another State, if applicable). The Corporation shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act (or such other applicable State law) as from time to time in effect in order to conduct its affairs as a private, for-profit corporation and to carry out its purposes and activities incidental thereto. The Corporation shall have the power to enter into contracts, to execute instruments, to incur liabilities, to provide products and services, and to do all things as are necessary or incidental to the proper management of its affairs and the efficient operation of a private, for-profit business.

(3) LIMITATION ON OWNERSHIP OF STOCK.—

(A) SECRETARY OF THE TREASURY.—The Secretary of the Treasury, in completing the sale of stock pursuant to subsection (c), may not sell or issue the stock held by the Secretary of Education to an agency, instrumentality, or

establishment of the United States Government, or to a Government corporation or a Government controlled corporation as such terms are defined in section 103 of title 5, United States Code, or to a government-sponsored enterprise as such term is defined in section 622 of title 2, United States Code.

(B) STUDENT LOAN MARKETING ASSOCIATION.—The Student Loan Marketing Association shall not increase its share of the ownership of the Corporation in excess of 42 percent of the shares of stock of the Corporation outstanding on the date of enactment of this Act. The Student Loan Marketing Association shall not control the operation of the Corporation, except that the Student Loan Marketing Association may participate in the election of directors as a shareholder, and may continue to exercise its right to appoint directors under section 754 of the Higher Education Act of 1965 (20 U.S.C. 1132f–3) as long as that section is in effect.

(4) NO FEDERAL GUARANTEE.—

(A) OBLIGATIONS INSURED BY THE CORPORATION.—

(i) FULL FAITH AND CREDIT OF THE UNITED STATES.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the full faith and credit of the United States.

(ii) STUDENT LOAN MARKETING ASSOCIATION.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the Student Loan Marketing Association.

(iii) SPECIAL RULE.—This paragraph shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

(B) SECURITIES OFFERED BY THE CORPORATION.—No debt or equity securities of the Corporation shall be deemed to be guaranteed by the full faith and credit of the United States.

(5) DEFINITION.—The term ''Corporation'' as used in this section shall refer to the College Construction Loan Insurance Association as in existence

as of the day before the date of enactment of this Act, and to any successor corporation.

(b) RELATED PRIVATIZATION REQUIREMENTS.—

(1) NOTICE REQUIREMENTS.—

(A) IN GENERAL.—During the six-year period following the date of enactment of this Act, the Corporation shall include, in each of the Corporation's contracts for the insurance, guarantee, or reinsurance of obligations, and in each document offering debt or equity securities of the Corporation a prominent statement providing notice that—

(i) such obligations or such securities, as the case may be, are not obligations of the United States, nor are such obligations guaranteed in any way by the full faith and credit of the United States; and

(ii) the Corporation is not an instrumentality of the United States.

(B) ADDITIONAL NOTICE.—During the five-year period following the sale of stock pursuant to subsection (c)(1), in addition to the notice requirements in subparagraph (A), the Corporation shall include, in each of the contracts and documents referred to in such sub-

paragraph, a prominent statement providing notice that the United States is not an investor in the Corporation.

(2) CORPORATE CHARTER.—The Corporation's charter shall be amended as necessary and without delay to conform to the requirements of this section.

(3) CORPORATE NAME.—The name of the Corporation, or of any direct or indirect subsidiary thereof, may not contain the term ''College Construction Loan Insurance Association'', or any substantially similar variation thereof.

(4) TRANSITIONAL REQUIREMENTS.—

(A) REQUIREMENTS UNTIL STOCK SALE.—Notwithstanding subsection (d), the requirements of sections 754 and 760 of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), as such Act was in existence on the day before the date of enactment of this Act, shall continue to be effective until the day immediately following the date of closing of the purchase of the Secretary of Education's stock (or the date of closing of the final purchase, in the case of multiple transactions) pursuant to subsection (c)(1) of this Act.

(B) REPORTS AFTER STOCK SALE.—The Corporation shall, not later than March 30 of the first full calendar year immediately following the sale pursuant to subsection (c)(1), and each of the two succeeding years, submit to the Secretary of Education a report describing the Corporation's efforts to assist in the financing of education facilities projects, including projects for elementary, secondary, and post-secondary educational institution infrastructure, and detailing, on a project-by-project basis, the Corporation's business dealings with educational institutions that are rated by a nationally recognized statistical rating organization at or below the organization's third highest rating.

(c) SALE OF FEDERALLY OWNED STOCK.—

(1) SALE OF STOCK REQUIRED.—The Secretary of the Treasury shall sell, pursuant to section 324 of title 31, United States Code, the stock of the Corporation owned by the Secretary of Education as soon as possible after the date of enactment of this Act, but not later than six months after such date.

(2) PURCHASE BY THE CORPORATION.—In the event that the Secretary of the Treasury is unable to sell the stock, or any portion thereof, at a price

acceptable to the Secretary of Education and the Secretary of the Treasury, the Corporation shall purchase, within 9 months after the date of enactment of this Act, such stock at a price determined by the Secretary of the Treasury and acceptable to the Corporation based on the independent appraisal of one or more nationally recognized financial firms, except that such price shall not exceed the value of the Secretary of Education's stock as determined by the Congressional Budget Office in House Report 104–153, dated June 22, 1995.

(3) REIMBURSEMENT OF COSTS OF SALE.—The Secretary of the Treasury shall be reimbursed from the proceeds of the sale of the stock under this subsection for all reasonable costs related to such sale, including all reasonable expenses relating to one or more independent appraisals under this subsection.

(4) ASSISTANCE BY THE CORPORATION.—The Corporation shall provide such assistance as the Secretary of the Treasury and the Secretary of Education may require to facilitate the sale of the stock under this subsection.

(e) REPEAL OF STATUTORY RESTRICTIONS AND RELATED PROVISIONS.—Part D of title VII of the Higher

Education Act of 1965 (20 U.S.C. 1001 et seq.) is repealed.

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

SEC. 11001. SHORT TITLE.

This title may be cited as the ''Veterans Reconciliation Act of 1995''.

Subtitle A—Extension of Certain Authorities

SEC. 11011. EXTENSION OF AUTHORITY TO REQUIRE THAT CERTAIN VETERANS MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING OUTPATIENT MEDICATIONS.

Section 1722A(c) of title 38, United States Code, is amended by striking out ''September 30, 1998'' and inserting in lieu thereof ''September 30, 2002''.

SEC. 11012. EXTENSION OF AUTHORITY FOR MEDICAL CARE COST RECOVERY.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out ''before October 1, 1998,'' and inserting in lieu thereof ''before October 1, 2002,''.

SEC. 11013. LOAN FEES.

(a) INCREASE IN HOME LOAN FEES.—Paragraph (4) of section 3729(a) of title 38, United States Code, is

amended by striking out ''before October 1, 1998,'' and inserting in lieu thereof ''before October 1, 2002,''

(b) FEE FOR MULTIPLE USE OF HOUSING ASSISTANCE.—Paragraph (5)(C) of such section is amended by striking out ''before October 1, 1998'' and inserting in lieu thereof ''before October 1, 2002''.

SEC. 11014. EXTENSION OF CERTAIN INCOME VERIFICATION AUTHORITY.

(a) EXTENSION.—Section 5317(g) of title 38, United States Code, is amended by striking out ''September 30, 1998'' and inserting in lieu thereof ''September 30, 2002''.

(b) CONFORMING AMENDMENT.—Section 6103(l)(7)(D) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(*l*)(7)(D)) is amended in the second sentence of the flush matter after clause (ix) by striking out ''September 30, 1998'' and inserting in lieu thereof ''September 30, 2002''.

SEC. 11015. EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f)(7) of title 38, United States Code, is amended by striking out ''September 30, 1998'' and inserting in lieu thereof ''September 30, 2002''.

Subtitle B—Cost-of-Living Adjustments in Compensation Rates

SEC. 11021. POLICY REGARDING COST-OF-LIVING ADJUSTMENT IN COMPENSATION RATES.

In each of fiscal years 1996 through 2002, the cost-of-living adjustments in the rates and limitations for compensation payable under chapter 11 of title 38, United States Code, and of dependency and indemnity compensation payable under chapter 13 of such title will be no more than a percentage equal to the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased as of December 1 of the fiscal year concerned as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)), with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower dollar.

Subtitle C—Educational Benefits

SEC. 11031. LIMITATION REGARDING COST-OF-LIVING ADJUSTMENTS FOR MONTGOMERY GI BILL BENEFITS.

With respect to each of fiscal years 1996 through 2002, the cost-of-living adjustments in the rates of educational assistance payable under chapter 30 of title 38, United States Code, shall be the percentage equal to 50

percent of the percentage by which such assistance would be increased under section 3015(g) of such title with respect to such fiscal year but for this section.

SEC. 11032. INCREASE IN AMOUNT OF CONTRIBUTION FOR PARTICIPATION IN MONTGOMERY GI BILL PROGRAM.

(a) ACTIVE DUTY SERVICE.—Section 3011(b) of title 38, United States Code, is amended to read as follows:

''(b)(1) The basic pay of any individual described in subsection (a)(1)(A) of this section who first becomes a member of the Armed Forces or enters on active duty during the period beginning on October 1, 1995, and ending on September 30, 1996, and who does not make an election under subsection (c)(1) of this section shall be reduced by $134.96 for each of the first 12 months that such individual is entitled to such pay.

''(2) The basic pay of any individual described in subsection (a)(1)(A) of this section who first becomes a member of the Armed Forces or enters on active duty during any fiscal year beginning on or after October 1, 1996, and before September 30, 2002, and who does not make an election under subsection (c)(1) of this section, shall be reduced, for each of the first 12 months that such individual is entitled to such pay, by an amount equal to the amount of the reduction required under this subsection

during the preceding fiscal year increased by the percentage, if any, by which rates payable for educational assistance are increased under section 3015(g) of this title with respect to the fiscal year during which the individual first becomes a member of the Armed Forces or enters on active duty.

''(3) Any amount by which the basic pay of an individual is reduced under this chapter shall revert to the Treasury and shall not, for purposes of any Federal law, be considered to have been received by or to be within the control of such individual.''.

(b) SERVICE IN THE SELECTED RESERVE.—Section 3012(c) of such title is amended to read as follows:

''(c)(1) The basic pay of any individual described in subsection (a)(1)(A) of this section who first becomes a member of the Armed Forces or enters on active duty during the period beginning on October 1, 1995, and ending on September 30, 1996, and who does not make an election under subsection (d)(1) of this section shall be reduced by $134.96 for each of the first 12 months that such individual is entitled to such pay.

''(2) The basic pay of any individual described in subsection (a)(1)(A) of this section who first becomes a member of the Armed Forces or enters on active duty during any fiscal year beginning on or after October 1, 1996, and

before September 30, 2002, and who does not make an election under subsection (d)(1) of this section, shall be reduced, for each of the first 12 months that such individual is entitled to such pay, by an amount equal to the amount of the reduction required under this subsection during the preceding fiscal year increased by the percentage, if any, by which rates payable for educational assistance are increased under section 3015(g) of this title with respect to the fiscal year during which the individual first becomes a member of the Armed Forces or enters on active duty.

''(3) Any amount by which the basic pay of an individual is reduced under this chapter shall revert to the Treasury and shall not, for purposes of any Federal law, be considered to have been received by or to be within the control of such individual.''.

Subtitle D—Miscellaneous

SEC. 11041. CLARIFICATION OF ENTITLEMENT FOR BENEFITS FOR DISABILITY RESULTING FROM TREATMENT OR VOCATIONAL SERVICES PROVIDED BY DEPARTMENT OF VETERANS AFFAIRS.

(a) CLARIFICATION.—The text of section 1151 of title 38, United States Code, is amended to read as follows:

"(a)(1) Disability or death compensation shall be awarded under this chapter, and dependency and indemnity compensation shall be awarded under chapter 13 of this title, for additional disability or death of a veteran in the same manner as if such additional disability or death, as the case may be, were service-connected if such additional disability or death—

"(A) is not the result of the veteran's willful misconduct; and

"(B) results from—

"(i) carelessness, negligence, lack of proper skill, error in judgment, or similar instance of fault in any hospital care, medical or surgical treatment, or examination furnished either by a Department employee or in a Department facility under any of the laws administered by the Secretary;

"(ii) an event in such hospital care, medical or surgical treatment, or examination that is not reasonably foreseeable; or

"(iii) the provision of training and rehabilitative services by the Secretary (or by a service-provider used by the Secretary for such provision under section 3115 of this title) as part of

an approved rehabilitation program under chapter 31 of this title.

"(2) For purposes of paragraph (1), the term 'Department facility' means a facility over which the Secretary has direct jurisdiction.

"(b) Where an individual is, on or after December 1, 1962, awarded a judgment against the United States in a civil action brought pursuant to section 1346(b) of title 28 or, on or after December 1, 1962, enters into a settlement or compromise under section 2672 or 2677 of title 28 by reason of a disability or death treated pursuant to this section as if it were service-connected, then no benefits shall be paid to such individual for any month beginning after the date such judgment, settlement, or compromise on account of such disability or death becomes final until the aggregate amount of benefits which would be paid but for this subsection equals the total amount included in such judgment, settlement, or compromise.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply to claims filed (including original claims and applications to reopen, revise, reconsider, or otherwise readjudicate claims previously filed) for disability or death compensation, or dependency and indemnity compensation, on or after that date, regardless of the

date of the occurrence of the additional disability or death upon which the claims are based.

TITLE XII—COMMITTEE ON FINANCE—REVENUE PROVISIONS

SEC. 12000. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Revenue Reconciliation Act of 1995''.

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise specifically provided, wherever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents of this title is as follows:

TITLE XII—COMMITTEE ON FINANCE—REVENUE PROVISIONS

Sec. 12000. Short title; references; table of contents.

Subtitle A—Family Tax Relief

Sec. 12001. Child tax credit.
Sec. 12002. Reduction in marriage penalty.
Sec. 12003. Credit for adoption expenses.
Sec. 12004. Credit for interest on education loans.

Subtitle B—Savings And Investment Incentives

CHAPTER 1—RETIREMENT SAVINGS INCENTIVES

SUBCHAPTER A—INDIVIDUAL RETIREMENT PLANS

PART I—RESTORATION OF IRA DEDUCTION

Sec. 12101. Restoration of IRA deduction.
Sec. 12102. Inflation adjustment for deductible amount.
Sec. 12103. Homemakers eligible for full IRA deduction.
Sec. 12104. Certain coins and bullion not treated as collectibles.

PART II—NONDEDUCTIBLE TAX-FREE IRAS

Sec. 12111. Establishment of nondeductible tax-free individual retirement accounts.

SUBCHAPTER B—PENALTY-FREE DISTRIBUTIONS

Sec. 12121. Distributions from certain plans may be used without penalty to purchase first homes or to pay higher education or financially devastating medical expenses.

SUBCHAPTER C—SIMPLE SAVINGS PLANS

Sec. 12131. Establishment of savings incentive match plans for employees of small employers.
Sec. 12132. Extension of simple plan to 401(k) arrangements.

CHAPTER 2—CAPITAL GAINS REFORM

SUBCHAPTER A—TAXPAYERS OTHER THAN CORPORATIONS

Sec. 12141. Capital gains deduction.
Sec. 12142. Modifications to exclusion of gain on certain small business stock.
Sec. 12143. Rollover of gain from sale of qualified stock.

SUBCHAPTER B—CORPORATE CAPITAL GAINS

Sec. 12151. Reduction of alternative capital gain tax for corporations.

CHAPTER 3—CORPORATE ALTERNATIVE MINIMUM TAX REFORM

Sec. 12161. Modification of depreciation rules under minimum tax.
Sec. 12162. Long-term unused credits allowed against minimum tax.

Subtitle C— Health Related Provisions

CHAPTER 1—LONG-TERM CARE PROVISIONS

SUBCHAPTER A—LONG-TERM CARE SERVICES AND CONTRACTS

PART I—GENERAL PROVISIONS

Sec. 12201. Qualified long-term care services treated as medical care.
Sec. 12202. Treatment of long-term care insurance or plans.
Sec. 12203. Reporting requirements.
Sec. 12204. Effective dates.

PART II—CONSUMER PROTECTION PROVISIONS

Sec. 12211. Policy requirements.
Sec. 12212. Requirements for issuers of long-term care insurance policies.
Sec. 12213. Coordination with State requirements.
Sec. 12214. Effective dates.

SUBCHAPTER B—TREATMENT OF ACCELERATED DEATH BENEFITS

Sec. 12221. Treatment of accelerated death benefits under life insurance contracts.
Sec. 12222. Treatment of companies issuing qualified accelerated death benefit riders.

SUBCHAPTER C—MEDICAL SAVINGS ACCOUNTS

Sec. 12231. Deduction for contributions to medical savings accounts.
Sec. 12232. Exclusion from income of employer contributions to medical savings accounts.
Sec. 12233. Medical savings accounts.

SUBCHAPTER D—OTHER PROVISIONS

Sec. 12241. Adjustment of death benefit limits for certain policies.
Sec. 12242. Organizations subject to section 833.

Subtitle D—Estate Tax Reform

Sec. 12301. Family-owned business exclusion.
Sec. 12302. Increase in unified estate and gift tax credit.
Sec. 12303. Treatment of land subject to a qualified conservation easement.
Sec. 12304. Expansion of exception from generation-skipping transfer tax for transfers to individuals with deceased parents.
Sec. 12305. Extension of treatment of certain rents under section 2032A to lineal descendants.

Subtitle E—Extension Of Expiring Provisions

CHAPTER 1—EXTENSIONS THROUGH FEBRUARY 28, 1997

Sec. 12401. Work opportunity tax credit.
Sec. 12402. Employer-provided educational assistance programs.
Sec. 12403. Research credit.
Sec. 12404. Employer-provided group legal services.
Sec. 12405. Orphan drug tax credit.
Sec. 12406. Contributions of stock to private foundations.
Sec. 12407. Delay of scheduled increase in tax on fuel used in commercial aviation.

CHAPTER 2—EXTENSIONS OF SUPERFUND AND OIL SPILL LIABILITY TAXES

Sec. 12411. Extension of hazardous substance superfund.
Sec. 12412. Extension of oil spill liability tax.

CHAPTER 3—EXTENSIONS RELATING TO FUEL TAXES

Sec. 12421. Ethanol blender refunds.
Sec. 12422. Extension of binding contract date for biomass and coal facilities.

CHAPTER 4—DIESEL DYEING PROVISIONS

Sec. 12431. Exemption from diesel fuel dyeing requirements with respect to certain States.
Sec. 12432. Moratorium for excise tax on diesel fuel sold for use or used in diesel-powered motorboats.

CHAPTER 5—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

Sec. 12441. Revision of tax rules on expatriation.
Sec. 12442. Information on individuals expatriating.

Subtitle F—Taxpayer Bill of Rights 2 Provisions

Sec. 12501. Expansion of authority to abate interest.
Sec. 12502. Review of IRS failure to abate interest.
Sec. 12503. Joint return may be made after separate returns without full payment of tax.
Sec. 12504. Modifications to certain levy exemption amounts.
Sec. 12505. Offers-in-compromise.
Sec. 12506. Award of litigation costs permitted in declaratory judgment proceedings.
Sec. 12507. Court discretion to reduce award for litigation costs for failure to exhaust administrative remedies.
Sec. 12508. Enrolled agents included as third-party recordkeepers.
Sec. 12509. Safeguards relating to designated summonses.
Sec. 12510. Annual reminders to taxpayers with outstanding delinquent accounts.

Subtitle G—Casualty And Involuntary Conversion Provisions

Sec. 12601. Basis adjustment to property held by corporation where stock in corporation is replacement property under involuntary conversion rules.
Sec. 12602. Expansion of requirement that involuntarily converted property be replaced with property acquired from an unrelated person.
Sec. 12603. Special rule for crop insurance proceeds and disaster payments.
Sec. 12604. Application of involuntary exclusion rules to presidentially declared disasters.

Subtitle H—Exempt Organizations and Charitable Reforms

Sec. 12701. Cooperative service organizations for certain foundations.
Sec. 12702. Exclusion from unrelated business taxable income for certain sponsorship payments.
Sec. 12703. Treatment of dues paid to agricultural or horticultural organizations.
Sec. 12704. Repeal of credit for contributions to community development corporations.
Sec. 12705. Required notices to charitable beneficiaries of charitable remainder trusts.
Sec. 12706. Clarification of treatment of qualified football coaches plans.

Subtitle I—Tax Reform and Other Provisions

CHAPTER 1—PROVISIONS RELATING TO BUSINESSES

Sec. 12801. Tax treatment of certain extraordinary dividends.
Sec. 12802. Registration of confidential corporate tax shelters.
Sec. 12803. Denial of deduction for interest on loans with respect to company-owned insurance.
Sec. 12804. Termination of suspense accounts for family corporations required to use accrual method of accounting.
Sec. 12805. Termination of Puerto Rico and possession tax credit.

Sec. 12806. Depreciation under income forecast method.
Sec. 12807. Transfers of excess pension assets.
Sec. 12808. Repeal of exclusion for interest on loans used to acquire employer securities.

CHAPTER 2—LEGAL REFORMS

Sec. 12811. Repeal of exclusion for punitive damages and for damages not attributable to physical injuries or sickness.
Sec. 12812. Reporting of certain payments made to attorneys.

CHAPTER 3—REFORMS RELATING TO NONRECOGNITION PROVISIONS

Sec. 12821. No rollover or exclusion of gain on sale of principal residence which is attributable to depreciation deductions.
Sec. 12822. Nonrecognition of gain on sale of principal residence by noncitizens limited to new residences located in the United States.

CHAPTER 4—EXCISE TAX AND TAX-EXEMPT BOND PROVISIONS

Sec. 12831. Repeal of diesel fuel tax rebate to purchasers of diesel-powered automobiles and light trucks.
Sec. 12832. Repeal of wine and flavors content credit.
Sec. 12833. Modifications to excise tax on ozone-depleting chemicals.
Sec. 12834. Election to avoid tax-exempt bond penalties for local furnishers of electricity and gas.
Sec. 12835. Tax-exempt bonds for sale of Alaska Power Administration facility.

CHAPTER 5—FOREIGN TRUST TAX COMPLIANCE

Sec. 12841. Improved information reporting on foreign trusts.
Sec. 12842. Modifications of rules relating to foreign trusts having one or more United States beneficiaries.
Sec. 12843. Foreign persons not to be treated as owners under grantor trust rules.
Sec. 12844. Information reporting regarding foreign gifts.
Sec. 12845. Modification of rules relating to foreign trusts which are not grantor trusts.
Sec. 12846. Residence of estates and trusts, etc.

CHAPTER 6—FINANCIAL ASSET SECURITIZATION INVESTMENTS

Sec. 12851. Financial asset securitization investment trusts.

CHAPTER 7—DEPRECIATION PROVISIONS

Sec. 12861. Treatment of contributions in aid of construction.
Sec. 12862. Deduction for certain operating authority.
Sec. 12863. Class life for gas station convenience stores and similar structures.

CHAPTER 8—OTHER PROVISIONS

Sec. 12871. Application of failure-to-pay penalty to substitute returns.
Sec. 12872. Extension of withholding to certain gambling winnings.
Sec. 12873. Losses from foreclosure property.
Sec. 12874. Coal industry retiree health equity.
Sec. 12875. Newspaper distributors treated as direct sellers.

Sec. 12876. Nonrecognition treatment for certain transfers by common trust funds to regulated investment companies.
Sec. 12877. Treatment of certain insurance contracts on retired lives.
Sec. 12878. Treatment of modified guaranteed contracts.

Subtitle J—Pension Simplification

CHAPTER 1—GENERAL PROVISIONS

SUBCHAPTER A—SIMPLIFICATION OF NONDISCRIMINATION PROVISIONS

Sec. 12901. Definition of highly compensated employees; repeal of family aggregation.
Sec. 12902. Definition of compensation for section 415 purposes.
Sec. 12903. Modification of additional participation requirements.
Sec. 12904. Nondiscrimination rules for qualified cash or deferred arrangements and matching contributions.

SUBCHAPTER B—SIMPLIFIED DISTRIBUTION RULES

Sec. 12911. Repeal of 5-year income averaging for lump-sum distributions.
Sec. 12912. Repeal of $5,000 exclusion of employees' death benefits.
Sec. 12913. Simplified method for taxing annuity distributions under certain employer plans.
Sec. 12914. Required distributions.

SUBCHAPTER C—TARGETED ACCESS TO PENSION PLANS FOR SMALL EMPLOYERS

Sec. 12916. Credit for pension plan start-up costs of small employers.
Sec. 12917. Tax-exempt organizations eligible under section 401(k).

SUBCHAPTER D—PAPERWORK REDUCTION

Sec. 12921. Limitation on combined section 415 limit.

SUBCHAPTER E—MISCELLANEOUS SIMPLIFICATION

Sec. 12931. Treatment of leased employees.
Sec. 12932. Plans covering self-employed individuals.
Sec. 12933. Elimination of special vesting rule for multiemployer plans.
Sec. 12934. Full-funding limitation of multiemployer plans.
Sec. 12935. Treatment of governmental and multiemployer plans under section 415.
Sec. 12936. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations.
Sec. 12937. Contributions on behalf of disabled employees.
Sec. 12938. Distributions under rural cooperative plans.
Sec. 12939. Tenured faculty.
Sec. 12940. Uniform retirement age.
Sec. 12941. Modifications of section 403(b).
Sec. 12942. Tax on prohibited transactions.
Sec. 12943. Extension of Internal Revenue Service user fees.

CHAPTER 2—CHURCH PLANS

Sec. 12951. New qualification provision for church plans.
Sec. 12952. Retirement income accounts of churches.
Sec. 12953. Contracts purchased by a church.

Sec. 12954. Change in distribution requirement for retirement income accounts.
Sec. 12955. Required beginning date for distributions under church plans.
Sec. 12956. Participation of ministers in church plans.
Sec. 12957. Certain rules aggregating employees not to apply to churches, etc.
Sec. 12958. Self-employed ministers treated as employees for purposes of certain welfare benefit plans and retirement income accounts.
Sec. 12959. Deductions for contributions by certain ministers to retirement income accounts.
Sec. 12960. Modification for church plans of rules for plans maintained by more than one employer.
Sec. 12961. Section 457 not to apply to deferred compensation of a church.
Sec. 12962. Church plan modification to separate account requirement of section 401(h).
Sec. 12963. Rule relating to investment in contract not to apply to foreign missionaries.
Sec. 12964. Repeal of elective deferral catch-up limitation for retirement income accounts.
Sec. 12965. Church plans may annuitize benefits.
Sec. 12966. Church plans may increase benefit payments.
Sec. 12967. Rules applicable to self-insured medical reimbursement plans not to apply to plans of churches.
Sec. 12968. Retirement benefits of ministers not subject to tax on net earnings from self-employment.

Subtitle A—Family Tax Relief

SEC. 12001. CHILD TAX CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. CHILD TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500 multiplied by the number of qualifying children of the taxpayer.

"(b) LIMITATION.—

"(1) IN GENERAL.—The amount of the credit which would (but for this subsection) be allowed by

subsection (a) shall be reduced (but not below zero) by $25 for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income exceeds the threshold amount.

"(2) THRESHOLD AMOUNT.—For purposes of paragraph (1), the term 'threshold amount' means—

"(A) $110,000 in the case of a joint return,

"(B) $75,000 in the case of an individual who is not married, and

"(C) $55,000 in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying child' means any individual if—

"(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for such taxable year,

"(B) such individual has not attained the age of 18 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B) (determined without regard to clause (ii) thereof).

"(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

"(d) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (d) and (e) of section 32 shall apply for purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Child tax credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12002. REDUCTION IN MARRIAGE PENALTY.

(a) INCREASE IN BASIC STANDARD DEDUCTION FOR MARRIED INDIVIDUALS.—Section 63(c) (relating to standard deduction) is amended—

(1) by striking "$5,000" in paragraph (2)(A) and inserting "the applicable dollar amount",

(2) by striking "$2,500" in paragraph (2)(D) and inserting "½ of the applicable dollar amount", and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) APPLICABLE DOLLAR AMOUNT.—For purposes of paragraph (2), the applicable dollar amount shall be determined under the following table:

"For taxable years beginning in calendar year—	The applicable dollar amount is—
1996	$6,800
1997	7,150
1998	7,500
1999	7,950
2000	8,200
2001	8,600
2002	9,100
2003	9,500
2004	9,950
2005 and thereafter	10,800."

(b) COST-OF-LIVING ADJUSTMENTS.—Section 63(c)(4) (relating to adjustments for inflation) is amended by adding at the end the following new flush sentence:

"This paragraph shall also apply to the $10,800 amount in paragraph (7) for taxable years beginning after 2005, except that subparagraph (B) shall be applied by substituting '2004' for '1987'."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12003. CREDIT FOR ADOPTION EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 12001, is amended by inserting after section 23 the following new section:

"SEC. 24. ADOPTION EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's taxable income exceeds $60,000, bears to

"(B) $40,000.

"(3) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) GRANTS.—No credit shall be allowed under subsection (a) for any expense to the extent that funds for such expense are received under any Federal, State, or local program.

"(C) REIMBURSEMENT.—No credit shall be allowed under subsection (a) for any expense to the extent that such expense is reimbursed and the reimbursement is excluded from gross income under section 137.

"(c) CARRYFORWARDS OF UNUSED CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such tax-

able year. No credit may be carried forward under this subsection to any taxable year following the fifth taxable year after the taxable year in which the credit arose.

"(d) QUALIFIED ADOPTION EXPENSES.—

"(1) IN GENERAL.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses—

"(A) which are directly related to, and the principal purpose of which is for, the legal and final adoption of an eligible child by the taxpayer, and

"(B) which are not incurred in violation of State or Federal law or in carrying out any surrogate parenting arrangement.

"(2) EXPENSES FOR ADOPTION OF SPOUSE'S CHILD NOT ELIGIBLE.—The term 'qualified adoption expenses' shall not include any expenses in connection with the adoption by an individual of a child who is the child of such individual's spouse.

"(3) ELIGIBLE CHILD.—The term 'eligible child' means any individual—

"(A) who has not attained age 18 as of the time of the adoption, or

"(B) who is physically or mentally incapable of caring for himself.

"(e) MARRIED COUPLES MUST FILE JOINT RETURNS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this section."

(b) EXCLUSION OF AMOUNTS RECEIVED UNDER EMPLOYER'S ADOPTION ASSISTANCE PROGRAMS.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. ADOPTION ASSISTANCE PROGRAMS.

"(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount excludable from gross income under subsection (a) for all taxable years with respect to the adoption of any single child by the taxpayer shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's taxable income (determined without regard to this section) exceeds $60,000, bears to

"(B) $40,000.

"(c) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a plan of an employer—

"(1) under which the employer provides employees with adoption assistance, and

"(2) which meets requirements similar to the requirements of paragraphs (2), (3), and (5) of section 127(b).

An adoption reimbursement program operated under section 1052 of title 10, United States Code (relating to armed forces) or section 514 of title 14, United States Code (relating to members of the Coast Guard) shall be treated as an adoption assistance program for purposes of this section.

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d)."

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 12001, is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Adoption expenses."

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. Adoption assistance programs.
"Sec. 138. Cross reference to other Acts."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12004. CREDIT FOR INTEREST ON EDUCATION LOANS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by sections 12001 and 12003, is amended by inserting after section 24 the following new section:

"SEC. 24A. INTEREST ON EDUCATION LOANS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the interest paid by the taxpayer during the taxable year on any qualified education loan.

"(b) MAXIMUM CREDIT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the credit allowed by subsection (a) for the taxable year shall not exceed $500 ($1,000 if the taxpayer has 1 or more qualified education loans covering the qualified higher education expenses of more than 1 individual).

"(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds $40,000 ($60,000 in the case of a joint return), the amount which would (but for this paragraph) be allowable as a credit under this section shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so allowable as such excess bears to $15,000.

"(B) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross in-

come' means adjusted gross income determined—

"(i) without regard to sections 135, 911, 931, and 933, and

"(ii) after application of sections 86, 219, and 469.

"(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 1996, the $40,000 and $60,000 amounts referred to in subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting '1995' for '1992'.

"(D) ROUNDING.—If any amount as adjusted under subparagraph (C) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

"(c) LIMITATION ON TAXPAYERS ELIGIBLE FOR CREDIT.—No credit shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another

taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

"(d) LIMIT ON PERIOD CREDIT ALLOWED.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a credit shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

"(2) DEPENDENT.—If the qualified education loan was used to pay qualified higher education expenses of an individual other than the taxpayer or the taxpayer's spouse, a credit shall be allowed under this section for any taxable year with respect to such loan only if—

"(A) a deduction under section 151 with respect to such individual is allowed to the taxpayer for such taxable year, and

"(B) such individual is at least a half-time student with respect to such taxable year.

"(e) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' means any indebtedness

incurred to pay qualified higher education expenses—

"(A) which are incurred on behalf of the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer,

"(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

"(C) which are attributable to education furnished during a period during which the recipient was at least a half-time student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

"(2) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087*ll*, as in effect on the day before the date of the enactment of this Act) of the taxpayer, the taxpayer's spouse, or a dependent of the tax-

payer at an eligible educational institution, reduced by the sum of—

"(A) the amount excluded from gross income under section 135 by reason of such expenses, and

"(B) the amount of the reduction described in section 135(d)(1).

For purposes of the preceding sentence, the term 'eligible educational institution' has the same meaning given such term by section 135(c)(3), except that such term shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers postgraduate training.

"(3) HALF-TIME STUDENT.—The term 'half-time student' means any individual who would be a student as defined in section 151(c)(4) if 'half-time' were substituted for 'full-time' each place it appears in such section.

"(4) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

"(f) SPECIAL RULES.—

"(1) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount

for which a deduction is allowable under any other provision of this chapter.

"(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703."

(b) REPORTING REQUIREMENT.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050P the following new section:

"SEC. 6050Q. RETURNS RELATING TO EDUCATION LOAN INTEREST RECEIVED IN TRADE OR BUSINESS FROM INDIVIDUALS.

"(a) EDUCATION LOAN INTEREST OF $600 OR MORE.—Any person—

"(1) who is engaged in a trade or business, and

"(2) who, in the course of such trade or business, receives from any individual interest aggregat-

ing $600 or more for any calendar year on 1 or more qualified education loans,

shall make the return described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.

"(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name, address, and TIN of the individual from whom the interest described in subsection (a)(2) was received,

"(B) the amount of such interest received for the calendar year, and

"(C) such other information as the Secretary may prescribe.

"(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of subsection (a)—

"(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) SPECIAL RULES.—In the case of a governmental unit or any agency or instrumentality thereof—

"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of interest described in subsection (a)(2) received by the person required to make such return from the individual to whom the statement is required to be furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the

year following the calendar year for which the return under subsection (a) was required to be made.

"(e) QUALIFIED EDUCATION LOAN DEFINED.—For purposes of this section, except as provided in regulations prescribed by the Secretary, the term 'qualified education loan' has the meaning given such term by section 24A(e)(1).

"(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return under subsection (a)."

(2) ASSESSABLE PENALTIES.—Section 6724(d) (relating to definitions) is amended—

(A) by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, in paragraph (1)(B) and by inserting after clause (viii) of such paragraph the following new clause:

"(ix) section 6050Q (relating to returns relating to education loan interest received in trade or business from individuals),", and

(B) by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, in paragraph (2) and by inserting after subparagraph (P) of such paragraph the following new subparagraph:

"(Q) section 6050Q (relating to returns relating to education loan interest received in trade or business from individuals),".

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by sections 12001 and 12003, is amended by inserting after the item relating to section 24 the following new item:

"Sec. 24A. Interest on education loans."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050P the following new item:

"Sec. 6050Q. Returns relating to education loan interest received in trade or business from individuals."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified education loan (as defined in section 24A(e)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after the date of the enactment of this Act, but only with

respect to any loan interest payment due after December 31, 1995.

Subtitle B—Savings and Investment Incentives

CHAPTER 1—RETIREMENT SAVINGS INCENTIVES

Subchapter A—Individual Retirement Plans

PART I—RESTORATION OF IRA DEDUCTION

SEC. 12101. RESTORATION OF IRA DEDUCTION.

(a) INCREASE IN INCOME LIMITS FOR ACTIVE PARTICIPANTS.—

(1) IN GENERAL.—Subparagraph (B) of section 219(g)(3) (relating to applicable dollar amount) is amended to read as follows:

"(B) APPLICABLE DOLLAR AMOUNT.—The term 'applicable dollar amount' means the following:

"(i) In the case of a taxpayer filing a joint return:

"For taxable years beginning in:	The applicable dollar amount is:
1996	$45,000
1997	$50,000
1998	$55,000
1999	$60,000
2000	$65,000
2001	$70,000
2002	$75,000
2003	$80,000
2004	$85,000
2005	$90,000
2006	$95,000
2007 and thereafter	$100,000.

"(ii) In the case of any other taxpayer (other than a married individual filing a separate return):

"For taxable years beginning in:	The applicable dollar amount is:
1996	$30,000
1997	$35,000
1998	$40,000
1999	$45,000
2000	$50,000
2001	$55,000
2002	$60,000
2003	$65,000
2004	$70,000
2005	$75,000
2006	$80,000
2007 and thereafter	$85,000.

"(iii) In the case of a married individual filing a separate return, zero."

(2) INCREASE IN PHASE-OUT RANGE FOR JOINT RETURNS.—Clause (ii) of section 219(g)(2)(A) is amended by inserting "($20,000 in the case of a joint return)" after "$10,000".

(3) COST-OF-LIVING ADJUSTMENTS.—Section 219(g)(3) is amended by adding at the end the following new subparagraph:

"(C) COST-OF-LIVING ADJUSTMENTS.—In the case of any taxable year beginning in a calendar year after 2007, the $100,000 and $85,000 amounts in clauses (i) and (ii) of subparagraph (B) shall each be increased by an amount equal to the product of such dollar amount and the cost-of-living adjustment for

the calendar year determined under subsection (h)(3), except that subsection (h)(3)(A)(ii) shall be applied by substituting '2006' for '1994'. If any amount to which either such amount is increased is not a multiple of $5,000, such amount shall be rounded to the next lower multiple of $5,000.''

(b) INDIVIDUAL NOT DISQUALIFIED BY SPOUSE'S PARTICIPATION.—Paragraph (1) of section 219(g) (relating to limitation on deduction for active participants in certain pension plans) is amended by striking ''or the individual's spouse''.

(c) REPEAL OF NONDEDUCTIBLE CONTRIBUTIONS.—

(1) Subsection (f) of section 219 is amended by striking paragraph (7).

(2) Paragraph (5) of section 408(d) is amended by striking the last sentence.

(3) Section 408(o) is amended by adding at the end the following new paragraph.

''(5) TERMINATION.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 1995.''

(4) Subsection (b) of section 4973 is amended by striking the last sentence.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12102. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.

(a) IN GENERAL.—Section 219 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) COST-OF-LIVING ADJUSTMENTS.—

"(1) DEDUCTION AMOUNT.—

"(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1996, the $2,000 amount under subsection (b)(1)(A) shall be increased by an amount equal to the product of $2,000 and the cost-of-living adjustment for the calendar year.

"(B) ROUNDING TO NEXT LOWER $500.—If the amount to which $2,000 would be increased under subparagraph (A) is not a multiple of $500, such amount shall be rounded to the next lower multiple of $500.

"(2) COST-OF-LIVING ADJUSTMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(i) the CPI for such calendar year, exceeds

"(ii) the CPI for 1995.

"(B) CPI FOR ANY CALENDAR YEAR.—The CPI for any calendar year shall be determined in the same manner as under section 1(f)(4)."

(b) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(2) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 408(j) is amended by striking "$2,000".

SEC. 12103. HOMEMAKERS ELIGIBLE FOR FULL IRA DEDUCTION.

(a) SPOUSAL IRA COMPUTED ON BASIS OF COMPENSATION OF BOTH SPOUSES.—Subsection (c) of section

219 (relating to special rules for certain married individuals) is amended to read as follows:

"(c) SPECIAL RULES FOR CERTAIN MARRIED INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual to whom this paragraph applies for the taxable year, the limitation of paragraph (1) of subsection (b) shall be equal to the lesser of—

"(A) the dollar amount in effect under subsection (b)(1)(A) for the taxable year, or

"(B) the sum of—

"(i) the compensation includible in such individual's gross income for the taxable year, plus

"(ii) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by—

"(I) the amount allowable as a deduction under subsection (a) to such spouse for such taxable year, and

"(II) the amount of any contribution on behalf of such spouse to an IRA Plus account under section 408A for such taxable year.

"(2) INDIVIDUALS TO WHOM PARAGRAPH (1) APPLIES.—Paragraph (1) shall apply to any individual if—

"(A) such individual files a joint return for the taxable year, and

"(B) the amount of compensation (if any) includible in such individual's gross income for the taxable year is less than the compensation includible in the gross income of such individual's spouse for the taxable year."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 219(f) (relating to other definitions and special rules) is amended by striking "subsections (b) and (c)" and inserting "subsection (b)".

(2) Section 408(d)(5) is amended by striking "$2,250" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 219(g)(1) is amended by striking "(c)(2)" and inserting "(c)(1)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12104. CERTAIN COINS AND BULLION NOT TREATED AS COLLECTIBLES.

(a) IN GENERAL.—Paragraph (3) of section 408(m) (relating to exception for certain coin) is amended to read as follows:

"(3) EXCEPTION FOR CERTAIN COINS AND BULLION.—For purposes of this subsection, the term 'collectible' shall not include—

"(A) any coin certified by a recognized grading service and traded on a nationally recognized electronic network, or listed by a recognized wholesale reporting service, and—

"(i) which is or was at any time legal tender in the country of issuance, or

"(ii) issued under the laws of any State, and

"(B) any gold, silver, platinum, or palladium bullion (whether fabricated in the form of a coin or otherwise) of a fineness equal to or exceeding the minimum fineness required for metals which may be delivered in satisfaction of a regulated futures contract subject to regulation by the Commodity Futures Trading Commission under the Commodity Exchange Act,

if such coin or bullion is in the physical possession of a trustee described under subsection (a) of this section.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

PART II—NONDEDUCTIBLE TAX-FREE IRAS

SEC. 12111. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

''SEC. 408A. IRA PLUS ACCOUNTS.

''(a) GENERAL RULE.—Except as provided in this section, an IRA Plus account shall be treated for purposes of this title in the same manner as an individual retirement plan.

''(b) IRA PLUS ACCOUNT.—For purposes of this title, the term 'IRA Plus account' means an individual retirement plan which is designated at the time of establishment of the plan as an IRA Plus account.

''(c) TREATMENT OF CONTRIBUTIONS.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an IRA Plus account.

"(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all IRA Plus accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year (computed without regard to subsection (g) of such section), over

"(B) the amount so allowed.

"(3) ROLLOVER CONTRIBUTIONS.—

"(A) IN GENERAL.—No rollover contribution may be made to an IRA Plus account unless it is a qualified rollover contribution.

"(B) COORDINATION WITH LIMIT.—A qualified rollover contribution shall not be taken into account for purposes of paragraph (2).

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in this subsection, any amount paid or distributed out of an IRA Plus account shall not be included in the gross income of the distributee.

"(2) EXCEPTION FOR EARNINGS ON CONTRIBUTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any amount distributed out of an IRA Plus account which consists of earnings shall be included in the gross income of the distributee for the taxable year in which the distribution occurs.

"(B) EXCEPTIONS FOR EARNINGS ON CONTRIBUTIONS HELD AT LEAST 5 YEARS.—Subparagraph (A) shall not apply to earnings allocable to contributions held in an IRA Plus account for at least 5 years as of the date of the distribution but only if—

"(i) such distribution occurs on or after the date on which the individual for whom the account was established attains age 59½, or

"(ii) in any case where such distribution occurs before such date, the distribution is described in any subparagraph of section 72(t)(2) (other than subparagraph (A)(i) thereof).

"(C) ORDERING RULE.—

"(i) FIRST-IN, FIRST-OUT RULE.—Distributions from an IRA Plus account shall be treated as having been made—

"(I) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(II) then from other contributions (and earnings allocable thereto) in the order in which made.

"(ii) ALLOCATIONS BETWEEN CONTRIBUTIONS AND EARNINGS.—Any portion of a distribution allocated to a contribution (and earnings allocable thereto) shall be treated as allocated first to the earnings and then to the contribution.

"(iii) ALLOCATION OF EARNINGS.—Earnings shall be allocated to a contribution in such manner as the Secretary may by regulations prescribe.

"(iv) CONTRIBUTIONS IN SAME YEAR.—For purposes of this subparagraph and section 72(t)(8), all contributions made for the same taxable year shall be

treated as 1 contribution made on the first day of the taxable year.

"(D) CROSS REFERENCE.—

"For additional tax for early withdrawal, see section 72(t).

"(3) ROLLOVERS.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to any distribution which is transferred in a qualified rollover contribution to another IRA Plus account.

"(B) CONTRIBUTION PERIOD.—For purposes of paragraph (2), the IRA Plus account to which any contributions are transferred from another IRA Plus account shall be treated as having held such contributions during any period such contributions were held (or are treated as held under this subparagraph) by the account from which transferred.

"(4) SPECIAL RULES RELATING TO QUALIFIED ROLLOVERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a qualified rollover contribution to an IRA Plus account from an individual retirement plan which is not an IRA Plus account—

"(i) there shall be included in gross income any amount which, but for the qualified rollover contribution, would be includible in gross income, but

"(ii) section 72(t) shall not apply to such amount.

"(B) TIME FOR INCLUSION.—In the case of any qualified rollover contribution which occurs before January 1, 1998, any amount includible in gross income under subparagraph (A) with respect to such contribution shall be includible ratably over the 4-taxable year period beginning in the taxable year in which the amount was paid or distributed out of the individual retirement plan.

"(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section, the term 'qualified rollover contribution' means a rollover contribution to an IRA Plus account from another such account, or from an individual retirement plan but only if such rollover contribution meets the requirements of section 408(d)(3). For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan to an IRA plus account."

(b) EARLY WITHDRAWAL PENALTY.—Section 72(t), as amended by section 12121(c), is amended by adding at the end the following new paragraph:

"(8) SPECIAL RULES FOR DISTRIBUTIONS FROM IRA PLUS ACCOUNTS.—Notwithstanding any other provision of this subsection, paragraph (1) shall apply to any amount received from an IRA Plus account to the extent such amount is required to be included in gross income under section 408A(d)(2) unless such amount is part of a distribution required under section 401(a)(9)."

(c) EXCESS CONTRIBUTIONS.—Section 4973(b) is amended by adding at the end the following new sentence: "For purposes of paragraphs (1)(B) and (2)(C), the amount allowable as a deduction under section 219 shall be computed without regard to section 408A."

(d) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. IRA Plus accounts."

(e) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subchapter B—Penalty-Free Distributions

SEC. 12121. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES OR TO PAY HIGHER EDUCATION OR FINANCIALLY DEVASTATING MEDICAL EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

"(D) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan—

"(i) which are qualified first-time homebuyer distributions (as defined in paragraph (6)), or

"(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year."

(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—

(1) IN GENERAL.—Section 72(t)(3)(A) is amended by striking ''(B),''.

(2) CERTAIN LINEAL DESCENDANTS AND ANCESTORS TREATED AS DEPENDENTS.—Subparagraph (B) of section 72(t)(2) is amended by striking ''medical care'' and all that follows and inserting ''medical care determined—

''(i) without regard to whether the employee itemizes deductions for such taxable year, and

''(ii) in the case of an individual retirement plan, by treating such employee's dependents as including—

''(I) all children and grandchildren of the employee or such employee's spouse, and

''(II) all ancestors of the employee or such employee's spouse.''

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking ''or (C)'' and inserting '', (C), (D), or (E)''.

(c) DEFINITIONS.—Section 72(t) is amended by adding at the end the following new paragraphs:

"(6) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual, the spouse of such individual, or any child, grandchild, or ancestor of such individual or the individual's spouse.

"(B) LIFETIME DOLLAR LIMITATION.—The aggregate amount of payments or distributions received by an individual which may be treated as qualified first-time homebuyer distributions for any taxable year shall not exceed the excess (if any) of—

"(i) $10,000, over

"(ii) the aggregate amounts treated as qualified first-time homebuyer distributions

with respect to such individual for all prior taxable years.

"(C) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(D) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if—

"(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

"(II) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in

section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(E) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting

'120 days' for '60 days' in such section), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any child (as defined in section 151(c)(3)), grandchild, or ancestor of the taxpayer or the taxpayer's spouse,

at an eligible educational institution (as defined in section 135(c)(3)).

"(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be

reduced by any amount excludable from gross income under section 135.''

(d) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t) is amended by adding at the end the following new subparagraph:

''(E) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—A distribution from an individual retirement plan to an individual after separation from employment, if—

''(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

''(ii) such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year.

To the extent provided in regulations, a self-employed individual shall be treated as meeting the requirements of clause (i) if, under Federal or State law, the individual would have received unemployment compensation but for the fact the individual was self-employed.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subchapter C—Simple Savings Plans

SEC. 12131. ESTABLISHMENT OF SAVINGS INCENTIVE MATCH PLANS FOR EMPLOYEES OF SMALL EMPLOYERS.

(a) IN GENERAL.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) SIMPLE RETIREMENT ACCOUNTS.—

"(1) IN GENERAL.—For purposes of this title, the term 'simple retirement account' means an individual retirement plan—

"(A) with respect to which the requirements of paragraphs (3), (4), and (5) are met; and

"(B) with respect to which the only contributions allowed are contributions under a qualified salary reduction arrangement.

"(2) QUALIFIED SALARY REDUCTION ARRANGEMENT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified salary reduction

arrangement' means a written arrangement of an eligible employer under which—

"(i) an employee eligible to participate in the arrangement may elect to have the employer make payments—

"(I) as elective employer contributions to a simple retirement account on behalf of the employee, or

"(II) to the employee directly in cash,

"(ii) the amount which an employee may elect under clause (i) for any year is required to be expressed as a percentage of compensation and may not exceed a total of $6,000 for any year,

"(iii) the employer is required to make a matching contribution to the simple retirement account for any year in an amount equal to so much of the amount the employee elects under clause (i)(I) as does not exceed the applicable percentage of compensation for the year, and

"(iv) no contributions may be made other than contributions described in clause (i) or (iii).

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

"(i) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an employer who normally employs 100 or fewer employees on any day during the year.

"(ii) APPLICABLE PERCENTAGE.—

"(I) IN GENERAL.—The term 'applicable percentage' means 3 percent.

"(II) ELECTION OF LOWER PERCENTAGE.—An employer may elect to apply a lower percentage (not less than 1 percent) for any year for all employees eligible to participate in the plan for such year if the employer notifies the employees of such lower percentage within a reasonable period of time before the 60-day election period for such year under paragraph (5)(C). An employer may not elect a lower percentage under this subclause for any year if that election would result in the applicable percentage being lower than 3 percent in more than 2

of the years in the 5-year period ending with such year.

"(III) SPECIAL RULE FOR YEARS ARRANGEMENT NOT IN EFFECT.—If any year in the 5-year period described in subclause (II) is a year prior to the first year for which any qualified salary reduction arrangement is in effect with respect to the employer (or any predecessor), the employer shall be treated as if the level of the employer matching contribution was at 3 percent of compensation for such year.

"(C) ARRANGEMENT MAY BE ONLY PLAN OF EMPLOYER.—

"(i) IN GENERAL.—An arrangement shall not be treated as a qualified salary reduction arrangement for any year if the employer (or any predecessor employer) maintained a qualified plan with respect to which contributions were made, or benefits were accrued, for service in any year in the period beginning with the year such arrangement became effective and ending

with the year for which the determination is being made.

"(ii) QUALIFIED PLAN.—For purposes of this subparagraph, the term 'qualified plan' means a plan, contract, pension, or trust described in subparagraph (A) or (B) of section 219(g)(5).

"(D) NO FEE OR PENALTY ON EMPLOYEE'S INITIAL INVESTMENT DETERMINATION.—An arrangement shall not be treated as a qualified salary reduction arrangement unless it provides that no fee or penalty will be imposed on an employee's initial determination with respect to the investment of any contribution.

"(E) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $6,000 amount under subparagraph (A)(ii) at the same time and in the same manner as under section 415(d), except that the base period taken into account shall be the calendar quarter ending September 30, 1995, and any increase under this subparagraph which is not a multiple of $500 shall be rounded to the next lower multiple of $500.

"(3) VESTING REQUIREMENTS.—The requirements of this paragraph are met with respect to a

simple retirement account if the employee's rights to any contribution to the simple retirement account are nonforfeitable. For purposes of this paragraph, the rules similar to the rules of subsection (k)(4) shall apply.

"(4) PARTICIPATION REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any simple retirement account for a year only if, under the qualified salary reduction arrangement, all employees of the employer who—

"(i) received at least $5,000 in compensation from the employer during each of the 2 preceding years, and

"(ii) who are reasonably expected to receive at least $5,000 in compensation during the year,

are eligible to make the election under paragraph (2)(A)(i).

"(B) EXCLUDABLE EMPLOYEES.—An employer may elect to exclude from the requirement under subparagraph (A) employees described in section 410(b)(3).

"(5) ADMINISTRATIVE REQUIREMENTS.—The requirements of this paragraph are met with respect

to any simplified retirement account if, under the qualified salary reduction arrangement—

"(A) an employer must—

"(i) make the elective employer contributions under paragraph (2)(A)(i) not later than the close of the 30-day period following the last day of the month with respect to which the contributions are to be made, and

"(ii) make the matching contributions under paragraph (2)(A)(iii) not later than the date described in section 404(m)(2)(B),

"(B) an employee may elect to terminate participation in such arrangement at any time during the year, except that if an employee so terminates, the arrangement may provide that the employee may not elect to resume participation until the beginning of the next year, and

"(C) each employee eligible to participate may elect, during the 60-day period before the beginning of any year, to participate in the arrangement, or to modify the amounts subject to such arrangement, for such year.

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

"(A) COMPENSATION.—

"(i) IN GENERAL.—The term 'compensation' means amounts described in paragraphs (3) and (8) of section 6051(a).

"(ii) SELF-EMPLOYED.—In the case of an employee described in subparagraph (B), compensation means net earnings from self-employment determined under section 1402(a) without regard to any contribution under this subsection.

"(B) EMPLOYEE.—The term 'employee' includes an employee as defined in section 401(c)(1).

"(C) YEAR.—The term 'year' means the calendar year."

(b) SIMPLE RETIREMENT ACCOUNTS NOT TREATED AS PENSION PLANS.—Notwithstanding any other provision of law, a simplified retirement account or qualified salary reduction arrangement under section 408(p) of the Internal Revenue Code of 1986 shall not be treated as an employee benefit plan or pension plan for purposes of the Employee Retirement Income Security Act of 1974.

(c) TAX TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—

(1) DEDUCTIBILITY OF CONTRIBUTIONS BY EMPLOYEES.—

(A) Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULE FOR SIMPLE RETIREMENT ACCOUNTS.—This section shall not apply with respect to any amount contributed to a simple retirement account established under section 408(p).''

(B) Section 219(g)(5)(A) (defining active participant) is amended by striking ''or'' at the end of clause (iv) and by adding at the end the following new clause:

''(vi) any simple retirement account (within the meaning of section 408(p)), or''.

(2) DEDUCTIBILITY OF EMPLOYER CONTRIBUTIONS.—Section 404 (relating to deductions for contributions of an employer to pension, etc. plans) is amended by adding at the end the following new subsection:

''(m) SPECIAL RULES FOR SIMPLE RETIREMENT ACCOUNTS.—

"(1) IN GENERAL.—Employer contributions to a simple retirement account shall be treated as if they are made to a plan subject to the requirements of this section.

"(2) TIMING.—

"(A) DEDUCTION.—Contributions described in paragraph (1) shall be deductible in the taxable year of the employer with or within which the calendar year for which the contributions were made ends.

"(B) CONTRIBUTIONS AFTER END OF YEAR.—For purposes of this subsection, contributions shall be treated as made for a taxable year if they are made on account of the taxable year and are made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof)."

(3) CONTRIBUTIONS AND DISTRIBUTIONS.—

(A) Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new subsection:

"(k) TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—Rules similar to the rules of paragraphs (1) and (3) of subsection (h) shall apply to contributions and

distributions with respect to a simple retirement account under section 408(p).''

(B) Section 408(d)(3) is amended by adding at the end the following new subparagraph:

''(G) SIMPLE RETIREMENT ACCOUNTS.—This paragraph shall not apply to any amount paid or distributed out of a simple retirement account (as defined in section 408(p)) unless it is paid into another simple retirement account.''

(C) Clause (i) of section 457(c)(2)(B) is amended by striking ''section 402(h)(1)(B)'' and inserting ''section 402(h)(1)(B) or (k)''.

(4) PENALTIES.—

(A) EARLY WITHDRAWALS.—Section 72(t) (relating to additional tax in early distributions), as amended by sections 12111(b) and 12121(c), is amended by adding at the end the following new paragraph:

''(9) SPECIAL RULES FOR SIMPLE RETIREMENT ACCOUNTS.—In the case of any amount received from a simple retirement account (within the meaning of section 408(p)) during the 2-year period beginning on the date such individual first participated in any qualified salary reduction arrangement maintained by the individual's employer under section

408(p)(2), paragraph (1) shall be applied by substituting '25 percent' for '10 percent'.''

(B) FAILURE TO REPORT.—Section 6693 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) PENALTIES RELATING TO SIMPLE RETIREMENT ACCOUNTS.—

''(1) EMPLOYER PENALTIES.—An employer who fails to provide 1 or more notices required by section 408(l)(2)(C) shall pay a penalty of $50 for each day on which such failures continue.

''(2) TRUSTEE PENALTIES.—A trustee who fails—

''(A) to provide 1 or more statements required by the last sentence of section 408(i) shall pay a penalty of $50 for each day on which such failures continue, or

''(B) to provide 1 or more summary descriptions required by section 408(l)(2)(B) shall pay a penalty of $50 for each day on which such failures continue.

''(3) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection with

respect to any failure which the taxpayer shows was due to reasonable cause.''

(5) REPORTING REQUIREMENTS.—

(A)(i) Section 408(l) is amended by adding at the end the following new paragraph:

''(2) SIMPLE RETIREMENT ACCOUNTS.—

''(A) NO EMPLOYER REPORTS.—Except as provided in this paragraph, no report shall be required under this section by an employer maintaining a qualified salary reduction arrangement under subsection (p).

''(B) SUMMARY DESCRIPTION.—The trustee of any simple retirement account established pursuant to a qualified salary reduction arrangement under subsection (p) shall provide to the employer maintaining the arrangement, each year a description containing the following information:

''(i) The name and address of the employer and the trustee.

''(ii) The requirements for eligibility for participation.

''(iii) The benefits provided with respect to the arrangement.

"(iv) The time and method of making elections with respect to the arrangement.

"(v) The procedures for, and effects of, withdrawals from the arrangement.

"(C) EMPLOYEE NOTIFICATION.—The employer shall notify each employee immediately before the period for which an election described in subsection (p)(5)(C) may be made of the employee's opportunity to make such election. Such notice shall include a copy of the description described in subparagraph (B)."

(ii) Section 408(l) is amended by striking "An employer" and inserting—

"(1) IN GENERAL.—An employer".

(B) Section 408(i) is amended by adding at the end the following new flush sentence:

"In the case of a simple retirement account under subsection (p), only one report under this subsection shall be required to be submitted each calendar year to the Secretary (at the time provided under paragraph (2)) but, in addition to the report under this subsection, there shall be furnished, within 30 days after each calendar year, to the individual on whose behalf the account is maintained a statement with respect to the account balance as of the

close of, and the account activity during, such calendar year.''

(6) EXEMPTION FROM TOP-HEAVY PLAN RULES.—Section 416(g)(4) (relating to special rules for top-heavy plans) is amended by adding at the end the following new subparagraph:

''(G) SIMPLE RETIREMENT ACCOUNTS.—The term 'top-heavy plan' shall not include a simple retirement account under section 408(p).''

(7) CONFORMING AMENDMENTS.—

(A) Section 280G(b)(6) is amended by striking ''or'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', or'' and by adding after subparagraph (C) the following new subparagraph:

''(D) a simple retirement account described in section 408(p).''

(B) Section 402(g)(3) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding after subparagraph (C) the following new subparagraph:

"(D) any elective employer contribution under section 408(p)(2)(A)(i)."

(C) Subsections (b), (c), (m)(4)(B), and (n)(3)(B) of section 414 are each amended by inserting "408(p)," after "408(k),".

(D) Section 4972(d)(1)(A) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding after clause (iii) the following new clause:

"(iv) any simple retirement account (within the meaning of section 408(p))."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12132. EXTENSION OF SIMPLE PLAN TO 401(k) ARRANGEMENTS.

(a) ALTERNATIVE METHOD OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end the following new paragraph:

"(11) ADOPTION OF SIMPLE PLAN TO MEET NONDISCRIMINATION TESTS.—

"(A) IN GENERAL.—A cash or deferred arrangement maintained by an eligible employer

shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement meets—

"(i) the contribution requirements of subparagraph (B),

"(ii) the exclusive benefit requirements of subparagraph (C), and

"(iii) the vesting requirements of section 408(p)(3).

"(B) CONTRIBUTION REQUIREMENTS.—The requirements of this subparagraph are met if, under the arrangement—

"(i) an employee may elect to have the employer make elective contributions for the year on behalf of the employee to a trust under the plan in an amount which is expressed as a percentage of compensation of the employee but which in no event exceeds $6,000,

"(ii) the employer is required to make a matching contribution to the trust for the year in an amount equal to so much of the amount the employee elects under clause (i) as does not exceed 3 percent of compensation for the year, and

"(iii) no other contributions may be made other than contributions described in clause (i) or (ii).

"(C) EXCLUSIVE BENEFIT.—The requirements of this subparagraph are met for any year to which this paragraph applies if no contributions were made, or benefits were accrued, for services during such year under any qualified plan of the employer on behalf of any employee eligible to participate in the cash or deferred arrangement, other than contributions described in subparagraph (B).

"(D) DEFINITIONS AND SPECIAL RULE.—

"(i) DEFINITIONS.—For purposes of this paragraph, any term used in this paragraph which is also used in section 408(p) shall have the meaning given such term by such section.

"(ii) COORDINATION WITH TOP-HEAVY RULES.—A plan meeting the requirements of this paragraph for any year shall not be treated as a top-heavy plan under section 416 for such year."

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section

401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(A) meets the contribution requirements of subparagraph (B) of subsection (k)(11),

"(B) meets the exclusive benefit requirements of subsection (k)(11)(C), and

"(C) meets the vesting requirements of section 408(p)(3)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1995.

CHAPTER 2—CAPITAL GAINS REFORM

Subchapter A—Taxpayers Other Than Corporations

SEC. 12141. CAPITAL GAINS DEDUCTION.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following new section:

"SEC. 1202. CAPITAL GAINS DEDUCTION.

"(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a net capital gain, 50 percent of such gain shall be a deduction from gross income.

"(b) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(c) COORDINATION WITH TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—For purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

"(d) SPECIAL RULE FOR COLLECTIBLES.—The rate of tax imposed by section 1 on the excess of—

"(1) the net capital gain for the taxable year determined as if section 1222(12) had not applied to any collectible sold or exchanged during the taxable year, over

"(2) the net capital gain for the taxable year,

shall not exceed 28 percent.

"(e) TRANSITIONAL RULE.—

"(1) IN GENERAL.—In the case of a taxable year which includes October 14, 1995—

"(A) the amount taken into account as the net capital gain under subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after October 14, 1995, and

"(B) the amount of the net capital gain taken into account in applying section 1(h) for such year shall be reduced by the amount taken into account under subsection (a) for such year.

"(2) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying paragraph (1) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund."

(b) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

"(16) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202."

(c) ALTERNATIVE MINIMUM TAX.—

(1) HALF OF DEDUCTION DISALLOWED.—Section 56(b)(1) (relating to limitations on deductions of individuals) is amended by adding at the end the following new subparagraph:

"(G) CAPITAL GAINS DEDUCTION REDUCED.—In determining the deduction allowable under section 1202, section 1202(a) shall be applied by substituting '25 percent' for '50 percent' ".

(2) CONFORMING AMENDMENT.—Section 57(a)(7) is amended by striking "1202" and inserting "1203".

(d) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in

section 408(m) without regard to paragraph (3) thereof).''

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end the following new sentence: ''For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles).''

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end the following: ''and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)''.

(e) TECHNICAL AND CONFORMING CHANGES.—

(1) Section 1 is amended by striking subsection (h).

(2) Paragraph (1) of section 170(e) is amended by striking ''the amount of gain'' in the material following subparagraph (B)(ii) and inserting ''50 percent ($^{28}/_{35}$ in the case of a corporation) of the amount of gain''.

(3) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

"(B) the deduction under section 1202 and the exclusion under section 1203 shall not be allowed."

(4) The last sentence of section 453A(c)(3) is amended by striking all that follows "long-term capital gain," and inserting "the maximum rate on net capital gain under section 1201 or the deduction under section 1202 and the exclusion under section 1203 (whichever is appropriate) shall be taken into account."

(5) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year or gain described in section 1203(a), proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses) or for the exclusion allowable to the estate or trust under section 1203 (relating to exclusion for gain from certain small business stock). In the case of a trust, the deduction allowed by this subsection

shall be subject to section 681 (relating to unrelated business income).''

(6) The last sentence of section 643(a)(3) is amended to read as follows: ''The deduction under section 1202 (relating to deduction of excess of capital gains over capital losses) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account.''

(7) Subparagraph (C) of section 643(a)(6) is amended by inserting ''(i)'' before ''there shall'' and by inserting before the period '', and (ii) the deduction under section 1202 (relating to capital gains deduction) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account''.

(8) Paragraph (4) of section 691(c) is amended by striking ''sections 1(h), 1201, 1202, and 1211'' and inserting ''sections 1201, 1202, 1203, and 1211''.

(9) The second sentence of section 871(a)(2) is amended by inserting ''or 1203'' after ''section 1202''.

(10)(A) Paragraph (2) of section 904(b) is amended by striking subparagraph (A), by redesig-

nating subparagraph (B) as subparagraph (A), and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

"(B) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income."

(B) Subparagraph (A) of section 904(b)(2), as so redesignated, is amended—

(i) by striking all that precedes clause (i) and inserting the following:

"(A) CORPORATIONS.—In the case of a corporation—", and

(ii) by striking in clause (i) "in lieu of applying subparagraph (A),".

(C) Paragraph (3) of section 904(b) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraph:

"(D) RATE DIFFERENTIAL PORTION.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may

be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b).''

(D) Clause (v) of section 593(b)(2)(D) is amended—

(i) by striking ''if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year,'', and

(ii) by striking ''section 904(b)(3)(E)'' and inserting ''section 904(b)(3)(D)''.

(11) The last sentence of section 1044(d) is amended by striking ''1202'' and inserting ''1203''.

(12)(A) Paragraph (2) of section 1211(b) is amended to read as follows:

''(2) the sum of—

''(A) the excess of the net short-term capital loss over the net long-term capital gain, and

''(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain.''

(B) So much of paragraph (2) of section 1212(b) as precedes subparagraph (B) thereof is amended to read as follows:

"(2) SPECIAL RULES.—

"(A) ADJUSTMENTS.—

"(i) For purposes of determining the excess referred to in paragraph (1)(A), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

"(II) the adjusted taxable income for such taxable year.

"(ii) For purposes of determining the excess referred to in paragraph (1)(B), there shall be treated as short-term capital gain in the taxable year an amount equal to the sum of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b) or the adjusted taxable income for such taxable year, whichever is the least, plus

"(II) the excess of the amount described in subclause (I) over the net short-term capital loss (determined

without regard to this subsection) for such year.''

(C) Subsection (b) of section 1212 is amended by adding at the end the following new paragraph:

''(3) TRANSITIONAL RULE.—In the case of any amount which, under this subsection and section 1211(b) (as in effect for taxable years beginning before January 1, 1996), is treated as a capital loss in the first taxable year beginning after December 31, 1995, paragraph (2) and section 1211(b) (as so in effect) shall apply (and paragraph (2) and section 1211(b) as in effect for taxable years beginning after December 31, 1995, shall not apply) to the extent such amount exceeds the total of any capital gain net income (determined without regard to this subsection) for taxable years beginning after December 31, 1995.''

(13) Paragraph (1) of section 1402(i) is amended by inserting '', and the deduction provided by section 1202 and the exclusion provided by section 1203 shall not apply'' before the period at the end thereof.

(14) Subsection (e) of section 1445 is amended—

(A) in paragraph (1) by striking ''35 percent (or, to the extent provided in regulations, 28 percent)'' and inserting ''28 percent (or, to the extent provided in regulations, 19.8 percent)'', and

(B) in paragraph (2) by striking ''35 percent'' and inserting ''28 percent''.

(15)(A) The second sentence of section 7518(g)(6)(A) is amended—

(i) by striking ''during a taxable year to which section 1(h) or 1201(a) applies'', and

(ii) by striking ''28 percent (34 percent'' and inserting ''19.8 percent (28 percent''.

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended—

(i) by striking ''during a taxable year to which section 1(h) or 1201(a) of such Code applies'', and

(ii) by striking ''28 percent (34 percent'' and inserting ''19.8 percent (28 percent''.

(16) Section 1203, as redesignated by subsection (a), is amended by adding at the end the following new subsection:

"(l) CROSS REFERENCE.—

"For treatment of eligible gain not excluded under subsection (a), see section 1202."

(f) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by striking the item relating to section 1202 and by inserting after the item relating to section 1201 the following new items:

"Sec. 1202. Capital gains deduction.
"Sec. 1203. 50-percent exclusion for gain from certain small business stock."

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after October 13, 1995.

(2) COLLECTIBLES.—The amendments made by subsection (d) shall apply to sales and exchanges after October 13, 1995.

(3) REPEAL OF SECTION 1(h).—The amendment made by subsection (e)(1) shall apply to taxable years beginning after October 13, 1995.

(4) CONTRIBUTIONS.—The amendment made by subsection (e)(2) shall apply to contributions after October 13, 1995.

(5) USE OF LONG-TERM LOSSES.—The amendments made by subsection (e)(12) shall apply to taxable years beginning after December 31, 1995.

(6) WITHHOLDING.—The amendment made by subsection (e)(14) shall apply only to amounts paid after the date of the enactment of this Act.

SEC. 12142. MODIFICATIONS TO EXCLUSION OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) STOCK OF LARGER BUSINESSES ELIGIBLE FOR EXCLUSION.—Paragraph (1) of section 1203(d), as redesignated by section 12141, is amended by striking ''$50,000,000'' each place it appears and inserting ''$100,000,000''.

(b) REPEAL OF PER-ISSUER LIMITATION.—Section 1203, as so redesignated, is amended by striking subsection (b).

(c) OTHER MODIFICATIONS.—

(1) REPEAL OF WORKING CAPITAL LIMITATION.—Paragraph (6) of section 1203(e), as so redesignated, is amended—

(A) by striking ''2 years'' in subparagraph (B) and inserting ''5 years'', and

(B) by striking the last sentence.

(2) EXCEPTION FROM REDEMPTION RULES WHERE BUSINESS PURPOSE.—Paragraph (3) of sec-

tion 1203(c), as so redesignated, is amended by adding at the end the following new subparagraph:

"(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitations of this section."

(d) EFFECTIVE DATES.—

(1) INCREASE IN SIZE.—The amendment made by subsection (a) shall apply to stock issued after the date of the enactment of this Act.

(2) OTHER RULES.—The amendments made by subsections (b) and (c) shall apply to stock issued after August 10, 1993.

SEC. 12143. ROLLOVER OF GAIN FROM SALE OF QUALIFIED STOCK.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 is amended by adding at the end the following new section:

"SEC. 1045. ROLLOVER OF GAIN FROM QUALIFIED SMALL BUSINESS STOCK TO ANOTHER QUALIFIED SMALL BUSINESS STOCK.

"(a) NONRECOGNITION OF GAIN.—If a taxpayer other than a corporation elects the application of this section to any sale of qualified small business stock, eligible gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

"(1) the cost of any qualified small business stock purchased by the taxpayer during the 60-day period beginning on the date of such sale, reduced by

"(2) any portion of such cost previously taken into account under this section.

This section shall not apply to any gain which is treated as ordinary income for purposes of this title.

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED SMALL BUSINESS STOCK.—The term 'qualified small business stock' has the meaning given such term by section 1203(c).

"(2) ELIGIBLE GAIN.—The term 'eligible gain' means any gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(3) PURCHASE.—A taxpayer shall be treated as having purchased any property if, but for para-

graph (4), the unadjusted basis of such property in the hands of the taxpayer would be its cost (within the meaning of section 1012).

"(4) BASIS ADJUSTMENTS.—If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any qualified small business stock which is purchased by the taxpayer during the 60-day period described in subsection (a).

"(c) SPECIAL RULES FOR TREATMENT OF REPLACEMENT STOCK.—

"(1) HOLDING PERIOD FOR ACCRUED GAIN.—For purposes of this chapter, gain from the disposition of any replacement qualified small business stock shall be treated as eligible gain to the extent that the amount of such gain does not exceed the amount of the reduction in the basis of such stock by reason of subsection (b)(4).

"(2) TACKING OF HOLDING PERIOD FOR PURPOSES OF DEFERRAL.—Solely for purposes of applying this section, if any replacement qualified small business stock is disposed of before the taxpayer has held such stock for more than 5 years, gain from

such stock shall be treated as eligible gain for purposes of subsection (a).

"(3) REPLACEMENT QUALIFIED SMALL BUSINESS STOCK.—For purposes of this subsection, the term 'replacement qualified small business stock' means any qualified small business stock the basis of which was reduced under subsection (b)(4)."

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a)(23) is amended—

(A) by striking "or 1044" and inserting ", 1044, or 1045", and

(B) by striking "or 1044(d)" and inserting ", 1044(d), or 1045(b)(4)".

(2) The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end the following new item:

"Sec. 1045. Rollover of gain from qualified small business stock to another qualified small business stock."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to stock sold or exchanged after the date of the enactment of this Act.

Subchapter B—Corporate Capital Gains

SEC. 12151. REDUCTION OF ALTERNATIVE CAPITAL GAIN TAX FOR CORPORATIONS.

(a) IN GENERAL.—Section 1201 is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, and 831 (a) and (b) (whichever is applicable), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 28 percent of the net capital gain.

"(b) SPECIAL RULES FOR QUALIFIED SMALL BUSINESS GAIN.—

"(1) IN GENERAL.—If for any taxable year a corporation has gain from the sale or exchange of any qualified small business stock held for more than 5 years, the amount determined under subsection (a)(2) for such taxable year shall be equal to the sum of—

"(A) 21 percent of the lesser of such gain or the corporation's net capital gain, plus

"(B) 28 percent of the net capital gain reduced by the gain taken into account under subparagraph (A).

"(2) QUALIFIED SMALL BUSINESS STOCK.—For purposes of paragraph (1), the term 'qualified small business stock' has the meaning given such term by section 1203(c), except that stock shall not be treated as qualified small business stock if such stock was at any time held by a member of a parent-subsidiary controlled group (as defined in section 1203(d)(3)).

"(c) TRANSITIONAL RULE.—

"(1) IN GENERAL.—In applying this section, net capital gain for any taxable year shall not exceed such net capital gain determined by taking into account only gain or loss properly taken into account for the portion of the taxable year after October 13, 1995.

"(2) SPECIAL RULE FOR PASS-THRU ENTITIES.—Section 1202(e)(2) shall apply for purposes of paragraph (1).

"(d) CROSS REFERENCES.—

"For computation of the alternative tax—

"(1) in the case of life insurance companies, see section 801(a)(2),

"(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D), and

"(3) in the case of real estate investment trusts, see section 857(b)(3)(A)."

(b) TECHNICAL AMENDMENT.—Clause (iii) of section 852(b)(3)(D) is amended by striking ''65 percent'' and inserting ''72 percent''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after October 13, 1995.

(2) QUALIFIED SMALL BUSINESS STOCK.—Section 1201(b) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to gain from qualified small business stock acquired on or after the date of the enactment of this Act.

CHAPTER 3—CORPORATE ALTERNATIVE MINIMUM TAX REFORM

SEC. 12161. MODIFICATION OF DEPRECIATION RULES UNDER MINIMUM TAX.

(a) IN GENERAL.—Clause (i) of section 56(a)(1)(A) is amended by striking ''under the alternative system of section 168(g)'' and inserting ''under section 168 except that the recovery period used shall be the period determined under section 168(g)''.

(b) CONFORMING AMENDMENT.—Clause (ii) of section 56(a)(1)(A) is amended by striking ''The method'' and inserting ''In the case of property placed in service before January 1, 1996, the method''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1995.

SEC. 12162. LONG-TERM UNUSED CREDITS ALLOWED AGAINST MINIMUM TAX.

(a) IN GENERAL.—Section 53(c) (relating to limitation) is amended by adding at the end the following new paragraph:

"(2) SPECIAL RULE FOR TAXPAYERS WITH LONG-TERM UNUSED CREDITS.—

"(A) IN GENERAL.—If—

"(i) a corporation to which section 56(g) applies has a long-term unused minimum tax credit for a taxable year, and

"(ii) no credit would be allowable under this section for the taxable year by reason of paragraph (1),

then there shall be allowed a credit under subsection (a) for the taxable year in the amount determined under subparagraph (B).

"(B) AMOUNT OF CREDIT.—For purposes of subparagraph (A), the amount of the credit shall be equal to the least of the following for the taxable year:

"(i) The long-term unused minimum tax credit.

"(ii) 50 percent of the taxpayer's tentative minimum tax.

"(iii) The excess (if any) of the amount under paragraph (1)(B) over the amount under paragraph (1)(A).

"(C) LONG-TERM UNUSED MINIMUM TAX CREDIT.—For purposes of this paragraph—

"(i) IN GENERAL.—The long-term unused minimum tax credit for any taxable year is the portion of the minimum tax credit determined under subsection (b) attributable to the adjusted net minimum tax for taxable years beginning after 1986 and ending before the 5th taxable year immediately preceding the taxable year for which the determination is being made.

"(ii) FIRST-IN, FIRST-OUT ORDERING RULE.—For purposes of clause (i), credits shall be treated as allowed under subsection (a) on a first-in, first-out basis."

(b) CONFORMING AMENDMENTS.—(1) Section 53(c) (as in effect before the amendment made by subsection (a)) is amended—

(A) by striking ''The'' and inserting:

''(1) IN GENERAL.—The'', and

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

(2) Subparagraph (C) of section 108(b)(4) is amended by striking ''and (G)'' in the text and heading thereof and inserting '', (C), and (G)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle C—Health Related Provisions

CHAPTER 1—LONG-TERM CARE PROVISIONS

Subchapter A—Long-Term Care Services and Contracts

PART I—GENERAL PROVISIONS

SEC. 12201. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in section 7702B(e)), or".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 213(d)(1) (as redesignated by subsection (a)) is amended to read as follows:

"(D) for insurance (including amounts paid as premiums under part B of title XVIII of the Social Security Act, relating to supplementary medical insurance for the aged)—

"(i) covering medical care referred to in subparagraphs (A) and (B), or

"(ii) covering medical care referred to in subparagraph (C), but only if such coverage is provided under a qualified long-term care insurance contract (as defined in section 7702B(b))."

(2) Paragraph (6) of section 213(d) is amended—

(A) by striking "subparagraphs (A) and (B)" in the matter preceding subparagraph (A) and inserting "subparagraphs (A), (B), and (C)", and

(B) by striking ''paragraph (1)(C)'' in subparagraph (A) and inserting ''paragraph (1)(D)''.

(3) Paragraph (7) of section 213(d) is amended by striking ''subparagraphs (A) and (B)'' and inserting ''subparagraphs (A), (B), and (C)''.

SEC. 12202. TREATMENT OF LONG-TERM CARE INSURANCE OR PLANS.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:

''SEC. 7702B. TREATMENT OF LONG-TERM CARE INSURANCE OR PLANS.

''(a) GENERAL RULE.—For purposes of this title—

''(1) a qualified long-term care insurance contract shall be treated as an accident or health insurance contract,

''(2) any plan of an employer providing coverage of qualified long-term care services shall be treated as an accident or health plan with respect to such services,

''(3) amounts (other than policyholder dividends, as defined in section 808, or premium refunds) received under such a contract or plan shall be treated as amounts received for personal injuries

or sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

"(4) payments described in subsection (b)(5) shall be treated as payments made with respect to qualified long-term care services, and

"(5) a qualified long-term care insurance contract shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

"(b) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—

"(1) IN GENERAL.—For purposes of this title, the term 'qualified long-term care insurance contract' means any insurance contract if—

"(A) the only insurance protection provided under such contract is coverage of qualified long-term care services, and

"(B) such contract meets the requirements of paragraphs (2), (3), and (4).

"(2) PREMIUM REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to a contract if such contract provides that—

"(i) premium payments may not be made earlier than the date such payments

would have been made if the contract provided for level annual payments over the life of the contract (or, if shorter, 20 years), and

"(ii) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits.

A contract shall not be treated as failing to meet the requirements of clause (i) solely by reason of a provision providing for a waiver of premiums if the insured becomes a functionally impaired individual.

"(B) REFUNDS UPON DEATH OR COMPLETE SURRENDER OR CANCELLATION.—Subparagraph (A)(ii) shall not apply to any refund on the death of the insured, or on any complete surrender or cancellation of the contract, if, under the contract, the amount refunded may not exceed the amount of the premiums paid under the contract. For purposes of this title, any refund described in the preceding sentence shall be includible in gross income to the extent

that any deduction or exclusion was allowed with respect to the refund.

"(3) BORROWING, PLEDGING, OR ASSIGNING PROHIBITED.—The requirements of this paragraph are met with respect to a contract if such contract provides that no money may be borrowed under such contract and that such contract (or any portion thereof) may not be assigned or pledged as collateral for a loan.

"(4) PROHIBITION OF DUPLICATE PAYMENT.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to a contract if such contract does not pay or reimburse expenses incurred to the extent that such expenses are reimbursable under title XVIII of the Social Security Act, or would be so reimbursable but for the application of a deductible or coinsurance amount.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(C) COORDINATION WITH OTHER LAWS.—No provision of law shall be construed or applied so as to prohibit the offering of a

qualified long-term care insurance contract on the basis that it coordinates its benefits with those provided under title XVIII of the Social Security Act.

"(5) PER DIEM AND OTHER PERIODIC PAYMENTS PERMITTED.—For purposes of subsection (a)(4), payments are described in this paragraph for any calendar year if, under the contract, such payments are made to (or on behalf of) a functionally impaired individual on a per diem or other periodic basis without regard to the expenses incurred or services rendered during the period to which the payments relate.

"(c) SPECIAL RULES FOR TREATMENT OF INSUREDS.—For purposes of this title, solely with respect to the insured under any qualified long-term care insurance contract—

"(1) AGGREGATE PAYMENTS IN EXCESS OF LIMITS.—

"(A) IN GENERAL.—If the aggregate payments under all qualified long-term care insurance contracts with respect to an insured for any period (whether on a periodic basis or otherwise) exceed the dollar amount in effect for such period under subparagraph (B), such ex-

cess payments shall be treated as made for qualified long-term care services only if made with respect to such services provided during such period.

"(B) DOLLAR AMOUNT.—The dollar amount in effect under this paragraph shall be $150 per day (or the equivalent amount in the case of payments on another periodic basis).

"(C) ADJUSTMENTS FOR INCREASED COSTS.—

"(i) IN GENERAL.—In the case of any calendar year after 1997, the dollar amount in effect under subparagraph (B) for any period occurring during such calendar year shall be equal to the sum of—

"(I) the amount in effect under subparagraph (B) for the preceding calendar year (after application of this subparagraph), plus

"(II) the applicable percentage of the amount under subclause (I).

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the term 'applicable percentage' means, with respect to any calendar year, the lesser of—

"(I) 5 percent, or

"(II) the cost-of-living adjustment for such calendar year.

"(iii) COST-OF-LIVING ADJUSTMENT.—For purposes of clause (ii), the cost-of-living adjustment for any calendar year is the percentage (if any) by which the cost index under clause (iv) for the preceding calendar year exceeds such index for the second preceding calendar year. In the case of any calendar year beginning before 1999, this clause shall be applied by substituting the Consumer Price Index (as defined in section 1(f)(5)) for the cost index under clause (iv).

"(iv) COST INDEX.—The Secretary, in consultation with the Secretary of Health and Human Services, shall before January 1, 1999, establish a cost index to measure increases in costs of nursing home and similar facilities. The Secretary may from time to time revise such index to the extent necessary to accurately measure increases or decreases in such costs.

"(2) ASSIGNMENT OR PLEDGE.—Such contract shall not be treated as a qualified long-term care insurance contract during any period on or after the date on which the contract (or any portion thereof) is assigned or pledged as collateral for a loan.

"(d) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE CONTRACT.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage provided under a life insurance contract—

"(1) IN GENERAL.—This section shall apply as if the portion of the contract providing such coverage is a separate contract.

"(2) APPLICATION OF SECTION 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date—

"(A) by the sum of the charges against the contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage made to that date under the contract, less

"(B) any such charges the imposition of which reduces the premiums paid for the con-

tract (within the meaning of section 7702(f)(1)).

"(3) APPLICATION OF SECTION 213.—No deduction shall be allowed under section 213(a) for charges against the life insurance contract's cash surrender value described in paragraph (2), unless such charges are includible in income as a result of the application of section 72(e)(10) and the rider is a qualified long-term care insurance contract under subsection (b).

"(4) PORTION.—For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to the coverage of qualified long-term care services, except that the payment of benefits shall not result in the benefits failing to be treated as long-term care insurance by reason of a reduction in the contract's death benefit or cash surrender value resulting from any such payment.

"(e) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, or

rehabilitative services, and maintenance or personal care services, which—

"(A) are required by an individual during any period during which such individual is a functionally impaired individual,

"(B) have as their primary purpose the provision of—

"(i) needed assistance with 1 or more activities of daily living which a functionally impaired individual is certified as being unable to perform under paragraph (2), or

"(ii) substantial supervision which the individual is certified under paragraph (2) as needing to protect the individual from threats to health and safety due to substantial cognitive impairment, and

"(C) are provided pursuant to a continuing plan of care prescribed by a licensed health care practitioner.

"(2) FUNCTIONALLY IMPAIRED INDIVIDUAL.—The term 'functionally impaired individual' means any individual who is certified by a licensed health care practitioner as—

"(A) being unable to perform, without substantial assistance from another individual (including assistance involving verbal reminding or physical cuing), at least 2 activities of daily living described in paragraph (3), or

"(B) requiring substantial supervision to protect such individual from threats to health and safety due to substantial cognitive impairment.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless, within the preceding 12-month period, a licensed health care practitioner has certified that such individual meets such requirements.

"(3) ACTIVITIES OF DAILY LIVING.—Each of the following is an activity of daily living:

"(A) Eating.

"(B) Transferring.

"(C) Toileting.

"(D) Dressing.

"(E) Bathing.

"(F) Continence.

"(4) LICENSED HEALTH CARE PRACTITIONER.—

"(A) IN GENERAL.—The term 'licensed health care practitioner' means any individual—

"(i) who is—

"(I) a physician (as defined in section 1861(r)(1) of the Social Security Act) or registered professional nurse,

"(II) a qualified community care case manager (as defined in subparagraph (B)), or

"(III) any other individual who meets such requirements as may be prescribed by the Secretary after consultation with the Secretary of Health and Human Services, and

"(ii) who is not a relative of the individual receiving care.

"(B) QUALIFIED COMMUNITY CARE CASE MANAGER.—The term 'qualified community care case manager' means an individual or entity which—

"(i) has experience or has been trained in providing case management services and in preparing individual care plans;

"(ii) has experience in assessing individuals to determine their functional and cognitive impairment; and

"(iii) meets such requirements as may be prescribed by the Secretary after consultation with the Secretary of Health and Human Services.

"(5) RELATIVE.—The term 'relative' means an individual bearing a relationship to another individual which is described in paragraphs (1) through (8) of section 152(a).

"(f) CONTINUATION COVERAGE TREATMENT NOT TO APPLY.—Section 4980B shall not apply to—

"(1) qualified long-term care insurance contracts, or

"(2) plans described in subsection (a)(2).

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the requirements of this section, including regulations to prevent the avoidance of this section by providing qualified long-term care services under a life insurance contract."

(b) LONG-TERM CARE INSURANCE NOT PERMITTED UNDER CAFETERIA PLANS OR FLEXIBLE SPENDING ARRANGEMENTS.—

(1) CAFETERIA PLANS.—Section 125(f) is amended by adding at the end the following new sentence: ''Such term shall not include any qualified long-term care insurance contract (as defined in section 7702B(b)).''

(2) FLEXIBLE SPENDING ARRANGEMENTS.—The text of section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

''(a) GENERAL RULE.—Except as provided in subsection (b), gross income of an employee does not include employer-provided coverage under an accident or health plan.

''(b) INCLUSION OF LONG-TERM CARE BENEFITS PROVIDED THROUGH FLEXIBLE SPENDING ARRANGEMENTS.—

''(1) IN GENERAL.—Effective on and after January 1, 1996, gross income of an employee shall include employer-provided coverage for qualified long-term care services (as defined in section 7702B(e)) to the extent that such coverage is provided through a flexible spending or similar arrangement.

''(2) FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, a flexible spending

arrangement is a benefit program which provides employees with coverage under which—

"(A) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

"(B) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage."

(c) RESERVES.—Clause (iii) of section 807(d)(3)(A) is amended by inserting "(other than a qualified long-term care insurance contract within the meaning of section 7702B)" after "contract".

(d) COORDINATION WITH INSURANCE DUPLICATION RULES UNDER MEDICARE.—

(1) IN GENERAL.—Section 1882(d)(3)(A) of the Social Security Act (42 U.S.C. 1395ss(d)(3)(A)) is amended to read as follows:

"(3)(A)(i) It is unlawful for a person to sell or issue a health insurance policy, other than a medicare supplemental policy, to an individual entitled to benefits under part A or enrolled under part B of this title with the

knowledge that such policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX.

"(ii) Clause (i) shall not apply to—

"(I) a health insurance policy providing for benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual; or

"(II) a health insurance policy (or a rider to an insurance contract which is not a health insurance policy) providing benefits only for long-term care, nursing home care, home health care, or community-based care, or any combination thereof, that coordinates against or excludes items and services available or paid for under this title, and such coordination or exclusion is disclosed in the policy's outline of coverage.

For purposes of this subparagraph, a health insurance policy meeting the requirements of subclause (I) or (II) shall be deemed to be nonduplicative and a State may impose additional requirements with respect to duplication under clause (i) only for policies not meeting the requirements of such subclauses.

"(iii)(I) It is unlawful for a person to sell or issue a medicare supplemental policy to an individual entitled

to benefits under part A or enrolled under part B of this title with the knowledge that such policy duplicates health benefits to which the individual is entitled under another medicare supplemental policy.

"(II) A seller (who is not the issuer) shall not be considered to have violated this subparagraph if the policy is sold in compliance with subparagraph (B) and the statement under subparagraph (B) indicates on its face that the sale of the policy will not duplicate health benefits to which the individual is otherwise entitled under another medicare supplemental policy.

"(iv) Whoever violates clause (i) or (iii) shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and, in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $25,000 (or $15,000 in the case of a person other than the issuer of the policy) for each such prohibited act. With respect to clause (iii), this clause shall not apply to a seller until such date as the Secretary publishes a list of the standardized benefit packages that may be offered consistent with subsection (p)."

(2) MODIFICATION OF CERTAIN DISCLOSURE REQUIREMENTS.—Section 1882(d)(3) of the Social Security Act (42 U.S.C. 1395ss(d)(3)) is amended—

(A) in subparagraph (C)—

(i) by striking clauses (ii) and (iii);

(ii) by striking ''(i)''; and

(iii) by striking the comma at the end and inserting a period; and

(B) by striking subparagraph (D).

(3) EFFECTIVE DATE AND OTHER RULES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if included in the enactment of section 4354 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) (hereafter referred to as ''OBRA–1990'') on November 5, 1990.

(B) DISCLOSURE REQUIREMENTS.—Any amendment made by paragraph (1) relating to disclosure requirements for certain health insurance policies shall take effect on the date that is 90 days after the date of the enactment of this Act.

(C) NO PENALTIES.—No penalty shall be imposed under section 1882(d)(3)(A)(i) of the Social Security Act (42 U.S.C. 1395ss(d)(3)(A)(i)) for any act or omission occurring after the effective date of the amendments made by section 4354 of OBRA–90 and

before the date of the enactment of this Act relating to any health insurance policy that—

(i) meets the requirements of section 1882(d)(3)(A)(ii) of the Social Security Act (42 U.S.C. 1395ss(d)(3)(A)(ii)) (as amended by this Act), except that the disclosure requirement in subclause (II) of such section shall not apply; or

(ii) was sold or issued before the effective date of the amendments made by section 4354 of OBRA–90.

(D) LIMITATION ON LEGAL ACTION.—No legal action shall be brought or continued in any Federal or State court if such legal action—

(i) includes any cause of action which arose, or any act or omission which occurred, prior to the date of the enactment of this Act;

(ii) relates to the application of clause (i) or (ii) of section 1882(d)(3)(A) of the Social Security Act (42 U.S.C. 1395ss(d)(3)(A)(i) or (ii)) to any act or omission with respect to the sale, issuance, or renewal of any health insurance policy;

(iii) was filed after the effective date of the amendments made by section 4354 of OBRA–1990; and

(iv) relates to any health insurance policy that—

(I) meets the requirements of section 1882(d)(3)(A)(ii) of the Social Security Act (42 U.S.C. 1395ss(d)(3)(A)(ii)) (as amended by this Act), except that the disclosure requirement in subclause (II) of such section shall not apply; or

(II) was sold or issued before the effective date of the amendments made by section 4354 of OBRA–90.

(E) EXCLUSIVE REMEDIES.—Notwithstanding any other provision of law, the remedies provided for in section 1882(d)(3) of the Social Security Act (42 U.S.C. 1395ss(d)(3)), as amended by this subsection, are the exclusive remedies available with respect to the non-duplication requirements described in such section.

(e) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the following new item:

"Sec. 7702B. Treatment of long-term care insurance or plans."

SEC. 12203. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61, as amended by section 12004(b), is amended by adding at the end the following new section:

"SEC. 6050R. CERTAIN LONG-TERM CARE BENEFITS.

"(a) REQUIREMENT OF REPORTING.—Any person who pays long-term care benefits shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

"(1) the aggregate amount of such benefits paid by such person to any individual during any calendar year, and

"(2) the name, address, and TIN of such individual.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the person making the payments, and

"(2) the aggregate amount of long-term care benefits paid to the individual which are required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(c) LONG-TERM CARE BENEFITS.—For purposes of this section, the term 'long-term care benefit' means any amount paid under a long-term care insurance policy (within the meaning of section 4980C(e))."

(b) PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1), as amended by section 12004, is amended by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, and by inserting after clause (ix) the following new clause:

"(x) section 6050R (relating to certain long-term care benefits),".

(2) Paragraph (2) of section 6724(d), as so amended, is amended by redesignating subparagraphs (R) through (U) as subparagraphs (S) through (V), respectively, and by inserting after subparagraph (Q) the following new subparagraph:

"(R) section 6050R(b) (relating to certain long-term care benefits),".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6050R. Certain long-term care benefits."

SEC. 12204. EFFECTIVE DATES.

(a) SECTION 12201.—The amendments made by section 12201 shall apply to taxable years beginning after December 31, 1995.

(b) SECTION 12202.—The amendments made by section 12202 shall apply to contracts issued after December 31, 1995.

(c) SECTION 12203.—The amendments made by section 12203 shall apply to benefits paid after December 31, 1995.

(d) TRANSITION RULE.—If, after the date of the enactment of this Act and before January 1, 1997, a contract providing coverage for services which are similar to qualified long-term care services (as defined in section 7702B(e) of the Internal Revenue Code of 1986) and issued on or before such date of enactment, is exchanged for a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), such exchange shall be treated as an exchange to which section 1035 of such Code applies.

(e) ISSUANCE OF CERTAIN RIDERS PERMITTED.—For purposes of section 101(f), 7702, or 7702A of the Internal Revenue Code of 1986, the issuance of a rider on a life insurance contract providing coverage of qualified long-term care services, or the conformance of such a rider to the requirements of this Act, shall not be treated as a modification or material change of such contract.

(f) NO INFERENCE.—No inference shall be drawn from the amendments made by this subpart as to how the Internal Revenue Code of 1986 is to be applied before the effective date of such amendments to qualified long-term care services or contracts.

PART II—CONSUMER PROTECTION PROVISIONS

SEC. 12211. POLICY REQUIREMENTS.

(a) IN GENERAL.—Section 7702B (as added by section 12202) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) CONSUMER PROTECTION PROVISIONS.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to any contract if any long-term care insurance policy issued under the contract meets—

"(A) the requirements of the model regulation and model Act described in paragraph (2),

"(B) the disclosure requirement of paragraph (3), and

"(C) the requirements relating to nonforfeitability under paragraph (4).

"(2) REQUIREMENTS OF MODEL REGULATION AND ACT.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any policy if such policy meets—

"(i) MODEL REGULATION.—The following requirements of the model regulation:

"(I) Section 7A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 7A.

"(II) Section 7B (relating to prohibitions on limitations and exclusions).

"(III) Section 7C (relating to extension of benefits).

"(IV) Section 7D (relating to continuation or conversion of coverage).

"(V) Section 7E (relating to discontinuance and replacement of policies).

"(VI) Section 8 (relating to unintentional lapse).

"(VII) Section 9 (relating to disclosure), other than section 9F thereof.

"(VIII) Section 10 (relating to prohibitions against post-claims underwriting).

"(IX) Section 11 (relating to minimum standards).

"(X) Section 12 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation protection shall permit the signature to be on an application or on a separate form.

"(XI) Section 23 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

"(ii) MODEL ACT.—The following requirements of the model Act:

"(I) Section 6C (relating to preexisting conditions).

"(II) Section 6D (relating to prior hospitalization).

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) MODEL PROVISIONS.—The terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of January 1993).

"(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

"(3) DISCLOSURE REQUIREMENT.—The requirement of this paragraph is met with respect to

any policy if such policy meets the requirements of section 4980C(d)(1).

"(4) NONFORFEITURE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any level premium long-term care insurance policy, if the issuer of such policy offers to the policyholder, including any group policyholder, a nonforfeiture provision meeting the requirements of subparagraph (B).

"(B) REQUIREMENTS OF PROVISION.—The nonforfeiture provision required under subparagraph (A) shall meet the following requirements:

"(i) The nonforfeiture provision shall be appropriately captioned.

"(ii) The nonforfeiture provision shall provide for a benefit available in the event of a default in the payment of any premiums and the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for pre-

mium paying policies approved by the Secretary for the same policy form.

"(iii) The nonforfeiture provision shall provide at least one of the following:

"(I) Reduced paid-up insurance.

"(II) Extended term insurance.

"(III) Shortened benefit period.

"(IV) Other similar offerings approved by the Secretary.

"(5) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this subsection, the term 'long-term care insurance policy' has the meaning given such term by section 4980C(e)."

(b) CONFORMING AMENDMENT.—Section 7702B(b)(1)(B) (as added by section 12202) is amended by inserting "and of subsection (g)" after "and (4)".

SEC. 12212. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—Chapter 43 is amended by adding at the end the following new section:

"SEC. 4980C. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

"(a) GENERAL RULE.—There is hereby imposed on any person failing to meet the requirements of subsection

(c) or (d) a tax in the amount determined under subsection (b).

"(b) AMOUNT.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be $100 per policy for each day any requirements of subsection (c) or (d) are not met with respect to each long-term care insurance policy.

"(2) WAIVER.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of the tax would be excessive relative to the failure involved.

"(c) RESPONSIBILITIES.—The requirements of this subsection are as follows:

"(1) REQUIREMENTS OF MODEL PROVISIONS.—

"(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

"(i) Section 13 (relating to application forms and replacement coverage).

"(ii) Section 14 (relating to reporting requirements), except that the issuer shall also report at least annually the number of

claims denied during the reporting period for each class of business (expressed as a percentage of claims denied), other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

''(iii) Section 20 (relating to filing requirements for marketing).

''(iv) Section 21 (relating to standards for marketing), including inaccurate completion of medical histories, other than sections 21C(1) and 21C(6) thereof, except that—

''(I) in addition to such requirements, no person shall, in selling or offering to sell a long-term care insurance policy, misrepresent a material fact; and

''(II) no such requirements shall include a requirement to inquire or identify whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance.

"(v) Section 22 (relating to appropriateness of recommended purchase).

"(vi) Section 24 (relating to standard format outline of coverage).

"(vii) Section 25 (relating to requirement to deliver shopper's guide).

"(B) MODEL ACT.—The following requirements of the model Act must be met:

"(i) Section 6F (relating to right to return), except that such section shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial.

"(ii) Section 6G (relating to outline of coverage).

"(iii) Section 6H (relating to requirements for certificates under group plans).

"(iv) Section 6I (relating to policy summary).

"(v) Section 6J (relating to monthly reports on accelerated death benefits).

"(vi) Section 7 (relating to incontestability period).

"(C) DEFINITIONS.—For purposes of this paragraph, the terms 'model regulation' and

'model Act' have the meanings given such terms by section 7702B(g)(2)(B).

''(2) DELIVERY OF POLICY.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is approved, the issuer shall deliver to the applicant (or policyholder or certificateholder) the policy (or certificate) of insurance not later than 30 days after the date of the approval.

''(3) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a long-term care insurance policy is denied, the issuer shall, within 60 days of the date of a written request by the policyholder or certificateholder (or representative)—

''(A) provide a written explanation of the reasons for the denial, and

''(B) make available all information directly relating to such denial.

''(d) DISCLOSURE.—The requirements of this subsection are met if the issuer of a long-term care insurance policy discloses in such policy and in the outline of coverage required under subsection (c)(1)(B)(ii) that the policy is intended to be a qualified long-term care insurance contract under section 7702B(b) of the Internal Revenue Code of 1986.

"(e) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this section, the term 'long-term care insurance policy' means any product which is advertised, marketed, or offered as long-term care insurance."

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

"Sec. 4980C. Requirements for issuers of long-term care insurance policies."

SEC. 12213. COORDINATION WITH STATE REQUIREMENTS.

Nothing in this part shall prevent a State from establishing, implementing, or continuing in effect standards related to the protection of policyholders of long-term care insurance policies (as defined in section 4980C(e) of the Internal Revenue Code of 1986), if such standards are not in conflict with or inconsistent with the standards established under such Code.

SEC. 12214. EFFECTIVE DATES.

(a) IN GENERAL.—The provisions of, and amendments made by, this part shall apply to contracts issued after December 31, 1995. The provisions of section 12204(d) of this Act (relating to transition rule) shall apply to such contracts.

(b) ISSUERS.—The amendments made by section 12212 shall apply to actions taken after December 31, 1995.

Subchapter B—Treatment of Accelerated Death Benefits

SEC. 12221. TREATMENT OF ACCELERATED DEATH BENEFITS UNDER LIFE INSURANCE CONTRACTS.

(a) GENERAL RULE.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, any amount received under a life insurance contract on the life of an insured who is a terminally ill individual shall be treated as an amount paid by reason of the death of such insured.

"(2) NECESSARY CONDITIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any amount received unless—

"(i) the total amount received is not less than the present value (determined under subparagraph (B)) of the reduction in the death benefit otherwise payable in the event of the death of the insured, and

"(ii) the percentage reduction in the cash surrender value of the contract by reason of the distribution does not exceed

the percentage reduction in the death benefit payable under the contract by reason of such distribution.

"(B) PRESENT VALUE.—The present value of the reduction in the death benefit shall be determined by—

"(i) using a discount rate which is based on an interest rate which does not exceed the highest interest rate set forth in subparagraph (C), and

"(ii) assuming that the death benefit (or the portion thereof) would have been paid on the date which is 12 months after the date of the certification referred to in paragraph (3).

"(C) RATES.—The interest rates set forth in this subparagraph are the following:

"(i) The 90-day Treasury bill yield.

"(ii) The rate described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for the calendar month ending 2 months before the date on which the rate is determined.

"(iii) The rate used to compute the cash surrender values under the contract during the applicable period plus 1 percent per annum.

"(D) SPECIAL RULES RELATING TO LIENS.—If a lien is imposed against a life insurance contract with respect to any amount referred to in paragraph (1)—

"(i) for purposes of subparagraph (A), the amount of such lien shall be treated as a reduction (at the time of receipt) in the death benefit or cash surrender value to the extent that such benefit or value, as the case may be, is (or may become) subject to the lien, and

"(ii) paragraph (1) shall not apply to the amount received unless any rate of interest with respect to any amount in connection with which such lien is imposed does not exceed the highest rate set forth in subparagraph (C).

"(3) TREATMENT OF VIATICAL SETTLEMENTS.—

"(A) IN GENERAL.—In the case of a life insurance contract on the life of an insured described in paragraph (1), if—

"(i) any portion of such contract is sold to any viatical settlement provider, or

"(ii) any portion of the death benefit is assigned to such a provider,

the amount paid for such sale or assignment shall be treated as an amount paid under the life insurance contract by reason of the death of such insured.

"(B) VIATICAL SETTLEMENT PROVIDER.—The term 'viatical settlement provider' means any person regularly engaged in the trade or business of purchasing, or taking assignments of, life insurance contracts on the lives of insureds described in paragraph (1) if—

"(i) such person is licensed for such purposes in the State in which the insured resides, or

"(ii) in the case of an insured who resides in a State not requiring the licensing of such persons for such purposes, such person—

"(I) meets the requirements of sections 8 and 9 of the Viatical Settlements Model Act of the National Association of Insurance Commissioners, and

"(II) meets the requirements of the Model Regulations of the National Association of Insurance Commissioners (relating to standards for evaluation of reasonable payments) in determining amounts paid by such person in connection with such purchases or assignments.

"(4) TERMINALLY ILL INDIVIDUAL.—For purposes of this subsection, the term 'terminally ill individual' means an individual who the insurer has determined, after receipt of an acceptable certification by a licensed physician (as defined in section 1861(r)(1) of the Social Security Act), has an illness or physical condition which is reasonably expected to result in death within 12 months after the date of certification.

"(5) EXCEPTION FOR BUSINESS-RELATED POLICIES.—This subsection shall not apply in the case of any amount paid to any taxpayer other than the in-

sured if such taxpayer has an insurable interest with respect to the life of the insured by reason of the insured being a director, officer, or employee of the taxpayer or by reason of the insured having a financial interest in any trade or business carried on by the taxpayer.''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to amounts received after December 31, 1995.

(2) DELAY IN APPLICATION OF DISCOUNT RULES.—Clause (i) of section 101(g)(2)(A) of the Internal Revenue Code of 1986 shall not apply to any amount received before July 1, 1996.

(3) ISSUANCE OF RIDER NOT TREATED AS MATERIAL CHANGE.—For purposes of applying section 101(f), 7702, or 7702A of the Internal Revenue Code of 1986 to any contract, the issuance of a qualified accelerated death benefit rider (as defined in section 818(g) of such Code (as added by this Act)), or the conformance of such a rider to the requirements of such section, shall not be treated as a modification or material change of such contract.

SEC. 12222. TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

"(g) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—For purposes of this part—

"(1) IN GENERAL.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

"(2) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider on a life insurance contract which provides for a distribution to an individual upon the insured becoming a terminally ill individual (as defined in section 101(g)(3))."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

Subchapter C—Medical Savings Accounts

SEC. 12231. DEDUCTION FOR CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.

''(a) DEDUCTION ALLOWED.—In the case of an eligible individual, the amounts paid in cash during the taxable year by such individual to a medical savings account for the benefit of such individual or for the benefit of such individual and any spouse or dependent of such individual who is an eligible individual shall be treated for purposes of sections 162(l) and 213 as amounts paid for insurance which constitutes medical care.

''(b) LIMITATIONS.—

''(1) ONLY 1 ACCOUNT PER FAMILY.—Except as provided in regulations prescribed by the Secretary, no amount shall be treated as paid for insurance by reason of subsection (a) for amounts paid to any medical savings account if the account beneficiary,

or such beneficiary's spouse or dependent, is a beneficiary of any other medical savings account.

"(2) DOLLAR LIMITATION.—

"(A) IN GENERAL.—Except as otherwise provided in this subsection, the aggregate amount which may be treated as paid for insurance under subsection (a) with respect to any account beneficiary shall not exceed the lesser of—

"(i) $2,000, or

"(ii) the deductible under the high deductible health plan covering such individual.

"(B) FAMILY ACCOUNT.—If the high deductible health plan covering an eligible individual provides coverage for any other eligible individual who is the spouse or any dependent (as defined in section 152) of the taxpayer, the limitation under subparagraph (A) shall be equal to the lesser of—

"(i) $4,000, or

"(ii) the annual limit under the high deductible health plan on the aggregate amount of deductibles required to be paid by all individuals.

"(3) PRORATION OF LIMITATION.—

"(A) IN GENERAL.—The limitation under paragraph (2) shall be the sum of the monthly limitations for months during the taxable year that the individual is an eligible individual if—

"(i) such individual is not an eligible individual for all months of the taxable year,

"(ii) the deductible under the high deductible health plan covering such individual is not the same throughout such taxable year, or

"(iii) such limitation is determined under paragraph (2)(B) for some but not all months during such taxable year.

"(B) MONTHLY LIMITATION.—The monthly limitation for any month shall be an amount equal to 1/12 of the limitation which would (but for this paragraph) be determined under paragraph (2) if the facts and circumstances as of the first day of such month that such individual is covered under a high deductible health plan were true for the entire taxable year.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means, with respect to any month, any individual—

"(A) who is covered under a high deductible health plan during such month, and

"(B) who is not eligible during such month—

"(i) to participate in an employer-subsidized health plan maintained by an employer of the individual, the individual's spouse, or any dependent of either, or

"(ii) to receive any employer contribution to a medical savings account.

For purposes of subparagraph (B), a self-employed individual (within the meaning of section 401(c)) shall not be treated as his own employer.

"(2) HIGH DEDUCTIBLE HEALTH PLAN.—The term 'high deductible health plan' means a health plan which—

"(A) has an annual deductible limit for each individual covered by the plan which is not less than $1,500, and

"(B) has an annual limit on the aggregate amount of deductibles required to be paid with

respect to all individuals covered by the plan which is not less than $3,000.

"(3) COST-OF-LIVING ADJUSTMENTS.—In the case of taxable years beginning after December 31, 1996, each dollar amount contained in paragraph (2) and subsection (b)(2) shall be increased by an amount equal to the product of—

"(A) such dollar amount, and

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that such section shall be applied by substituting 'the medical component of the CPI' for 'the CPI' each place it appears and by substituting '1995' for '1992' in subparagraph (B).

If any amount under this paragraph is not a multiple of $50, such amount shall be rounded to the next lower multiple of $50.

"(4) MEDICAL SAVINGS ACCOUNT.—The term 'medical savings account' has the meaning given such term by section 7705.

"(5) TIME WHEN CONTRIBUTIONS DEEMED MADE.—A contribution shall be deemed to be made on the last day of the preceding taxable year if the contribution is made on account of such taxable year

and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).''

(b) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new item:

''Sec. 220. Contributions to medical savings accounts.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12232. EXCLUSION FROM INCOME OF EMPLOYER CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Section 106 (relating to contributions by employers to accident and health plans), as amended by section 12202(b), is amended by adding at the end the following new subsection:

''(c) CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

''(1) TREATMENT OF CONTRIBUTIONS.—

''(A) IN GENERAL.—Gross income of an employee who is covered by a high deductible health plan of an employer shall not include any employer contribution to a medical savings account on behalf of the employee or the employee's spouse or dependents.

"(B) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of any employee solely because the employee may choose between the contributions described in subparagraph (A) and employer contributions to a health plan of the employer.

"(2) LIMITATIONS.—

"(A) ONLY 1 ACCOUNT PER FAMILY.—Except as provided in regulations, no amount may be excluded under subsection (a) for contributions to a medical savings account if the employee, or such employee's spouse or dependent, is a beneficiary of any other medical savings account.

"(B) DOLLAR LIMITATION.—The amount which may be excluded under paragraph (1) for any taxable year shall not exceed the limitation under section 220(b)(2) (without regard to this subsection) which is applicable to such employee for such taxable year.

"(3) SPECIAL RULE FOR DEDUCTION OF EMPLOYER CONTRIBUTIONS.—Any employer contribution to a medical savings account, if otherwise allowable as a deduction under this chapter, shall be allowed only for the taxable year in which paid.

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

"(A) HIGH DEDUCTIBLE HEALTH PLAN.—The term 'high deductible health plan' has the meaning given such term by section 220(c)(2).

"(B) MEDICAL SAVINGS ACCOUNT.—The term 'medical savings account' has the meaning given such term by section 7705."

(b) EXCLUSION OF EMPLOYER PAYMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any payment made to or for the benefit of an employee with respect to which, at the time of the payment, it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c) shall be treated in the same manner as payments to or for the benefit of an employee on account of sickness or accident.

(2) RAILROAD RETIREMENT TAX.—Subsection (e) of section 3231 is amended by adding at the end the following new paragraph:

"(10) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS.—The term 'compensation' shall not include any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to ex-

clude such payment from income under section 106(c).''

(3) UNEMPLOYMENT TAX.—Subsection (b) of section 3306 is amended by striking ''or'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ''; or'', and by inserting after paragraph (16) the following new paragraph:

''(17) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c).''

(4) WITHHOLDING TAX.—Subsection (a) of section 3401 is amended by striking ''or'' at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting ''; or'', and by inserting after paragraph (20) the following new paragraph:

''(21) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c).''

(c) MEDICAL SAVINGS ACCOUNTS NOT PERMITTED UNDER CAFETERIA PLANS.—Section 125(f) is amended by adding at the end the following new sentence: ''Such term shall not include any contribution to a medical savings account under section 7705.''

(d) CONFORMING AMENDMENT.—Section 106(a), as designated by section 12202(b), is amended by striking ''subsection (b)'' and inserting ''subsection (b) or (c)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12233. MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Chapter 79 is amended by adding at the end the following new section:

''SEC. 7705. MEDICAL SAVINGS ACCOUNTS.

''(a) GENERAL RULE.—The term 'medical savings account' means a trust created or organized in the United States for the exclusive benefit of the beneficiaries of the trust, but only if the written governing instrument creating the trust meets the following requirements:

''(1) Except in the case of a rollover contribution described in subsection (c)(5)—

''(A) no contribution will be accepted unless—

''(i) it is in cash, and

"(ii) it is made for a period during which the individual on whose behalf it is made is covered under a high deductible health plan, and

"(B) contributions will not be accepted for any taxable year in excess of the amount determined under section 220(b)(2) for such taxable year.

"(2) The trustee is a bank (as defined in section 408(n)), insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(3) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(4) No part of the trust assets will be invested in life insurance contracts.

"(5) The interest of an individual in the balance in the individual's account is nonforfeitable.

"(b) TAX TREATMENT OF ACCOUNTS.—

"(1) IN GENERAL.—A medical savings account is exempt from taxation under this subtitle unless such account has ceased to be a medical savings ac-

count by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) ACCOUNT TERMINATIONS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to medical savings accounts, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

"(3) FAILURE TO REMAIN IN HEALTH PLAN.—

"(A) IN GENERAL.—If, at any time during the 2-taxable year period beginning with the first taxable year in which an individual was an account beneficiary in a medical savings account, the account beneficiary becomes a participant in a health plan which has a lower individual (or aggregate) deductible limit than the lowest individual (or aggregate) limit permitted under a high deductible health plan, the account shall cease to be a medical savings account as of the first day of the taxable year in which the individual ceases to be so covered.

"(B) EXCEPTION.—This paragraph shall not apply to any account beneficiary who becomes a participant in a plan described in subparagraph (A) by reason of separation from employment.

"(C) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be a medical savings account by reason of subparagraph (A) on the first day of any taxable year, subsection (c) shall be applied as if—

"(i) there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day), and

"(ii) no portion of such distribution were used to pay qualified medical expenses.

"(c) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) AMOUNTS USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is used exclusively to pay qualified medical expenses of any account beneficiary (or any

spouse or dependent of the beneficiary) shall not be includible in gross income.

"(B) TREATMENT AFTER DEATH OF ACCOUNT BENEFICIARY.—

"(i) TREATMENT IF BENEFICIARY IS SPOUSE.—If, after the death of the account beneficiary, the account beneficiary's interest is payable to (or for the benefit of) the beneficiary's spouse, the medical savings account shall be treated as if the spouse were the account beneficiary.

"(ii) TREATMENT IF DESIGNATED BENEFICIARY IS NOT SPOUSE.—In the case of an account beneficiary's interest in a medical savings account which is payable to (or for the benefit of) any person other than such beneficiary's spouse upon the death of such beneficiary—

"(I) such account shall cease to be a medical savings account as of the date of death, and

"(II) an amount equal to the fair market value of the assets in such account on such date shall be includible if such person is not the estate of

such beneficiary, in such person's gross income for the taxable year which includes such date, or if such person is the estate of such beneficiary, in such beneficiary's gross income for last taxable year of such beneficiary.

"(2) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is not used exclusively to pay the qualified medical expenses of the account beneficiary or of the spouse or dependents of such beneficiary shall be included in the gross income of such beneficiary to the extent such amount does not exceed the excess of—

"(i) the aggregate contributions to such account which were allowed as a deduction under section 162(l) or 213 or which were excluded under section 106(c), over

"(ii) the aggregate prior payments or distributions from such account which were

includible in gross income under this paragraph.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all medical savings accounts of the account beneficiary shall be treated as 1 account,

"(ii) all payments and distributions during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Paragraph (2) shall not apply to the distribution of any contribution paid during a taxable year to a medical savings account to the extent that such contribution exceeds the amount under subsection (a)(1)(B) if—

"(A) such distribution is received by the individual on or before the last day prescribed by law (including extensions of time) for filing such individual's return for such taxable year, and

"(B) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (B) shall be included in the gross income of the individual for the taxable year in which it is received.

"(4) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The tax imposed by chapter 1 on the account beneficiary for any taxable year in which there is a payment or distribution from a medical savings account of such beneficiary which is includible in gross income under paragraph (2) shall be increased by 10 percent of the amount which is so includible.

"(B) EXCEPTION FOR DISABILITY OR DEATH.—Subparagraph (A) shall not apply if the payment or distribution is made after the account beneficiary becomes disabled within the meaning of section 72(m)(7) or dies.

"(C) EXCEPTION FOR DISTRIBUTIONS AFTER AGE 59½.—Subparagraph (A) shall not apply to any payment or distribution after the date on which the account beneficiary attains age 59½.

"(5) ROLLOVER CONTRIBUTION.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

"(A) IN GENERAL.—Paragraph (2) shall not apply to any amount paid or distributed from a medical savings account to the account beneficiary to the extent the amount received is paid into a medical savings account for the benefit of such beneficiary not later than the 60th day after the day on which the beneficiary receives the payment or distribution.

"(B) LIMITATION.—This paragraph shall not apply to any amount described in subparagraph (A) received by an individual from a medical savings account if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in subparagraph (A) from a medical savings account which was not includible in the individual's gross income because of the application of this paragraph.

"(6) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of determining the amount of the deduction under section 213, any pay-

ment or distribution out of a medical savings account for qualified medical expenses shall not be treated as an expense paid for medical care.

"(7) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual's interest in a medical savings account to an individual's spouse or former spouse under a divorce or separation instrument described in subparagraph (A) of section 71(b)(2) shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest shall, after such transfer, be treated as a medical savings account with respect to which the spouse is the account beneficiary.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The term 'qualified medical expenses' means any expense for medical care (as defined in section 213(d)).

"(B) EXCEPTION FOR INSURANCE.—

"(i) IN GENERAL.—Such term shall not include any expense for insurance.

"(ii) EXCEPTIONS.—Clause (i) shall not apply to any expense for—

"(I) coverage under a health plan during a period of continuation coverage described in section 4980B(f)(2)(B),

"(II) coverage under a qualified long-term care contract (as defined in section 7702B(b)), or

"(III) coverage under a health plan during a period in which the individual is receiving unemployment compensation under any Federal or State law.

"(2) ACCOUNT BENEFICIARY.—The term 'account beneficiary' means the individual for whose benefit the medical savings account is maintained.

"(e) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if—

"(1) the assets of such account are held by a bank (as defined in section 408(n)), insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the account will be consistent with the requirements of this section, and

"(2) the custodial account would, except for the fact that it is not a trust, constitute a medical savings account described in subsection (a).

For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(f) REPORTS.—The trustee of a medical savings account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations."

(b) EXCLUSION OF ACCOUNTS FROM ESTATE TAX.—

(1) IN GENERAL.—Section 2057, as added by section 7006, is amended—

(A) by inserting "or medical savings account (as defined in section 7705)" before "included", and

(B) by inserting "**OR MEDICAL SAVINGS**" after "**CHOICE**" in the heading.

(2) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter A of chapter 11 is amended by inserting ''or medical savings'' after ''choice''.

(c) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting ''**MEDICAL SAVINGS ACCOUNTS,**'' after ''**ACCOUNTS,**'' in the heading of such section,

(2) by striking ''or'' at the end of paragraph (1) of subsection (a),

(3) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

''(2) a medical savings account (within the meaning of section 7705(a)), or'', and

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

''(d) EXCESS CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—For purposes of this section, in the case of a medical savings account (within the meaning of section 7705(a)), the term 'excess contributions' means the amount by which the amount contributed for the taxable

year to the account exceeds the amount which may be contributed to the account under section 7705(a)(1)(B) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the medical savings account in a distribution to which section 7705(c)(3) applies shall be treated as an amount not contributed.''

(d) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 (relating to prohibited transactions), as amended by section 7006(c), is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

''(5) SPECIAL RULE FOR MEDICAL SAVINGS ACCOUNTS.—An individual for whose benefit a medical savings account (within the meaning of section 7705(a)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 7705(b)(2)(A)(i) to such account.'', and

(2) by striking ''or'' at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) a medical savings account described in section 7705(a), or".

(e) FAILURE TO PROVIDE REPORTS ON MEDICAL SAVINGS ACCOUNTS.—Section 6693(a)(2) (relating to failure to provide reports on individual retirement accounts or annuities), as amended by section 7006, is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following subparagraph:

"(C) section 7705(f) (relating to medical savings accounts)."

(f) EXCEPTION FROM CAPITALIZATION OF POLICY ACQUISITION EXPENSES.—Subparagraph (B) of section 848(e)(1) (defining specified insurance contract), as amended by 7006, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) any contract which is a medical savings account (as defined in section 7705)."

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

Subchapter D—Other Provisions

SEC. 12241. ADJUSTMENT OF DEATH BENEFIT LIMITS FOR CERTAIN POLICIES.

(a) IN GENERAL.—Subparagraph (C)(i) of section 7702(e)(2) (relating to limited increases in death benefit permitted) is amended by striking ''$5,000'' and inserting ''$7,000'' and by striking ''$25,000'' and inserting ''$30,000''.

(b) INFLATION ADJUSTMENTS.—Section 7702(e) (relating to computational rules) is amended by adding at the end the following new paragraph:

''(3) INFLATION ADJUSTMENT TO DEATH BENEFIT LIMITS FOR YEARS AFTER 1996.—In the case of any taxable year beginning in a calendar year after 1996, each dollar amount contained in paragraph (2)(C)(i) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.''

(c) CONFORMING AMENDMENT.—Section 72(e)(10)(B) is amended by striking ''$25,000'' and in-

serting "$30,000 (adjusted at the same time and in the same manner as under section 7702(e)(3))".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into after December 31, 1995.

SEC. 12242. ORGANIZATIONS SUBJECT TO SECTION 833.

(a) IN GENERAL.—Section 833(c) (relating to organization to which section applies) is amended by adding at the end the following new paragraph:

"(4) TREATMENT AS EXISTING BLUE CROSS OR BLUE SHIELD ORGANIZATION.—

"(A) IN GENERAL.—Paragraph (2) shall be applied to an organization described in subparagraph (B) as if it were a Blue Cross or Blue Shield organization.

"(B) APPLICABLE ORGANIZATION.—An organization is described in this subparagraph if it—

"(i) is organized under, and governed by, State laws which are specifically and exclusively applicable to not-for-profit health insurance or health service type organizations, and

"(ii) is not a Blue Cross or Blue Shield organization or health maintenance organization."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after October 13, 1995.

Subtitle D—Estate Tax Reform

SEC. 12301. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

"SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

"(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

"(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

"(2) the sum of—

"(A) $1,500,000, plus

"(B) 50 percent of the excess (if any) of the adjusted value of such interests over $1,500,000, but not over $5,000,000.

"(b) ESTATES TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—This section shall apply to an estate if—

"(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

"(B) the sum of—

"(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

"(ii) the amount of the gifts of such interests determined under paragraph (3), exceeds 50 percent of the adjusted gross estate, and

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) such interests were owned by the decedent or a member of the decedent's family, and

"(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

"(2) INCLUDIBLE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-owned business interests described in this paragraph are the interests which—

"(A) are included in determining the value of the gross estate (without regard to this section), and

"(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

"(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

"(A) the sum of—

"(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus

"(ii) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the

decedent's spouse) between the date of the gift and the date of the decedent's death, over

"(B) the amount of gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

"(c) ADJUSTED GROSS ESTATE.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

"(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

"(2) increased by the excess of—

"(A) the sum of—

"(i) the amount of gifts determined under subsection (b)(3), plus

"(ii) the amount of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

"(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's

family otherwise excluded under section 2503(b), over

"(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

"(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

"(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

"(2) the sum of—

"(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3), plus

"(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of edu-

cational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

"(C) any indebtedness not described in clause (i) or (ii), to the extent such indebtedness does not exceed $10,000.

"(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

"(B) an interest in an entity carrying on a trade or business, if—

"(i) at least—

"(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

"(II) 70 percent of such entity is so owned by members of 2 families, or

"(III) 90 percent of such entity is so owned by members of 3 families, and

"(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

"(2) LIMITATION.—Such term shall not include—

"(A) any interest in a trade or business the principal place of business of which is not located in the United States,

"(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death,

"(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)),

"(D) that portion of an interest in a trade or business that is attributable to—

"(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

"(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), (D), or (E) of section 954(c)(1) (determined by substituting 'trade or business' for 'controlled foreign corporation)'.

"(3) RULES REGARDING OWNERSHIP.—

"(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

"(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

"(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest or the profits interest in such partnership.

"(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent or any member of the decedent's family is treated as holding an interest in any other trade or business—

"(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

"(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest.

"(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered

as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

"(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

"(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

"(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

"(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

"(C) the qualified heir loses United States citizenship (within the meaning of section

877A) or with respect to whom an event described in subparagraph (A) or (B) of section 877A(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

"(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

"(2) ADDITIONAL ESTATE TAX.—

"(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

"(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

"(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

"If the event described in paragraph (1) occurs in the following year of material participation:	The applicable percentage is:
1 through 6	100
7	80
8	60
9	40
10	20.

"(g) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—

"(1) IN GENERAL.—Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.

"(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(A) which is organized under, and governed by, the laws of the United States or a State, and

"(B) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(h) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

"(1) QUALIFIED HEIR.—The term 'qualified heir'—

"(A) has the meaning given to such term by section 2032A(e)(1), and

"(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

"(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

"(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

"(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

"(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

"(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

"(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

"(E) Section 2032A(c)(4) (relating to due date).

"(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

"(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

"(H) Section 2032A(e)(10) (relating to community property).

"(I) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

"(J) Section 2032A(f) (relating to statute of limitations).

"(K) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

"(L) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

"(M) Section 6324B (relating to special lien for additional estate tax)."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

"Sec. 2033A. Family-owned business exclusion."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

SEC. 12302. INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.

(a) ESTATE TAX CREDIT.—

(1) IN GENERAL.—Section 2010 (relating to unified credit against estate tax) is amended—

(A) by striking "$192,800" in subsection (a) and inserting "$248,300", and

(B) by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) PHASE-IN OF CREDIT.—

"In the case of decedents dying in:	Subsection (a) shall be applied by substituting for '$248,300' the following amount:
1996	$202,050
1997	211,300
1998	220,550
1999	229,800
2000	239,050."

(2) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 6018 is amended—

(i) by striking "$600,000" in paragraph (1) and inserting "$750,000", and

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

"(5) PHASE-IN OF FILING REQUIREMENT AMOUNT.—

"In the case of decedents dying in:	Paragraph (1) shall be applied by substituting for '$750,000' the following amount:
1996	$625,000
1997	650,000
1998	675,000
1999	700,000
2000	725,000."

(B) Section 2001(c)(2) is amended to read as follows:

"(2) PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—

"(A) IN GENERAL.—The tentative tax determined under paragraph (1) shall be increased by an amount equal to 5 percent of so

much of the amount (with respect to which the tentative is to be computed) as exceeds $10,000,000 but does not exceed $22,150,000.

"(B) PHASE-IN OF END POINT OF PHASE-OUT RANGE.—

"In the case of decedents dying in:	Subparagraph (A) shall be applied by substituting for '$22,150,000' the following amount:
1996	$21,225,000
1997	21,410,000
1998	21,595,000
1999	21,780,000
2000	21,965,000."

(C) Paragraph (3) of section 2102(c) is amended—

(i) by striking "$192,800" in subparagraph (A) and inserting "$248,300", and

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

"(C) PHASE-IN OF CREDIT.—

"In the case of decedents dying in:	Subparagraph (A) shall be applied by substituting for '$248,300' the following amount:
1996	$202,050
1997	211,300
1998	220,550
1999	229,800
2000	239,050."

(b) UNIFIED GIFT TAX CREDIT.—Section 2505 (relating to unified credit against gift tax) is amended—

(1) by striking "$192,800" in subsection (a)(1) and inserting "$248,300", and

(2) by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) PHASE-IN OF CREDIT.—

"In the case of gifts made in:	Subsection (a)(1) shall be applied by substituting for '$248,300' the following amount:
1996	$202,050
1997	211,300
1998	220,550
1999	229,800
2000	239,050."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 1995.

SEC. 12303. TREATMENT OF LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.

(a) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—Section 2031 (relating to the definition of gross estate) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—

"(1) IN GENERAL.—If the executor makes the election described in paragraph (5), then, except as

otherwise provided in this subsection, there shall be excluded from the gross estate the applicable percentage of the lesser of—

"(A) the value of land subject to a qualified conservation easement, reduced by the amount of any deduction under section 2055(f) with respect to such land, or

"(B) the excess (if any) of—

"(i) $5,000,000, over

"(ii) the adjusted value of the qualified family-owned business interests of the decedent determined under section 2033A.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means 50 percent reduced (but not below zero) by 2 percentage points for each percentage point (or fraction thereof) by which the value of the qualified conservation easement is less than 30 percent of the value of the land (determined without regard to the value of such easement and reduced by the value of any retained development right (as defined in paragraph (4)).

"(3) TREATMENT OF CERTAIN INDEBTEDNESS.—

"(A) IN GENERAL.—The exclusion provided in paragraph (1) shall not apply to the extent that the land is debt-financed property.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) DEBT-FINANCED PROPERTY.—The term 'debt-financed property' means any property with respect to which there is an acquisition indebtedness (as defined in clause (ii)) on the date of the decedent's death.

"(ii) ACQUISITION INDEBTEDNESS.—The term 'acquisition indebtedness' means, with respect to debt-financed property, the unpaid amount of—

"(I) the indebtedness incurred by the donor in acquiring such property,

"(II) the indebtedness incurred before the acquisition of such property if such indebtedness would not have been incurred but for such acquisition,

"(III) the indebtedness incurred after the acquisition of such property if such indebtedness would not have been incurred but for such acquisition

and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition, and

"(IV) the extension, renewal, or refinancing of an acquisition indebtedness.

"(4) TREATMENT OF RETAINED DEVELOPMENT RIGHT.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the value of any development right retained by the donor in the conveyance of a qualified conservation easement.

"(B) TERMINATION OF RETAINED DEVELOPMENT RIGHT.—If every person in being who has an interest (whether or not in possession) in the land executes an agreement to extinguish permanently some or all of any development rights (as defined in subparagraph (D)) retained by the donor on or before the date for filing the return of the tax imposed by section 2001, then any tax imposed by section 2001 shall be reduced accordingly. Such agreement shall be filed with the return of the tax imposed by section 2001. The agreement shall be in such form as the Secretary shall prescribe.

"(C) ADDITIONAL TAX.—Any failure to implement the agreement described in subparagraph (B) not later than the earlier of—

"(i) the date which is 2 years after the date of the decedent's death, or

"(ii) the date of the sale of such land subject to the qualified conservation easement),

shall result in the imposition of an additional tax in the amount of the tax which would have been due on the retained development rights subject to such agreement. Such additional tax shall be due and payable on the last day of the 6th month following such date.

"(D) DEVELOPMENT RIGHT DEFINED.—For purposes of this paragraph, the term 'development right' means any right to use the land subject to the qualified conservation easement in which such right is retained for any commercial purpose which is not subordinate to and directly supportive of the use of such land as a farm for farming purposes (within the meaning of section 6420(c).

"(5) ELECTION.—The election under this subsection shall be made on the return of the tax im-

posed by section 2001. Such an election, once made, shall be irrevocable.

"(6) CALCULATION OF ESTATE TAX DUE.—An executor making the election described in paragraph (5) shall, for purposes of calculating the amount of tax imposed by section 2001, include the value of any development right (as defined in paragraph (4)) retained by the donor in the conveyance of such qualified conservation easement. The computation of tax on any retained development right prescribed in this paragraph shall be done in such manner and on such forms as the Secretary shall prescribe.

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

"(A) LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—The term 'land subject to a qualified conservation easement' means land—

"(i) which is located in or within 25 miles of an area which, on the date of the decedent's death, is—

"(I) a metropolitan area (as defined by the Office of Management and Budget), or

"(II) a national park or wilderness area designated as part of the National Wilderness Preservation System (unless it is determined by the Secretary that land in or within 25 miles of such a park or wilderness area is not under significant development pressure),

"(ii) which was owned by the decedent or a member of the decedent's family at all times during the 3-year period ending on the date of the decedent's death, and

"(iii) with respect to which a qualified conservation easement is or has been made by the decedent or a member of the decedent's family.

"(B) QUALIFIED CONSERVATION EASEMENT.—The term 'qualified conservation easement' means a qualified conservation contribution (as defined in section 170(h)(1)) of a qualified real property interest (as defined in section 170(h)(2)(C)), except that clause (iv) of section 170(h)(4)(A) shall not apply, and the restriction on the use of such interest described in

section 170(h)(2)(C) shall include a prohibition on commercial recreational activity.

"(C) MEMBER OF FAMILY.—The term 'member of the decedent's family' means any member of the family (as defined in section 2032A(e)(2)) of the decedent.

"(8) APPLICATION OF THIS SECTION TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.—This section shall apply to an interest in a partnership, corporation, or trust if at least 30 percent of the entity is owned (directly or indirectly) by the decedent, as determined under the rules described in section 2033A(e)(3)."

(b) CARRYOVER BASIS.—Section 1014(a) (relating to basis of property acquired from a decedent) is amended by striking the period at the end of paragraph (3) and inserting ", or" and by adding after paragraph (3) the following new paragraph:

"(4) to the extent of the applicability of the exclusion described in section 2031(c), the basis in the hands of the decedent."

(c) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—Subsection (c) of section 2032A (relating to alternative valuation method) is amended by adding at the end the following new paragraph:

"(8) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—A qualified conservation contribution (as defined in section 170(h)) by gift or otherwise shall not be deemed a disposition under subsection (c)(1)(A)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

SEC. 12304. EXPANSION OF EXCEPTION FROM GENERATION-SKIPPING TRANSFER TAX FOR TRANSFERS TO INDIVIDUALS WITH DECEASED PARENTS.

(a) IN GENERAL.—Section 2651 (relating to generation assignment) is amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULE FOR PERSONS WITH A DECEASED PARENT.—

"(1) IN GENERAL.—For purposes of determining whether any transfer is a generation-skipping transfer, if—

"(A) an individual is a descendant of a parent of the transferor (or the transferor's spouse or former spouse), and

"(B) such individual's parent who is a lineal descendant of the parent of the transferor (or the transferor's spouse or former spouse) is dead at the time the transfer from which such interest is established or derived is subject to a tax imposed by chapter 11 or 12 upon the transferor (and if there shall be more than 1 such time, then at the earliest such time),

such individual shall be treated as if such individual were a member of the generation which is 1 generation below the lower of the transferor's generation or the generation assignment of the youngest living ancestor of such individual who is also a descendant of the parent of the transferor (or the transferor's spouse or former spouse), and the generation assignment of any descendant of such individual shall be adjusted accordingly.

"(2) LIMITED APPLICATION OF SUBSECTION TO COLLATERAL HEIRS.—This subsection shall not apply with respect to a transfer to any individual who is not a lineal descendant of the transferor (or the transferor's spouse or former spouse) if, at the time of the transfer, such transferor has any living lineal descendant."

(b) CONFORMING AMENDMENTS.—

(1) Section 2612(c) (defining direct skip) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Section 2612(c)(2) (as so redesignated) is amended by striking ''section 2651(e)(2)'' and inserting ''section 2651(f)(2)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to terminations, distributions, and transfers occurring after December 31, 1994.

SEC. 12305. EXTENSION OF TREATMENT OF CERTAIN RENTS UNDER SECTION 2032A TO LINEAL DESCENDANTS.

(a) GENERAL RULE.—Paragraph (7) of section 2032A(c) (relating to special rules for tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN RENTS TREATED AS QUALIFIED USE.—For purposes of this subsection, a surviving spouse or lineal descendant of the decedent shall not be treated as failing to use qualified real property in a qualified use solely because such spouse or descendant rents such property to a member of the family of such spouse or descendant on a net cash basis. For

purposes of the preceding sentence, a legally adopted child of an individual shall be treated as the child of such individual by blood.''

(b) CONFORMING AMENDMENT.—Section 2032A(b)(5)(A) is amended by striking out the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to leases entered into after December 31, 1995.

Subtitle E—Extension of Expiring Provisions

CHAPTER 1—EXTENSIONS THROUGH FEBRUARY 28, 1997

SEC. 12401. WORK OPPORTUNITY TAX CREDIT.

(a) AMOUNT OF CREDIT.—Subsection (a) of section 51 (relating to amount of credit) is amended by striking ''40 percent'' and inserting ''35 percent''.

(b) MEMBERS OF TARGETED GROUPS.—Subsection (d) of section 51 is amended to read as follows:

''(d) MEMBERS OF TARGETED GROUPS.—For purposes of this subpart—

''(1) IN GENERAL.—An individual is a member of a targeted group if such individual is—

''(A) a qualified IV–A recipient,

''(B) a qualified veteran,

"(C) a qualified ex-felon,

"(D) a high-risk youth,

"(E) a vocational rehabilitation referral, or

"(F) a qualified summer youth employee.

"(2) QUALIFIED IV–A RECIPIENT.—

"(A) IN GENERAL.—The term 'qualified IV–A recipient' means any individual who is certified by the designated local agency as being a member of a family receiving assistance under a IV–A program for at least a 9-month period ending during the 9-month period ending on the hiring date.

"(B) IV–A PROGRAM.—For purposes of this paragraph, the term 'IV–A program' means any program providing assistance under a State plan approved under part A of title IV of the Social Security Act (relating to assistance for needy families with minor children) and any successor of such program.

"(3) QUALIFIED VETERAN.—

"(A) IN GENERAL.—The term 'qualified veteran' means any veteran who is certified by the designated local agency as being—

"(i) a member of a family receiving assistance under a IV–A program (as de-

fined in paragraph (2)(B)) for at least a 9-month period ending during the 12-month period ending on the hiring date, or

"(ii) a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for at least a 3-month period ending during the 12-month period ending on the hiring date.

"(B) VETERAN.—For purposes of subparagraph (A), the term 'veteran' means any individual who is certified by the designated local agency as—

"(i)(I) having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, or

"(II) having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability, and

"(ii) not having any day during the 60-day period ending on the hiring date which was a day of extended active duty in the Armed Forces of the United States.

For purposes of clause (ii), the term 'extended active duty' means a period of more than 90 days during which the individual was on active duty (other than active duty for training).

"(4) QUALIFIED EX-FELON.—The term 'qualified ex-felon' means any individual who is certified by the designated local agency—

"(A) as having been convicted of a felony under any statute of the United States or any State,

"(B) as having a hiring date which is not more than 1 year after the last date on which such individual was so convicted or was released from prison, and

"(C) as being a member of a family which had an income during the 6 months immediately preceding the earlier of the month in which such income determination occurs or the month in which the hiring date occurs, which, on an annual basis, would be 70 percent or less of the Bureau of Labor Statistics lower living standard.

Any determination under subparagraph (C) shall be valid for the 45-day period beginning on the date such determination is made.

"(5) HIGH-RISK YOUTH.—

"(A) IN GENERAL.—The term 'high-risk youth' means any individual who is certified by the designated local agency—

"(i) as having attained age 18 but not age 25 on the hiring date, and

"(ii) as having his principal place of abode within an empowerment zone or enterprise community.

"(B) YOUTH MUST CONTINUE TO RESIDE IN ZONE.—In the case of a high-risk youth, the term 'qualified wages' shall not include wages paid or incurred for services performed while such youth's principal place of abode is outside an empowerment zone or enterprise community.

"(6) VOCATIONAL REHABILITATION REFERRAL.—The term 'vocational rehabilitation referral' means any individual who is certified by the designated local agency as—

"(A) having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and

"(B) having been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to—

"(i) an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or

"(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.

"(7) QUALIFIED SUMMER YOUTH EMPLOYEE.—

"(A) IN GENERAL.—The term 'qualified summer youth employee' means any individual—

"(i) who performs services for the employer between May 1 and September 15,

"(ii) who is certified by the designated local agency as having attained age 16 but not 18 on the hiring date (or if later, on May 1 of the calendar year involved),

"(iii) who has not been an employee of the employer during any period prior to the 90-day period described in subparagraph (B)(i), and

"(iv) who is certified by the designated local agency as having his principal place of abode within an empowerment zone or enterprise community.

"(B) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any qualified summer youth employee—

"(i) subsection (b)(2) shall be applied by substituting 'any 90-day period between May 1 and September 15' for 'the 1-year period beginning with the day the individual begins work for the employer', and

"(ii) subsection (b)(3) shall be applied by substituting '$3,000' for '$6,000'.

The preceding sentence shall not apply to an individual who, with respect to the same employer, is certified as a member of another targeted group after such individual has been a qualified summer youth employee.

"(C) YOUTH MUST CONTINUE TO RESIDE IN ZONE.—Paragraph (4)(B) shall apply for purposes of this paragraph.

"(8) HIRING DATE.—The term 'hiring date' means the day the individual is hired by the employer.

"(9) DESIGNATED LOCAL AGENCY.—The term 'designated local agency' means a State employment security agency established in accordance with the

Act of June 6, 1933, as amended (29 U.S.C. 49–49n).

"(10) SPECIAL RULES FOR CERTIFICATIONS.—

"(A) IN GENERAL.—An individual shall not be treated as a member of a targeted group unless—

"(i) on or before the day on which such individual begins work for the employer, the employer has received a certification from a designated local agency that such individual is a member of a targeted group, or

"(ii)(I) on or before the day the individual is offered employment with the employer, a pre-screening notice is completed by the employer with respect to such individual, and

"(II) not later than the 14th day after the individual begins work for the employer, the employer submits such notice, signed by the employer and the individual under penalties of perjury, to the designated local agency as part of a written request for such a certification from such agency.

For purposes of this paragraph, the term 'prescreening notice' means a document (in such form as the Secretary shall prescribe) which contains information provided by the individual on the basis of which the employer believes that the individual is a member of a targeted group.

"(B) INCORRECT CERTIFICATIONS.—If—

"(i) an individual has been certified by a designated local agency as a member of a targeted group, and

"(ii) such certification is incorrect because it was based on false information provided by such individual,

the certification shall be revoked and wages paid by the employer after the date on which notice of revocation is received by the employer shall not be treated as qualified wages.

"(C) EXPLANATION OF DENIAL OF REQUEST.—If a designated local agency denies a request for certification of membership in a targeted group, such agency shall provide to the person making such request a written explanation of the reasons for such denial."

(c) MINIMUM EMPLOYMENT PERIOD.—Paragraph (3) of section 51(i) (relating to certain individuals ineligible) is amended to read as follows:

"(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIOD.—No wages shall be taken into account under subsection (a) with respect to any individual unless such individual either—

"(A) is employed by the employer at least 180 days (20 days in the case of a qualified summer youth employee), or

"(B) has completed at least 400 hours (120 hours in the case of a qualified summer youth employee) of services performed for the employer."

(d) TERMINATION.—Paragraph (4) of section 51(c) (relating to wages defined) is amended to read as follows:

"(4) TERMINATION.—The term 'wages' shall not include any amount paid or incurred to an individual who begins work for the employer—

"(A) after December 31, 1994, and before January 1, 1996, or

"(B) after February 28, 1997."

(e) REDESIGNATION OF CREDIT.—

(1) Sections 38(b)(2) and 51(a) are each amended by striking ''targeted jobs credit'' and inserting ''work opportunity credit''.

(2) The subpart heading for subpart F of part IV of subchapter A of chapter 1 is amended by striking ''**Targeted Jobs Credit**'' and inserting ''**Work Opportunity Credit**''.

(3) The table of subparts for such part IV is amended by striking ''targeted jobs credit'' and inserting ''work opportunity credit''.

(f) BUSINESS AWARENESS PROGRAM.—The Secretary of Labor shall implement a program to encourage small businesses to use the services of local agencies to identify individuals who qualify to be certified as members of targeted groups (as defined in section 51 of the Internal Revenue Code of 1986, as amended by this section). Such Secretary, and the heads of other Federal agencies, shall make every effort to encourage small businesses to benefit from the credit allowable under such section by simplifying procedures to the extent possible.

(g) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 51(c) is amended by striking '', subsection (d)(8)(D),''.

(2) Paragraph (3) of section 51(i) is amended by striking ''(d)(12)'' each place it appears and inserting ''(d)(6)''.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 1995.

SEC. 12402. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) EXTENSION.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking ''December 31, 1994'' and inserting ''February 28, 1997''.

(b) CONFORMING AMENDMENTS.—Paragraph (2) of section 127(a) is amended—

(1) by inserting ''($875 in calendar year 1997)'' after ''$5,250'' the second and third place it appears, and

(2) by striking ''$5,250'' in the heading.

(c) SPECIAL RULE.—In the case of any taxable year beginning in 1997, only amounts paid before March 1, 1997, by the employer for educational assistance for the employee shall be taken into account in determining the amount excluded under section 127 of the Internal Revenue Code of 1986 with respect to such employee for such taxable year.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1994.

SEC. 12403. RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 (relating to credit for research activities) is amended—

(1) by striking ''June 30, 1995'' each place it appears and inserting ''February 28, 1997'', and

(2) by striking ''July 1, 1995'' each place it appears and inserting ''March 1, 1997''.

(b) BASE AMOUNT FOR START-UP COMPANIES.—Clause (i) of section 41(c)(3)(B) (relating to start-up companies) is amended to read as follows:

''(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if—

''(I) the first taxable year in which a taxpayer had both gross receipts and qualified research expenses begins after December 31, 1983, or

''(II) there are fewer than 3 taxable years beginning after December 31, 1983, and before January 1, 1989, in which the taxpayer had both

gross receipts and qualified research expenses.''

(c) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking ''June 30, 1995'' and inserting ''February 28, 1997''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1995.

SEC. 12404. EMPLOYER-PROVIDED GROUP LEGAL SERVICES.

(a) IN GENERAL.—Subsection (e) of section 120 (relating to amounts received under qualified group legal services plans) is amended to read as follows:

''(e) APPLICATION OF SECTIONS.—This section and section 501(c)(20) shall not apply to any taxable year beginning before January 1, 1996, or after February 28, 1997.''

(b) CONFORMING AMENDMENTS.—Subsection (a) of section 120 is amended by inserting ''($12 in taxable years beginning in 1997)'' after ''$70''.

(c) SPECIAL RULE.—In the case of any taxable year beginning in 1997, only amounts paid before March 1, 1997, by the employer for coverage for the employee, the employee's spouse, or the employee's dependents, under a qualified group legal services plan for periods before

March 1, 1997, shall be taken into account in determining the amount excluded under section 120 of the Internal Revenue Code of 1986 with respect to such employee for such taxable year.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1995.

SEC. 12405. ORPHAN DRUG TAX CREDIT.

(a) RECATEGORIZED AS A BUSINESS CREDIT.—

(1) IN GENERAL.—Section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is transferred to subpart D of part IV of subchapter A of chapter 1, inserted after section 45B, and redesignated as section 45C.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 38 (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting '', plus'', and by adding at the end the following new paragraph:

''(12) the orphan drug credit determined under section 45C(a).''

(3) CLERICAL AMENDMENTS.—

(A) The table of sections for subpart B of such part IV is amended by striking the item relating to section 28.

(B) The table of sections for subpart D of such part IV is amended by adding at the end the following new item:

"Sec. 45C. Clinical testing expenses for certain drugs for rare diseases or conditions."

(b) CREDIT TERMINATION.—Subsection (e) of section 45C, as redesignated by subsection (a)(1), is amended by striking "December 31, 1994" and inserting "February 28, 1997".

(c) NO PRE-1995 CARRYBACKS.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

"(7) NO CARRYBACK OF SECTION 45C CREDIT BEFORE 1995.—No portion of the unused business credit for any taxable year which is attributable to the orphan drug credit determined under section 45C may be carried back to a taxable year beginning before January 1, 1995."

(d) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 45C(a), as redesignated by subsection (a)(1), is amended by striking "There shall be allowed as a credit against the tax imposed by

this chapter for the taxable year'' and inserting ''For purposes of section 38, the credit determined under this section for the taxable year is''.

(2) Section 45C(d), as so redesignated, is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(3) Section 29(b)(6)(A) is amended by striking ''sections 27 and 28'' and inserting ''section 27''.

(4) Section 30(b)(3)(A) is amended by striking ''sections 27, 28, and 29'' and inserting ''sections 27 and 29''.

(5) Section 53(d)(1)(B) is amended—

(A) by striking ''or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B),'' in clause (iii), and

(B) by striking ''or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)'' in clause (iv)(II).

(6) Section 55(c)(2) is amended by striking ''28(d)(2),''.

(7) Section 280C(b) is amended—

(A) by striking ''section 28(b)'' in paragraph (1) and inserting ''section 45C(b)'',

(B) by striking ''section 28'' in paragraphs (1) and (2)(A) and inserting ''section 45C(b)'', and

(C) by striking ''subsection (d)(2) thereof'' in paragraphs (1) and (2)(A) and inserting ''section 38(c)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1994.

SEC. 12406. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Subparagraph (D) of section 170(e)(5) (relating to special rule for contributions of stock for which market quotations are readily available) is amended by striking ''December 31, 1994'' and inserting ''February 28, 1997''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 1994.

SEC. 12407. DELAY OF SCHEDULED INCREASE IN TAX ON FUEL USED IN COMMERCIAL AVIATION.

(a) IN GENERAL.—Sections 4092(b)(2), 6421(f)(2)(B), and 6427(l)(4)(B) are each amended by striking ''September 30, 1995'' and inserting ''February 28, 1997''.

(b) CONFORMING AMENDMENT.—Section 13245 of the Omnibus Budget Reconciliation Act of 1993 is hereby repealed.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect after September 30, 1995.

(2) CROSS REFERENCE.—

For refund of tax paid on commercial aviation fuel before the date of the enactment of this Act, see section 6427(l) of the Internal Revenue Code of 1986.

(d) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—In the case of commercial aviation fuel which is held by any person on March 1, 1997, there is hereby imposed a floor stocks tax equal to 4.3 cents per gallon.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation fuel on March 1, 1997, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before September 30, 1997.

(3) DEFINITIONS.—For purposes of this subsection—

(A) HELD BY A PERSON.—Aviation fuel shall be considered as ''held by a person'' if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) COMMERCIAL AVIATION FUEL.—The term ''commercial aviation fuel'' means aviation fuel (as defined in section 4093 of such Code) which is held on March 1, 1997, for sale or use in commercial aviation (as defined in section 4092(b) of such Code).

(C) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or the Secretary's delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to aviation fuel held by any person exclusively for any use for which a credit or refund of the entire tax imposed by section 4091 of such Code (other than the rate imposed by section 4091(b)(2) of such Code) is allowable for aviation fuel so used.

(5) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on aviation fuel held on March 1, 1997, by any person if the aggregate amount of commercial aviation fuel held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4).

(C) CONTROLLED GROUPS.—For purposes of this paragraph—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term ''controlled group'' has the

meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase ''more than 50 percent'' shall be substituted for the phrase ''at least 80 percent'' each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(6) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4091.

CHAPTER 2—EXTENSIONS OF SUPERFUND AND OIL SPILL LIABILITY TAXES

SEC. 12411. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND.

(a) EXTENSION OF TAXES.—

(1) ENVIRONMENTAL TAX.—Section 59A(e) is amended to read as follows:

''(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1998.''

(2) EXCISE TAXES.—Section 4611(e) is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before October 1, 2002.''

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 12412. EXTENSION OF OIL SPILL LIABILITY TAX.

(a) IN GENERAL.—Section 4611(f)(1) (relating to application of oil spill liability trust fund financing rate) is amended by striking ''after December 31, 1989, and

before January 1, 1995'' and inserting ''after December 31, 1995, and before October 1, 2002''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 1996.

CHAPTER 3—EXTENSIONS RELATING TO FUEL TAXES

SEC. 12421. ETHANOL BLENDER REFUNDS.

(a) IN GENERAL.—Paragraph (4) of section 6427(f) (relating to gasoline, diesel fuel, and aviation fuel used to produce certain alcohol fuels) is amended by striking ''1995'' and inserting ''1999''.

(b) SPECIAL RULE.—With respect to refund claims which could have been filed under section 6427(f) of the Internal Revenue Code of 1986 during the period beginning on October 8, 1995, and ending on the date of the enactment of this Act, but for the expiration of such section after September 30, 1995, interest shall accrue on such claims from the date which is the later of—

(1) November 1, 1995, or

(2) 20 days after the claim could have been filed under such section as in effect on September 30, 1995.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 12422. EXTENSION OF BINDING CONTRACT DATE FOR BIOMASS AND COAL FACILITIES.

(a) IN GENERAL.—Subparagraph (A) of section 29(g)(1) (relating to extension of certain facilities) is amended by striking ''January 1, 1997'' and inserting ''January 1, 1998'' and by striking ''January 1, 1996'' and inserting ''January 1, 1997''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

CHAPTER 4—DIESEL DYEING PROVISIONS

SEC. 12431. EXEMPTION FROM DIESEL FUEL DYEING REQUIREMENTS WITH RESPECT TO CERTAIN STATES.

(a) IN GENERAL.—Section 4082 (relating to exemptions for diesel fuel) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

''(c) EXCEPTION TO DYEING REQUIREMENTS.—Paragraph (2) of subsection (a) shall not apply with respect to any diesel fuel—

''(1) removed, entered, or sold before March 1, 1997, in a State for ultimate sale or use in an area of such State which is exempted from the fuel dyeing requirements under subsection (i) of section 211

of the Clean Air Act (as in effect on the date of the enactment of this subsection) by the Administrator of the Environmental Protection Agency under paragraph (4) of such subsection, and

"(2) the use of which is certified pursuant to regulations issued by the Secretary."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 13242(b) of the Omnibus Budget Reconciliation Act of 1993.

SEC. 12432. MORATORIUM FOR EXCISE TAX ON DIESEL FUEL SOLD FOR USE OR USED IN DIESEL-POWERED MOTORBOATS.

(a) IN GENERAL.—Subparagraph (D) of section 4041(a)(1) (relating to the imposition of tax on diesel fuel and special motor fuels) is amended to read as follows:

"(D) DIESEL FUEL USED IN MOTORBOATS.—

"(i) MORATORIUM.—No tax shall be imposed by subsection (a) or (d)(1) on diesel fuel sold for use or used in a diesel-powered motorboat during the period after December 31, 1995, and before March 1, 1997.

"(ii) SPECIAL TERMINATION DATE.—In the case of any sale for use, or use, of fuel in a diesel-powered motorboat—

"(I) effective during the period after September 30, 1999, and before January 1, 2000, the rate of tax imposed by this paragraph is 24.3 cents per gallon, and

"(II) the termination of the tax under subsection (d) shall not occur before January 1, 2000."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect after December 31, 1995.

CHAPTER 5—Treatment of Individuals Who Expatriate

SEC. 12441. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsection (f), all property of a covered expatriate to

which this section applies shall be treated as sold on the expatriation date for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

"(3) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

"(A) IN GENERAL.—If an expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph) shall not apply to the expatriate, but

"(ii) the expatriate shall be subject to tax under this title, with respect to property to which this section would apply but for such election, in the same manner as if the individual were a United States citizen.

"(B) LIMITATION ON AMOUNT OF ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of paragraph (2)).

"(C) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(D) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) ELECTION TO DEFER TAX.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property—

"(A) no amount shall be required to be included in gross income under subsection (a)(1) with respect to the gain from such property for the taxable year of the sale, but

"(B) the taxpayer's tax for the taxable year in which such property is disposed of shall be increased by the deferred tax amount with respect to the property.

Except to the extent provided in regulations, subparagraph (B) shall apply to a disposition whether or not gain or loss is recognized in whole or in part on the disposition.

"(2) DEFERRED TAX AMOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'deferred tax amount' means, with respect to any property, an amount equal to the sum of—

"(i) the difference between the amount of tax paid for the taxable year described in paragraph (1)(A) and the amount which would have been paid for such taxable year if the election under

paragraph (1) had not applied to such property, plus

"(ii) an amount of interest on the amount described in clause (i) determined for the period—

"(I) beginning on the 91st day after the expatriation date, and

"(II) ending on the due date for the taxable year described in paragraph (1)(B),

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

For purposes of clause (ii), the due date is the date prescribed by law (determined without regard to extension) for filing the return of the tax imposed by this chapter for the taxable year.

"(B) ALLOCATION OF LOSSES.—For purposes of subparagraph (A), any losses described in subsection (a)(2)(B) shall be allocated ratably among the gains described in subsection (a)(2)(A).

"(3) SECURITY.—

"(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

"(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2)(A) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(4) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(5) DISPOSITIONS.—For purposes of this subsection, a taxpayer making an election under this subsection with respect to any property shall be treated as having disposed of such property—

"(A) immediately before death if such property is held at such time, and

"(B) at any time the security provided with respect to the property fails to meet the requirements of paragraph (3) and the taxpayer does not correct such failure within the time specified by the Secretary.

"(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(c) COVERED EXPATRIATE.—For purposes of this section—

"(1) IN GENERAL.—The term 'covered expatriate' means an expatriate—

"(A) whose average annual net income tax (as defined in section 38(c)(1)) for the period of 5 taxable years ending before the expatriation date is greater than $100,000, or

"(B) whose net worth as of such date is $500,000 or more.

If the expatriation date is after 1996, such $100,000 and $500,000 amounts shall be increased

by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1995' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.

"(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) for not more than 8 taxable years during the 15-taxable year period ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more

than 5 taxable years before the date of relinquishment.

"(d) PROPERTY TO WHICH SECTION APPLIES.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided by the Secretary, this section shall apply to—

"(A) any interest in property held by a covered expatriate on the expatriation date the gain from which would be includible in the gross income of the expatriate if such interest had been sold for its fair market value on such date in a transaction in which gain is recognized in whole or in part, and

"(B) any other interest in a trust to which subsection (f) applies.

"(2) EXCEPTIONS.—This section shall not apply to the following property:

"(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

"(B) INTEREST IN CERTAIN RETIREMENT PLANS.—

"(i) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

"(ii) FOREIGN PENSION PLANS.—

"(I) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(II) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes his citizenship, or

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

"(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immi-

gration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—

"(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful

permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the expatriation date occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

"(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

"(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year in which the expatriation date occurs, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

"(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee fail-

ing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULE.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(I) which is organized under, and governed by, the laws of the United States or a State, and

"(II) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a

trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) COORDINATION WITH ESTATE AND GIFT TAXES.—If subsection (a) applies to property held by an individual for any taxable year and—

"(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

"(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3),

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) to prevent double taxation by ensuring that—

"(A) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (a)(3), and

"(B) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(3)(B)(i), and

"(2) which provide for the proper allocation of the exclusion under subsection (a)(3) to property to which this section applies.

"(k) CROSS REFERENCE.—

"For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47)."

(b) INCLUSION IN INCOME OF GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A."

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3)."

(d) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995."

(2) Section 2107(c) is amended by adding at the end the following new paragraph:

"(3) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i)."

(3) Section 2501(a)(3) is amended by adding at the end the following new flush sentence:

"For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i)."

(4) Paragraph (10) of section 7701(b) is amended by adding at the end the following new sentence: ''This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).''

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to amounts received from expatriates (as so defined) whose expatriation date (as so defined) occurs on and after February 6, 1995.

(3) SPECIAL RULES RELATING TO CERTAIN ACTS OCCURRING BEFORE FEBRUARY 6, 1995.—In

the case of an individual who took an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)–(4)) before February 6, 1995, but whose expatriation date (as so defined) occurs after February 6, 1995—

(A) the amendment made by subsection (c) shall not apply,

(B) the amendment made by subsection (d)(1) shall not apply for any period prior to the expatriation date, and

(C) the other amendments made by this section shall apply as of the expatriation date.

(4) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 12442. INFORMATION ON INDIVIDUALS EXPATRIATING.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIATING.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any expatriate (within the meaning of section 877A(e)(1)) shall provide a statement which includes the information described in subsection (b).

"(2) TIMING.—

"(A) CITIZENS.—In the case of an expatriate described in section 877(e)(1)(A), such statement shall be—

"(i) provided not later than the expatriation date (within the meaning of section 877A(e)(2)), and

"(ii) provided to the person or court referred to in section 877A(e)(3).

"(B) NONCITIZENS.—In the case of an expatriate described in section 877A(e)(1)(B), such statement shall be provided to the Secretary with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

"(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877A(c)(1)(B), information detailing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(c) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the additional tax required to be paid under section 877A for such year, or

"(2) $1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(d) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

"(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual relinquishing United States citizenship (within the meaning of section 877A(e)(3)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

"(e) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of

this section if the Secretary determines that applying this section to such individuals is not necessary to carry out the purposes of this section.''

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

''Sec. 6039F. Information on individuals expatriating.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals to whom section 877A of the Internal Revenue Code of 1986 applies and whose expatriation date (as defined in section 877A(e)(2)) occurs on or after February 6, 1995, except that no statement shall be required by such amendments before the 90th day after the date of the enactment of this Act.

Subtitle F—Taxpayer Bill of Rights 2 Provisions

SEC. 12501. EXPANSION OF AUTHORITY TO ABATE INTEREST.

(a) GENERAL RULE.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended—

(1) by inserting ''unreasonable'' before ''error'' each place it appears in subparagraphs (A) and (B), and

(2) by striking ''in performing a ministerial act'' each place it appears and inserting ''in performing a ministerial or managerial act''.

(b) CLERICAL AMENDMENT.—The subsection heading for subsection (e) of section 6404 is amended—

(1) by striking ''ASSESSMENTS'' and inserting ''ABATEMENT'', and

(2) by inserting ''UNREASONABLE'' before ''ERRORS''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act.

SEC. 12502. REVIEW OF IRS FAILURE TO ABATE INTEREST.

(a) IN GENERAL.—Section 6404 is amended by adding at the end the following new subsection:

''(g) REVIEW OF DENIAL OF REQUEST FOR ABATEMENT OF INTEREST.—The Tax Court shall have jurisdiction over any action brought by a taxpayer who meets the requirements referred to in section 7430(c)(4)(A)(iii) to determine whether the Secretary's failure to abate interest under this section was an abuse of discretion if such action is brought within 6 months after the date of the Secretary's final determination not to abate such interest.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests for abatement after the date of the enactment of this Act.

SEC. 12503. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX.

(a) GENERAL RULE.—Paragraph (2) of section 6013(b) (relating to limitations on filing of joint return after filing separate returns) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 12504. MODIFICATIONS TO CERTAIN LEVY EXEMPTION AMOUNTS.

(a) FUEL, ETC.—Paragraph (2) of section 6334(a) (relating to fuel, provisions, furniture, and personal effects exempt from levy) is amended—

(1) by striking ''If the taxpayer is the head of a family, so'' and inserting ''So'',

(2) by striking ''his household'' and inserting ''the taxpayer's household'', and

(3) by striking "$1,650 ($1,550 in the case of levies issued during 1989)" and inserting "$2,500".

(b) BOOKS, ETC.—Paragraph (3) of section 6334(a) (relating to books and tools of a trade, business, or profession) is amended by striking "$1,100 ($1,050 in the case of levies issued during 1989)" and inserting "$1,250".

(c) INFLATION ADJUSTMENT.—Section 6334 (relating to property exempt from levy) is amended by adding at the end the following new subsection:

"(f) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year beginning after 1996, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to levies issued after December 31, 1995.

SEC. 12505. OFFERS-IN-COMPROMISE.

(a) REVIEW REQUIREMENTS.—Subsection (b) of section 7122 (relating to records) is amended by striking ''$500.'' and inserting ''$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 12506. AWARD OF LITIGATION COSTS PERMITTED IN DECLARATORY JUDGMENT PROCEEDINGS.

(a) IN GENERAL.—Subsection (b) of section 7430 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to proceedings commenced after the date of the enactment of this Act.

SEC. 12507. COURT DISCRETION TO REDUCE AWARD FOR LITIGATION COSTS FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES.

(a) GENERAL RULE.—Paragraph (1) of section 7433(d) (relating to civil damages for certain unauthorized collection actions) is amended to read as follows:

"(1) AWARD FOR DAMAGES MAY BE REDUCED IF ADMINISTRATIVE REMEDIES NOT EXHAUSTED.—The amount of damages awarded under subsection (b) may be reduced if the court determines that the plaintiff has not exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to proceedings commenced after the date of the enactment of this Act.

SEC. 12508. ENROLLED AGENTS INCLUDED AS THIRD-PARTY RECORDKEEPERS.

(a) IN GENERAL.—Paragraph (3) of section 7609(a) (relating to third-party recordkeeper defined) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting "; and", and by adding at the end the following new subparagraph:

"(I) any enrolled agent."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses issued after the date of the enactment of this Act.

SEC. 12509. SAFEGUARDS RELATING TO DESIGNATED SUMMONSES.

(a) LIMITATION ON PERSONS TO WHOM DESIGNATED SUMMONS MAY BE ISSUED.—Paragraph (1) of section 6503(k), as added by section 11311(a) of the Omnibus Budget Reconciliation Act of 1990, is amended by striking ''with respect to any return of tax by a corporation'' and inserting ''to a corporation (or to any other person to whom the corporation has transferred records) with respect to any return of tax by such corporation for a taxable year (or other period) for which such corporation is being examined under the coordinated examination program (or any successor program) of the Internal Revenue Service''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to summonses issued after the date of the enactment of this Act.

SEC. 12510. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7524. ANNUAL NOTICE OF TAX DELINQUENCY.

''Not less often than annually, the Secretary shall send a written notice to each taxpayer who has a tax delinquent account of the amount of the tax delinquency as of the date of the notice.''

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7524. Annual notice of tax delinquency.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1995.

Subtitle G—Casualty and Involuntary Conversion Provisions

SEC. 12601. BASIS ADJUSTMENT TO PROPERTY HELD BY CORPORATION WHERE STOCK IN CORPORATION IS REPLACEMENT PROPERTY UNDER INVOLUNTARY CONVERSION RULES.

(a) IN GENERAL.—Subsection (b) of section 1033 is amended to read as follows:

''(b) BASIS OF PROPERTY ACQUIRED THROUGH INVOLUNTARY CONVERSION.—

''(1) CONVERSIONS DESCRIBED IN SUBSECTION (a)(1).—If the property was acquired as the result of a compulsory or involuntary conversion described in subsection (a)(1), the basis shall be the same as in the case of the property so converted—

"(A) decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and

"(B) increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

"(2) CONVERSIONS DESCRIBED IN SUBSECTION (a)(2).—In the case of property purchased by the taxpayer in a transaction described in subsection (a)(2) which resulted in the nonrecognition of any part of the gain realized as the result of a compulsory or involuntary conversion, the basis shall be the cost of such property decreased in the amount of the gain not so recognized; and if the property purchased consists of more than 1 piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.

"(3) PROPERTY HELD BY CORPORATION THE STOCK OF WHICH IS REPLACEMENT PROPERTY.—

"(A) IN GENERAL.—If the basis of stock in a corporation is decreased under paragraph (2), an amount equal to such decrease shall also be applied to reduce the basis of property held by the corporation at the time the taxpayer acquired control (as defined in subsection (a)(2)(E)) of such corporation.

"(B) LIMITATION.—Subparagraph (A) shall not apply to the extent that it would (but for this subparagraph) require a reduction in the aggregate adjusted bases of the property of the corporation below the taxpayer's adjusted basis of the stock in the corporation (determined immediately after such basis is decreased under paragraph (2)).

"(C) ALLOCATION OF BASIS REDUCTION.—The decrease required under subparagraph (A) shall be allocated—

"(i) first to property which is similar or related in service or use to the converted property,

"(ii) second to depreciable property (as defined in section 1017(b)(3)(B)) not described in clause (i), and

"(iii) then to other property.

"(D) SPECIAL RULES.—

"(i) REDUCTION NOT TO EXCEED ADJUSTED BASIS OF PROPERTY.—No reduction in the basis of any property under this paragraph shall exceed the adjusted basis of such property (determined without regard to such reduction).

"(ii) ALLOCATION OF REDUCTION AMONG PROPERTIES.—If more than 1 property is described in a clause of subparagraph (C), the reduction under this paragraph shall be allocated among such property in proportion to the adjusted bases of such property (as so determined)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after September 13, 1995.

SEC. 12602. EXPANSION OF REQUIREMENT THAT INVOLUNTARILY CONVERTED PROPERTY BE REPLACED WITH PROPERTY ACQUIRED FROM AN UNRELATED PERSON.

(a) IN GENERAL.—Subsection (i) of section 1033 is amended to read as follows:

"(i) REPLACEMENT PROPERTY MUST BE ACQUIRED FROM UNRELATED PERSON IN CERTAIN CASES.—

"(1) IN GENERAL.—If the property which is involuntarily converted is held by a taxpayer to which this subsection applies, subsection (a) shall not apply if the replacement property or stock is acquired from a related person. The preceding sentence shall not apply to the extent that the related person acquired the replacement property or stock from an unrelated person during the period applicable under subsection (a)(2)(B).

"(2) TAXPAYERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) a C corporation,

"(B) a partnership in which 1 or more C corporations own, directly or indirectly (determined in accordance with section 707(b)(3)), more than 50 percent of the capital interest, or profits interest, in such partnership at the time of the involuntary conversion, and

"(C) any other taxpayer if, with respect to property which is involuntarily converted during the taxable year, the aggregate of the amount of realized gain on such property on which there is realized gain exceeds $100,000.

In the case of a partnership, subparagraph (C) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

"(3) RELATED PERSON.—For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person described in section 267(b) or 707(b)(1)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after September 13, 1995.

SEC. 12603. SPECIAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.

(a) IN GENERAL.—Section 451(d) (relating to special rule for crop insurance proceeds and disaster payments) is amended to read as follows:

"(d) SPECIAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.—

"(1) GENERAL RULE.—In the case of any payment described in paragraph (2), a taxpayer report-

ing on the cash receipts and disbursements method of accounting—

"(A) may elect to treat any such payment received in the taxable year of destruction or damage of crops as having been received in the following taxable year if the taxpayer establishes that, under the taxpayer's practice, income from such crops involved would have been reported in a following taxable year, or

"(B) may elect to treat any such payment received in a taxable year following the taxable year of the destruction or damage of crops as having been received in the taxable year of destruction or damage, if the taxpayer establishes that, under the taxpayer's practice, income from such crops involved would have been reported in the taxable year of destruction or damage.

"(2) PAYMENTS DESCRIBED.—For purposes of this subsection, a payment is described in this paragraph if such payment—

"(A) is insurance proceeds received on account of destruction or damage to crops, or

"(B) is disaster assistance received under any Federal law as a result of—

"(i) destruction or damage to crops caused by drought, flood, or other natural disaster, or

"(ii) inability to plant crops because of such a disaster."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to payments received after December 31, 1992, as a result of destruction or damage occurring after such date.

SEC. 12604. APPLICATION OF INVOLUNTARY EXCLUSION RULES TO PRESIDENTIALLY DECLARED DISASTERS.

(a) IN GENERAL.—Section 1033(h) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4) and by inserting after paragraph (1) the following new paragraph:

"(2) TRADE OR BUSINESS AND INVESTMENT PROPERTY.—If a taxpayer's property held for productive use in a trade or business or for investment is compulsorily or involuntarily converted as a result of a Presidentially declared disaster, tangible property of a type held for productive use in a trade or business shall be treated for purposes of subsection (a) as property similar or related in use to the property so converted."

(b) CONFORMING AMENDMENTS.—Section 1033(h) is amended—

(1) by striking ''residence'' in paragraph (3) (as redesignated by subsection (a)) and inserting ''property'',

(2) by striking ''Principal Residences'' in the heading and inserting ''Property'', and

(3) by striking ''(1) IN GENERAL.—'' and inserting ''(1) PRINCIPAL RESIDENCES.—''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters declared after December 31, 1994, in taxable years ending after such date.

Subtitle H—Exempt Organizations and Charitable Reforms

SEC. 12701. COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.—

''(1) IN GENERAL.—For purposes of this title, if an organization—

"(A) is organized and operated solely for purposes referred to in subsection (f)(1),

"(B) is composed solely of members which are exempt from taxation under subsection (a) and are—

"(i) private foundations, or

"(ii) community foundations as to which section 170(b)(1)(A)(vi) applies,

"(C) has at least 20 members,

"(D) does not at any time after the second taxable year beginning after the date of its organization or, if later, beginning after the date of the enactment of this subsection, have a member which holds more than 10 percent (by value) of the interests in the organization,

"(E) is organized and controlled by its members but is not controlled by any one member and does not have a member which controls another member of the organization, and

"(F) permits members of the organization to require the dismissal of any of the organization's investment advisers, following reasonable notice, if members holding a majority of interest in the account managed by such adviser vote to remove such adviser,

then such organization shall be treated as an organization organized and operated exclusively for charitable purposes.

"(2) TREATMENT OF INCOME OF MEMBERS.—If any member of an organization described in paragraph (1) is a private foundation (other than an exempt operating foundation, as defined in section 4940(d)), such private foundation's allocable share of the capital gain net income and gross investment income of the organization for any taxable year of the organization shall be treated, for purposes of section 4940, as capital gain net income and gross investment income of such private foundation (whether or not distributed to such foundation) for the taxable year of such private foundation with or within which the taxable year of the organization described in paragraph (1) ends (and such private foundation shall take into account its allocable share of the deductions referred to in section 4940(c)(3) of the organization).

"(3) APPLICABLE EXCISE TAXES.—Subchapter A of chapter 42 (other than sections 4940 and 4942) shall apply to any organization described in paragraph (1)."

(b) CONFORMING AMENDMENTS.—

(1) Section 4945(d) is amended by adding at the end the following new flush sentence:

''Paragraph (4)(B) shall not apply to a grant to an organization described in section 501(n).''

(2) Section 4942(g)(1)(A) is amended by inserting ''or an organization described in section 501(n)'' after ''subsection (j)(3))''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1995.

SEC. 12702. EXCLUSION FROM UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN SPONSORSHIP PAYMENTS.

(a) IN GENERAL.—Section 513 (relating to unrelated trade or business income) is amended by adding at the end the following new subsection:

''(i) TREATMENT OF CERTAIN SPONSORSHIP PAYMENTS.—

''(1) IN GENERAL.—The term 'unrelated trade or business' does not include the activity of soliciting and receiving qualified sponsorship payments.

''(2) QUALIFIED SPONSORSHIP PAYMENTS.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified sponsorship payment' means any payment made

by any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than the use or acknowledgement of the name or logo (or product lines) of such person's trade or business in connection with the activities of the organization that receives such payment. Such a use or acknowledgement does not include advertising such person's products or services (including messages containing qualitative or comparative language, price information or other indications of savings or value, an endorsement, or an inducement to purchase, sell, or use such products or services).

"(B) LIMITATIONS.—

"(i) CONTINGENT PAYMENTS.—The term 'qualified sponsorship payment' does not include any payment if the amount of such payment is contingent upon the level of attendance at one or more events, broadcast ratings, or other factors indicating the degree of public exposure to one or more events.

"(ii) ACKNOWLEDGEMENTS OR ADVERTISING IN PERIODICALS.—The term 'qualified sponsorship payment' does not include any payment which entitles the payor to an acknowledgement or advertising in regularly scheduled and printed material that is not related to and primarily distributed in connection with a specific event conducted by the payee organization.

"(3) ALLOCATION OF PORTIONS OF SINGLE PAYMENT.—For purposes of this subsection, to the extent that a portion of a payment would (if made as a separate payment) be a qualified sponsorship payment, such portion of such payment and the other portion of such payment shall be treated as separate payments."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments solicited or received after December 31, 1995.

SEC. 12703. TREATMENT OF DUES PAID TO AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.

(a) GENERAL RULE.—Section 512 (defining unrelated business taxable income) is amended by adding at the end the following new subsection:

"(d) TREATMENT OF DUES OF AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.—

"(1) IN GENERAL.—If—

"(A) an agricultural or horticultural organization described in section 501(c)(5) requires annual dues to be paid in order to be a member of such organization, and

"(B) the amount of such required annual dues does not exceed $100,

in no event shall any portion of such dues be treated as derived by such organization from an unrelated trade or business by reason of any benefits or privileges to which members of such organization are entitled.

"(2) INDEXATION OF $100 AMOUNT.—In the case of any taxable year beginning in a calendar year after 1995, the $100 amount in paragraph (1) shall be increased by an amount equal to—

"(A) $100, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1994' for 'calendar year 1992' in subparagraph (B) thereof.

"(3) DUES.—For purposes of this subsection, the term 'dues' means any payment required to be made in order to be recognized by the organization as a member of the organization."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 12704. REPEAL OF CREDIT FOR CONTRIBUTIONS TO COMMUNITY DEVELOPMENT CORPORATIONS.

(a) IN GENERAL.—Section 13311 of the Revenue Reconciliation Act of 1993 (relating to credit for contributions to certain community development corporations) is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act (other than contributions made pursuant to a legally enforceable agreement which is effect on the date of the enactment of this Act).

SEC. 12705. REQUIRED NOTICES TO CHARITABLE BENEFICIARIES OF CHARITABLE REMAINDER TRUSTS.

(a) IN GENERAL.—Section 6036 (relating to notice of qualification as executor or receiver) is amended—

(1) by striking "Every receiver" and inserting "(a) GENERAL RULE.—Every receiver", and

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

"(b) SPECIAL RULE FOR TRANSFERS OF REMAINDER INTERESTS DESCRIBED IN SECTION 2055(e)(2)(A).—

"(1) IN GENERAL.—In the case of an estate claiming a charitable contribution deduction for the value of a transfer of a remainder interest in property described in section 2055(e)(2)(A), the executor or other fiduciary shall provide written notice of the name of the charitable remainder trust and the interest created by such trust to each charitable beneficiary described in section 2055(a) which has such an interest within 3 months of the due date for the filing of the Federal estate tax return on which the charitable contribution deduction is claimed (including extensions) in the manner required by form or regulation.

"(2) NOTICE TO CONTINGENT INTEREST HOLDERS NOT REQUIRED.—For purposes of paragraph (1), a remainder interest shall not include a contingent remainder interest (determined without regard to any contingency that any charitable beneficiary continue to be a tax-exempt organization)."

(b) ANNUAL NOTICES.—Section 6034A (relating to information to beneficiaries of estates and trusts) is

amended by adding at the end the following new subsection:

"(c) ANNUAL NOTICE TO CHARITABLE REMAINDER BENEFICIARY.—

"(1) IN GENERAL.—The fiduciary of any charitable remainder trust required to file a return under chapter 61 for any taxable year shall provide a written notice each such year of the name of the charitable remainder trust and the interest created by such trust to each charitable beneficiary described in section 2055(a) which has such an interest, at the time and in the manner required by form or regulation.

"(2) EXCEPTIONS.—Unless otherwise prescribed by the Secretary, notice shall not be required by any fiduciary—

"(A) if such notice is not necessary to the efficient administration of the internal revenue laws,

"(B) if a corporate fiduciary, pursuant to State law or section 6036(b), previously notified the charitable beneficiary of its interest in the trust,

"(C) if the charitable beneficiary relieves the fiduciary from continuing to file such notice,

"(D) if the interest of the designated charitable beneficiary is a contingent interest (determined without regard to any contingency that any charitable beneficiary continue to be a tax-exempt organization), or

"(E) if the fiduciary, pursuant to State law, provides the charitable beneficiary with an annual accounting of the trust.

"(3) PENALTIES.—

"For provisions relating to the failure to furnish on a timely or complete basis the information required under paragraph (1), see section 6652(c)."

(c) PENALTIES.—Subsection (c) of section 6652 (relating to failure to file certain information returns, registration statements, etc.) is amended by adding at the end the following new paragraph:

"(2) NOTICES UNDER SECTION 6034A(c) OR 6036(b).—In the case of—

"(A) a failure to furnish any notice required under section 6034A(c) (relating to annual notice to charitable remainder beneficiary), or

"(B) a failure to furnish any notice required under section 6036(b) (relating to a qualification notice or tax return filing notice), on the date and in the manner prescribed therefore, there shall be paid by the fiduciary failing to furnish such notice $10 for each day during which such failure continues, but the total amount imposed under this paragraph on any fiduciary for failure to furnish any 1 notice shall not exceed $5,000."

(d) EFFECTIVE DATES.—

(1) GENERAL NOTICES.—The amendments made by subsection (a) shall apply to estates of decedents dying after the date of the enactment of this Act.

(2) ANNUAL NOTICES.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1995.

(3) PENALTIES.—The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

SEC. 12706. CLARIFICATION OF TREATMENT OF QUALIFIED FOOTBALL COACHES PLANS.

(a) IN GENERAL.—Subparagraph (F) of section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)(F)) is amended by redesig-

nating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) For purposes of the Internal Revenue Code of 1986—

"(I) clause (i) shall apply, and

"(II) a qualified football coaches plan shall be treated as a multiemployer collectively bargained plan."

(b) IMPOSITION OF EXCISE TAX.—

(1) IN GENERAL.—For purposes of reinstatement as a qualified football coaches plan under the Internal Revenue Code of 1986, there is hereby imposed on the cash or deferred arrangement maintained by an organization described in section 501(c)(6) of such Code, an excise tax equal to $25,000, to be paid in the first plan year of the arrangement beginning after the date of the enactment of this Act.

(2) APPLICATION OF CERTAIN RULES.—For purposes of the Internal Revenue Code of 1986, the tax imposed under paragraph (1) shall be treated as a tax imposed under subtitle D of such Code.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to years beginning after December 22, 1987.

Subtitle I—Tax Reform and Other Provisions

CHAPTER 1—PROVISIONS RELATING TO BUSINESSES

SEC. 12801. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.

(a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN EXCESS OF BASIS.—Paragraph (2) of section 1059(a) (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended to read as follows:

"(2) AMOUNTS IN EXCESS OF BASIS.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received."

(b) TREATMENT OF REDEMPTIONS WHERE OPTIONS INVOLVED.—Paragraph (1) of section 1059(e) (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:

"(1) TREATMENT OF PARTIAL LIQUIDATIONS AND CERTAIN REDEMPTIONS.—Except as otherwise provided in regulations—

"(A) REDEMPTIONS.—In the case of any redemption of stock—

"(i) which is part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation,

"(ii) which is not pro rata as to all shareholders, or

"(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),

any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a).

"(B) REORGANIZATIONS, ETC.—An exchange described in section 356(a)(1) which is treated as a dividend under section 356(a)(2) shall be treated as a redemption of stock for purposes of applying subparagraph (A)."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after May 3, 1995.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution.

(3) CERTAIN DIVIDENDS NOT PURSUANT TO CERTAIN REDEMPTIONS.—In determining whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall be applied by substituting ''September 13, 1995'' for ''May 3, 1995''.

SEC. 12802. REGISTRATION OF CONFIDENTIAL CORPORATE TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) CERTAIN CONFIDENTIAL ARRANGEMENTS TREATED AS TAX SHELTERS.—

"(1) IN GENERAL.—For purposes of this section, the term 'tax shelter' includes any entity, plan, arrangement, or transaction—

"(A) a significant purpose of the structure of which is the avoidance or evasion of Federal income tax for a participant which is a corporation,

"(B) which is offered to any potential participant under conditions of confidentiality, and

"(C) for which the tax shelter promoters may receive fees in excess of $100,000 in the aggregate.

"(2) CONDITIONS OF CONFIDENTIALITY.—For purposes of paragraph (1)(B), an offer is under conditions of confidentiality if—

"(A) the potential participant to whom the offer is made (or any other person acting on behalf of such participant) has an understanding or agreement with or for the benefit of any promoter of the tax shelter that such participant (or other person) will limit disclosure of the tax shelter or any significant tax features of the tax shelter, or

"(B) any promoter of the tax shelter—

"(i) claims, knows, or has reason to know,

"(ii) knows or has reason to know that any other person (other than the potential participant) claims, or

"(iii) causes another person to claim, that the tax shelter (or any aspect thereof) is proprietary to any person other than the potential participant or is otherwise protected from disclosure to or use by others.

For purposes of this subsection, the term 'promoter' means any person or any related person (within the meaning of section 267 or 707) who participates in the organization, management, or sale of the tax shelter.

"(3) PERSONS OTHER THAN PROMOTER REQUIRED TO REGISTER IN CERTAIN CASES.—

"(A) IN GENERAL.—If—

"(i) the requirements of subsection (a) are not met with respect to any tax shelter (as defined in paragraph (1)) by any tax shelter promoter, and

"(ii) no tax shelter promoter is a United States person,

then each United States person who discussed participation in such shelter shall register such shelter under subsection (a).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a United States person who discussed participation in a tax shelter if—

"(i) such person notified the promoter in writing (not later than the close of the seventh day after the day on which such discussions began) that such person would not participate in such shelter, and

"(ii) such person does not participate in such shelter.

"(4) OFFER TO PARTICIPATE TREATED AS OFFER FOR SALE.—For purposes of subsections (a) and (b), an offer to participate in a tax shelter (as defined in paragraph (1)) shall be treated as an offer for sale."

(b) PENALTY.—Subsection (a) of section 6707 (relating to failure to furnish information regarding tax shelters) is amended by adding at the end the following new paragraph:

"(3) CONFIDENTIAL ARRANGEMENTS.—

"(A) IN GENERAL.—In the case of a tax shelter (as defined in section 6111(d)), the pen-

alty imposed under paragraph (1) shall be an amount equal to the greater of—

"(i) 50 percent of the fees paid to any promoter of the tax shelter with respect to offerings made before the date such shelter is registered under section 6111, or

"(ii) $10,000.

Clause (i) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in paragraph (1).

"(B) SPECIAL RULE FOR PARTICIPANTS REQUIRED TO REGISTER SHELTER.—In the case of a person required to register such a tax shelter by reason of section 6111(d)(3)—

"(i) such person shall be required to pay the penalty under paragraph (1) only if such person actually participated in such shelter,

"(ii) the amount of such penalty shall be determined by taking into account under subparagraph (A)(i) only the fees paid by such person, and

"(iii) such penalty shall be in addition to the penalty imposed on any other person for failing to register such shelter."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6707(a) is amended by striking ''The penalty'' and inserting ''Except as provided in paragraph (3), the penalty''.

(2) Subparagraph (A) of section 6707(a)(1) is amended by striking ''paragraph (2)'' and inserting ''paragraph (2) or (3), as the case may be''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to any tax shelter (as defined in section 6111(d) of the Internal Revenue Code of 1986, as amended by this section) interests in which are offered to potential participants after the date of the enactment of this Act.

(2) DUE DATE FOR REGISTRATION.—The due date for registering any tax shelter required to be registered by reason of the amendments made by this section shall be not earlier than the close of a reasonable period after the Secretary of the Treasury prescribes guidance with respect to meeting such requirements.

SEC. 12803. DENIAL OF DEDUCTION FOR INTEREST ON LOANS WITH RESPECT TO COMPANY-OWNED INSURANCE.

(a) IN GENERAL.—Paragraph (4) of section 264(a) is amended—

(1) by inserting ", or any endowment or annuity contracts owned by the taxpayer covering any individual," after "the life of any individual", and

(2) by striking all that follows "carried on by the taxpayer" and inserting a period.

(b) EXCEPTION FOR CONTRACTS RELATING TO KEY PERSONS; PERMISSIBLE INTEREST RATES.—Section 264 is amended—

(1) by striking "Any" in subsection (a)(4) and inserting "Except as provided in subsection (d), any", and

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

"(d) SPECIAL RULES FOR APPLICATION OF SUBSECTION (a)(4).—

"(1) EXCEPTION FOR KEY PERSONS.—Subsection (a)(4) shall not apply to any interest paid or accrued on any indebtedness with respect to policies or contracts covering an individual who is a key person to the extent that the aggregate amount of such

indebtedness with respect to policies and contracts covering such individual does not exceed $50,000.

"(2) INTEREST RATE CAP ON KEY PERSONS AND PRE-1986 CONTRACTS.—No deduction shall be allowed by reason of paragraph (1) or the last sentence of subsection (a) with respect to interest paid or accrued for any month to the extent the amount of such interest exceeds the amount which would have been determined if the rate of interest for such month were the rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.

"(3) KEY PERSON.—For purposes of paragraph (1), the term 'key person' means an officer or 20-percent owner, except that the number of individuals who may be treated as key persons with respect to any taxpayer shall not exceed the greater of—

"(A) 5 individuals, or

"(B) the lesser of 5 percent of the total officers and employees of the taxpayer or 25 individuals.

"(4) 20-PERCENT OWNER.—For purposes of this subsection, the term '20-percent owner' means—

"(A) if the taxpayer is a corporation, any person who owns directly 20 percent or more of the outstanding stock of the corporation or stock possessing 20 percent or more of the total combined voting power of all stock of the corporation, or

"(B) if the taxpayer is not a corporation, any person who owns 20 percent or more of the capital or profits interest in the employer.

"(5) AGGREGATION RULES.—

"(A) IN GENERAL.—For purposes of paragraph (4)(A) and applying the $50,000 limitation in paragraph (1)—

"(i) all members of a controlled group shall be treated as 1 taxpayer, and

"(ii) such limitation shall be allocated among the members of such group in such manner as the Secretary may prescribe.

"(B) CONTROLLED GROUP.—For purposes of this paragraph, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as members of a controlled group."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to interest paid or accrued after December 31, 1995.

(2) TRANSITION RULE FOR EXISTING INDEBTEDNESS.—

(A) IN GENERAL.—In the case of indebtedness incurred before January 1, 1996, the amendments made by this section shall not apply to qualified interest paid or accrued on such indebtedness after October 13, 1995, and before January 1, 2001.

(B) QUALIFIED INTEREST.—For purposes of subparagraph (A), the qualified interest with respect to any indebtedness for any month is the amount of interest which would be paid or accrued for such month on such indebtedness if the lesser of the following rates of interest were used for such month:

(i) The rate of interest specified under the terms of the indebtedness as in effect on October 13, 1995 (and without regard to modification of such terms after such date).

(ii) The applicable percentage rate of interest described as Moody's Corporate

Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.

(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (B), the applicable percentage is as follows:

"For calendar year:	The percentage is:
1995 or 1996	100 percent
1997	95 percent
1998	90 percent
1999	85 percent
2000	80 percent."

(3) SPECIAL RULE FOR GRANDFATHERED CONTRACTS.—This section shall not apply to any contract purchased on or before June 20, 1986, except that—

(A) paragraph (2) shall apply to interest on indebtedness incurred in connection with such contract which is paid or accrued after October 13, 1995, and before January 1, 1996, and

(B) section 264(d)(2) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to such interest paid or accrued after December 31, 1995.

(d) SPREAD OF INCOME INCLUSION ON SURRENDER, ETC. OF CONTRACTS.—

(1) IN GENERAL.—If any amount is received under any life insurance policy or endowment or annuity contract described in paragraph (4) of section 264(a) of the Internal Revenue Code of 1986—

(A) on the complete surrender, redemption, or maturity of such policy or contract during calendar year 1996, 1997, 1998, 1999, 2000, or 2001, or

(B) in full discharge during any such calendar year of the obligation under the policy or contract which is in the nature of a refund of the consideration paid for the policy or contract,

then (in lieu of any other inclusion in gross income) such amount shall be includible in gross income ratably over the 4-taxable year period beginning with the taxable year such amount would (but for this paragraph) be includible. The preceding sentence shall only apply to the extent the amount is includible in gross income for the taxable year in which the event described in subparagraph (A) or (B) occurs.

(2) SPECIAL RULES FOR APPLYING SECTION 264.—A contract shall not be treated as failing—

(A) to meet the requirement of section 264(c)(1) of the Internal Revenue Code of 1986, or

(B) to be treated as a single premium contract under section 264(b)(1) of such Code,

solely by reason of an occurrence described in subparagraph (A) or (B) of paragraph (1) of this subsection or solely by reason of no additional premiums being received under the contract by reason of a lapse occurring after October 13, 1995.

(3) SPECIAL RULE FOR DEFERRED ACQUISITION COSTS.—In the case of the occurrence of any event described in subparagraph (A) or (B) of paragraph (1) of this subsection with respect to any policy or contract—

(A) section 848 of the Internal Revenue Code of 1986 shall not apply to the unamortized balance (if any) of the specified policy acquisition expenses attributable to such policy or contract immediately before the insurance company's taxable year in which such event occurs, and

(B) there shall be allowed as a deduction to such company for such taxable year under

chapter 1 of such Code an amount equal to such unamortized balance.

SEC. 12804. TERMINATION OF SUSPENSE ACCOUNTS FOR FAMILY CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.

(a) IN GENERAL.—Subsection (i) of section 447 (relating to method of accounting for corporations engaged in farming) is amended by adding at the end the following new paragraph:

"(7) TERMINATION.—

"(A) IN GENERAL.—No suspense account may be established under this subsection by any corporation required by this section to change its method of accounting for any taxable year ending after September 13, 1995.

"(B) 20-YEAR PHASEOUT OF EXISTING SUSPENSE ACCOUNTS.—Each suspense account under this subsection shall be reduced (but not below zero) for each of the first 20 taxable years beginning after September 13, 1995, by an amount equal to the applicable portion of such account. Any reduction in a suspense account under this paragraph shall be included in gross income for the taxable year of the reduction. The amount of the reduction required

under this paragraph for any taxable year shall be reduced (but not below zero) by the amount of any reduction required for such taxable year under any other provision of this subsection.

"(C) APPLICABLE PORTION.—For purposes of subparagraph (B), the term 'applicable portion' means, for any taxable year, the amount which would ratably reduce the amount in the account (after taking into account prior reductions) to zero over the period consisting of such taxable year and the remaining taxable years in such first 20 taxable years."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after September 13, 1995.

SEC. 12805. TERMINATION OF PUERTO RICO AND POSSESSION TAX CREDIT.

(a) IN GENERAL.—Section 936 is amended by adding at the end the following new subsection:

"(j) TERMINATION.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall not apply to any taxable year beginning after December 31, 1995.

"(2) TRANSITION RULES FOR ACTIVE BUSINESS INCOME CREDIT.—

"(A) IN GENERAL.—In the case of an existing credit claimant with respect to a possession, the credit determined under subsection (a)(1)(A) for that possession shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 2002.

"(B) PHASEDOWN OF REDUCED CREDIT.—

"(i) IN GENERAL.—In the case of an existing credit claimant to which subsection (a)(4)(B) applies, the applicable percentage under clause (ii) thereof shall be reduced by—

"(I) 10 percentage points for taxable years beginning in 1999,

"(II) 20 percentage points for taxable years beginning in 2000, and

"(III) 30 percentage points for taxable years beginning in 2001.

"(ii) REDUCTION NOT TAKEN INTO ACCOUNT FOR LOCAL TAX DEDUCTION.—The reduction under clause (i) shall not be taken into account for purposes of the last sentence of subsection (a)(4)(B)(i).

"(iii) ELECTION IRREVOCABLE AFTER 1997.—An election under subsection (a)(4)(B)(iii) which is in effect for the taxpayer's last taxable year beginning before 1997 may not be revoked unless it is revoked for the taxpayer's first taxable year beginning in 1997 and all subsequent taxable years.

"(3) RESTRICTIONS ON QUALIFIED POSSESSION SOURCE INVESTMENT INCOME.—

"(A) IN GENERAL.—In the case of an existing credit claimant with respect to a possession, the credit determined under subsection (a)(1)(B) for that possession shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 2001, except that only qualified possession source investment income derived from a qualifying asset may be taken into account in computing the amount of such credit.

"(B) QUALIFYING ASSET.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'qualifying asset' means—

"(I) an asset held by the possession corporation on October 13, 1995, or

"(II) an asset which was purchased from the proceeds of an asset described in subclause (I) or this subclause.

"(ii) RESTRICTION ON REINVESTMENT.—An asset shall not be treated as a qualifying asset under clause (i) with respect to income derived from such asset for periods after the date on which the existing credit claimant has held such asset (and all prior assets the proceeds of which have been rolled into such asset) for the shortest period which results in the maximum reduction of possession taxes under the laws of the possession in effect on October 13, 1995.

"(4) SPECIAL RULES FOR CERTAIN POSSESSIONS.—

"(A) IN GENERAL.—In the case of an existing credit claimant with respect to an applicable possession, this section (other than the preceding paragraphs of this subsection) shall

apply to taxable years beginning after December 31, 1995, and before January 1, 2006.

"(B) APPLICABLE POSSESSION.—For purposes of this paragraph, the term 'applicable possession' means Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(5) EXISTING CREDIT CLAIMANT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'existing credit claimant' means, with respect to any possession, a corporation—

"(i) which was actively conducting a trade or business in that possession on October 13, 1995, and

"(ii) with respect to which an election under this section was in effect for the corporation's taxable year which includes October 13, 1995.

"(B) NEW LINES OF BUSINESS PROHIBITED.—If, after October 13, 1995, a corporation which would (but for this subparagraph) be an existing credit claimant with respect to a possession adds a substantial new line of business with respect to a trade or business con-

ducted in that possession, such corporation shall cease to be treated as an existing credit claimant with respect to that possession as of the close of the taxable year ending before the date of such addition.

"(C) BINDING CONTRACT EXCEPTION.—If, on October 13, 1995, and at all times thereafter, there is in effect with respect to a corporation a binding contract for the acquisition of assets to be used in, or for the sale of assets to be produced from, a trade or business within a possession, the corporation shall be treated for purposes of this paragraph as actively conducting such trade or business on October 13, 1995. The preceding sentence shall not apply if such trade or business is not actively conducted before January 1, 1996.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12806. DEPRECIATION UNDER INCOME FORECAST METHOD.

(a) GENERAL RULE.—Section 167 (relating to depreciation) is amended by redesignating subsection (g) as

subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) DEPRECIATION UNDER INCOME FORECAST METHOD.—

"(1) IN GENERAL.—If the depreciation deduction allowable under this section to any taxpayer with respect to any property is determined under the income forecast method or any similar method—

"(A) in determining the amount of the depreciation deduction under such method, the estimated income from the property shall include all income earned in connection with the property before the close of the 10th taxable year following the taxable year in which the property was placed in service,

"(B) the adjusted basis of the property shall only include amounts with respect to which the requirements of section 461(h) are satisfied,

"(C) the depreciation deduction under such method for the 10th taxable year beginning after the taxable year in which the property was placed in service shall be equal to the adjusted basis of such property as of the beginning of such 10th taxable year, and

"(D) such taxpayer shall pay (or be entitled to receive) interest computed under the look-back method of paragraph (2) for any recomputation year.

"(2) LOOK-BACK METHOD.—The interest computed under the look-back method of this paragraph for any recomputation year shall be determined by—

"(A) first determining the depreciation deductions under this section with respect to such property which would have been allowable for prior taxable years if the determination of the amounts so allowable had been made on the basis of the sum of the following (instead of the estimated income with respect to such property)—

"(i) the actual income from such property for periods before the close of the recomputation year, and

"(ii) an estimate of the future income with respect to such property for periods after the recomputation year,

"(B) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each such

prior taxable year which would result solely from the application of subparagraph (A), and

"(C) then using the adjusted overpayment rate (as defined in section 460(b)(7)), compounded daily, on the overpayment or underpayment determined under subparagraph (B).

For purposes of the preceding sentence, any cost incurred after the property is placed in service (which is not treated as a separate property under paragraph (5)) shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such cost is incurred) such cost to its value as of the date the property is placed in service. The taxpayer may elect with respect to any property to have the preceding sentence not apply to such property.

"(3) EXCEPTION FROM LOOK-BACK METHOD.—Paragraph (1)(D) shall not apply with respect to any property which, when placed in service by the taxpayer, had a basis of $100,000 or less.

"(4) RECOMPUTATION YEAR.—For purposes of this subsection, except as provided in regulations, the term 'recomputation year' means, with respect to any property, the third and the 10th taxable years

beginning after the taxable year in which the property was placed in service, unless the actual income from the property for the period before the close of such third or 10th taxable year is within 10 percent of the estimated income from the property for such period which was taken into account under paragraph (1)(A).

"(5) SPECIAL RULES.—

"(A) CERTAIN COSTS TREATED AS SEPARATE PROPERTY.—For purposes of this subsection, the following costs shall be treated as separate properties:

"(i) Any costs incurred with respect to any property after the 10th taxable year beginning after the taxable year in which the property was placed in service.

"(ii) Any costs incurred after the property is placed in service and before the close of such 10th taxable year if such costs are significant and give rise to a significant increase in the income from the property which was not included in the estimated income from the property.

"(B) SYNDICATION INCOME FROM TELEVISION SERIES.—In the case of property which

is an episode in a television series, income from syndicating such series shall not be required to be taken into account under this subsection before the earlier of—

"(i) the 4th taxable year beginning after the date the first episode in such series is placed in service, or

"(ii) the earliest taxable year in which the taxpayer has an arrangement relating to the future syndication of such series.

"(C) COLLECTION OF INTEREST.—For purposes of subtitle F (other than sections 6654 and 6655), any interest required to be paid by the taxpayer under paragraph (1) for any recomputation year shall be treated as an increase in the tax imposed by this chapter for such year.

"(D) DETERMINATIONS.—For purposes of this subsection, determinations of the amount of income from any property shall be determined in the same manner as for purposes of applying the income forecast method; except that any income from the disposition of such property shall be taken into account.

"(E) TREATMENT OF PASS-THRU ENTITIES.—Rules similar to the rules of section 460(b)(4) shall apply for purposes of this subsection."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to property placed in service after September 13, 1995.

(2) BINDING CONTRACTS.—The amendment made by subsection (a) shall not apply to any property produced or acquired by the taxpayer pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such production or acquisition.

SEC. 12807. TRANSFERS OF EXCESS PENSION ASSETS.

(a) IN GENERAL.—Section 420 (relating to transfers of excess pension assets to retiree health accounts) is amended by adding at the end the following new subsection:

"(f) SIMILAR RULES TO APPLY TO OTHER TRANSFERS OF EXCESS PLAN ASSETS.—

"(1) IN GENERAL.—If there is a qualified employee benefit transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to an employer—

"(A) a trust which is part of such plan shall not be treated as failing to meet the requirements of section 401(a) solely by reason of such transfer (or any other action authorized under this section), and

"(B) such transfer shall not be treated as—

"(i) an employer reversion for purposes of section 4980, or

"(ii) a prohibited transaction for purposes of section 4975.

The gross income of the employer shall include the amount of any qualified employee benefit transfer made during the taxable year.

"(2) QUALIFIED EMPLOYEE BENEFIT TRANSFER.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified employee benefit transfer' means a transfer—

"(i) of excess pension assets of a defined benefit plan to the employer, and

"(ii) with respect to which—

"(I) the use requirements of paragraph (3) are met, and

"(II) the requirements of subsection (c)(2)(A) are met (determined

by treating such transfer as a qualified transfer).

"(B) LIMITATION ON AMOUNTS TRANSFERRED.—The amount of excess pension assets which may be transferred in qualified employee benefit transfers during any taxable year shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) during the taxable year for qualified current employee benefit liabilities.

"(C) COORDINATION WITH TRANSFERS TO RETIREE HEALTH ACCOUNTS.—Such term shall not include any qualified transfer (as defined in subsection (b)).

"(D) EXPIRATION.—No transfer in any taxable year beginning after December 31, 2001, shall be treated as a qualified employee benefit transfer.

"(3) RESTRICTIONS ON USE OF TRANSFERRED ASSETS.—

"(A) IN GENERAL.—Any assets transferred to an employer in a qualified employee benefit transfer shall be used only to pay qualified cur-

rent employee benefit liabilities for the taxable year of the transfer (whether directly or through reimbursement).

"(B) AMOUNTS NOT USED TO PAY BENEFITS.—An employer shall transfer to a plan an amount equal to any assets transferred out of the plan in a qualified employee benefit transfer which are not used as provided in subparagraph (A). Such amount shall be treated in the same manner as amounts are treated under subsection (c)(1)(B)(ii), except that allocable income shall be determined by using the Federal short-term rate under section 1274(d).

"(C) QUALIFIED CURRENT EMPLOYEE BENEFIT LIABILITIES.—For purposes of this subsection—

"(i) IN GENERAL.—The term 'qualified current employee benefit liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) for which a deduction is allowable to the employer for such taxable year with respect to applicable employee benefits.

"(ii) APPLICABLE EMPLOYEE BENEFITS.—The term 'applicable employee benefits' means—

"(I) contributions to a trust described in section 401(a) which is exempt from tax under section 501(a),

"(II) benefits under an accident or health plan (within the meaning of section 105),

"(III) disability benefits,

"(IV) benefits under an educational assistance program of the employer described in section 127(b), and

"(V) benefits under a dependent care assistance program of the employer described in section 129(d).

"(4) DEFINITION AND SPECIAL RULE.—For purposes of this subsection—

"(A) EXCESS PENSION ASSETS.—The term 'excess pension assets' has the meaning given such term by subsection (e)(2); except that—

"(i) the amount thereof shall be the lesser of—

"(I) the amount determined as of the most recent valuation date of the plan preceding the transfer, reduced by prior qualified employee benefit transfers and qualified transfers after such date, or

"(II) the amount determined as of January 1, 1995 (or, if January 1, 1995, is not a valuation date, the most recent prior valuation date), reduced by prior qualified employee benefit transfers and qualified transfers after such date, and

"(ii) subparagraph (B)(i) thereof shall in no event be less than the amount under section 412(c)(7)(E)(i)(I).

"(B) COORDINATION WITH SECTION 412.—In the case of a qualified employee benefit transfer—

"(i) any assets transferred in a plan year on or before the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412, be treated as assets in the plan as of the valuation date for such year, and

"(ii) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) in an amount equal to the amount of such transfer and for which amortization charges begin for the first plan year after the plan year in which such transfer occurs, except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(b) APPLICATION OF ERISA.—

(1) NOTICE.—Section 101(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)) is amended—

(A) by inserting "or a qualified employee benefit transfer," after "to a health benefits account," in paragraphs (1) and (2)(A),

(B) by inserting "or qualified employee benefits" after "the amount of health benefits liabilities" in paragraph (1),

(C) by striking "January 1, 1995" in paragraph (3) and inserting "the date of the enactment of the Revenue Reconciliation Act of 1995", and

(D) by striking ''TO HEALTH BENEFITS ACCOUNTS'' in the heading.

(2) EXCLUSIVE BENEFIT.—Paragraph (1) of section 403(c) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking ''January 1, 1995'' and inserting ''the date of the enactment of the Revenue Reconciliation Act of 1995''.

(3) EXEMPTION FROM PROHIBITED TRANSACTION.—Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

''(14) Any transfer in a taxable year beginning before January 1, 2001, of excess pension assets from a deferred benefit plan in a qualified employee benefit transfer permitted under section 420(f) of the Internal Revenue Code of 1986 (as in effect on the date of the enactment of the Revenue Reconciliation Act of 1995).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers on and after the date of the enactment of this Act.

SEC. 12808. REPEAL OF EXCLUSION FOR INTEREST ON LOANS USED TO ACQUIRE EMPLOYER SECURITIES.

(a) IN GENERAL.—Section 133 (relating to interest on certain loans used to acquire employer securities) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 291(e)(1) is amended by striking clause (iv) and by redesignating clause (v) as clause (iv).

(2) Section 812 is amended by striking subsection (g).

(3) Paragraph (5) of section 852(b) is amended by striking subparagraph (C).

(4) Paragraph (2) of section 4978(b) is amended by striking subparagraph (A) and all that follows and inserting the following:

"(A) first from qualified securities to which section 1042 applied acquired during the 3-year period ending on the date of the disposition, beginning with the securities first so acquired, and

"(B) then from any other employer securities.

If subsection (d) applies to a disposition, the disposition shall be treated as made from employer securities in the opposite order of the preceding sentence.''

(5)(A) Section 4978B (relating to tax on disposition of employer securities to which section 133 applied) is hereby repealed.

(B) The table of sections for chapter 43 is amended by striking the item relating to section 4978B.

(6) Subsection (e) of section 6047 is amended by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

''(1) any employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, an employee stock ownership plan which holds stock with respect to which section 404(k) applies to dividends paid on such stock, or

''(2) both such employer or plan administrator,''.

(7) Subsection (f) of section 7872 is amended by striking paragraph (12).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to loans made after October 13, 1995.

(2) REFINANCINGS.—The amendments made by this section shall not apply to loans made after October 13, 1995, to refinance securities acquisition loans (determined without regard to section 133(b)(1)(B) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act) made on or before such date or to refinance loans described in this paragraph if—

(A) the refinancing loans meet the requirements of section 133 of such Code (as so in effect),

(B) immediately after the refinancing the principal amount of the loan resulting from the refinancing does not exceed the principal amount of the refinanced loan (immediately before the refinancing), and

(C) the term of such refinancing loan does not extend beyond the last day of the term of the original securities acquisition loan.

For purposes of this paragraph, the term ''securities acquisition loan'' includes a loan from a corporation to an employee stock ownership plan described in section 133(b)(3) of such Code (as so in effect).

CHAPTER 2—LEGAL REFORMS

SEC. 12811. REPEAL OF EXCLUSION FOR PUNITIVE DAMAGES AND FOR DAMAGES NOT ATTRIBUTABLE TO PHYSICAL INJURIES OR SICKNESS.

(a) IN GENERAL.—Paragraph (2) of section 104(a) (relating to compensation for injuries or sickness) is amended to read as follows:

"(2) the amount of any damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal physical injuries or physical sickness;".

(b) EMOTIONAL DISTRESS AS SUCH TREATED AS NOT PHYSICAL INJURY OR PHYSICAL SICKNESS.—Section 104(a) is amended by striking the last sentence and inserting the following new sentence: "For purposes of paragraph (2), emotional distress shall not be treated as a physical injury or physical sickness. The preceding sentence shall not apply to an amount of damages not in excess of the amount paid for medical care (described in subparagraph (A) or (B) of section 213(d)(1)) attributable to emotional distress."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after December 31, 1995, in taxable years ending after such date.

(2) EXCEPTION.—The amendments made by this section shall not apply to any amount received under a written binding agreement, court decree, or mediation award in effect on (or issued on or before) September 13, 1995.

SEC. 12812. REPORTING OF CERTAIN PAYMENTS MADE TO ATTORNEYS.

(a) IN GENERAL.—Section 6045 (relating to returns of brokers) is amended by adding at the end the following new subsection:

''(f) RETURN REQUIRED IN THE CASE OF PAYMENTS TO ATTORNEYS.—

''(1) IN GENERAL.—Any person engaged in a trade or business and making a payment (in the course of such trade or business) to which this subsection applies shall file a return under subsection (a) and a statement under subsection (b) with respect to such payment.

''(2) APPLICATION OF SUBSECTION.—

''(A) IN GENERAL.—This subsection shall apply to any payment to an attorney in connec-

tion with legal services (whether or not such services are performed for the payor).

"(B) EXCEPTION.—This subsection shall not apply to the portion of any payment which is required to be reported under section 6041(a) (or would be so required but for the dollar limitation contained therein) or section 6051."

(b) REPORTING OF ATTORNEYS' FEES PAYABLE TO CORPORATIONS.—The regulations providing an exception under section 6041 of the Internal Revenue Code of 1986 for payments made to corporations shall not apply to payments of attorneys' fees.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 1995.

CHAPTER 3—REFORMS RELATING TO NONRECOGNITION PROVISIONS

SEC. 12821. NO ROLLOVER OR EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE WHICH IS ATTRIBUTABLE TO DEPRECIATION DEDUCTIONS.

(a) IN GENERAL.—Subsection (d) of section 1034 (relating to limitations) is amended by adding at the end the following new paragraph:

"(3) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—Subsection (a) shall not apply to so much of the gain from the sale of any residence as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1995, in respect of such residence."

(b) COMPARABLE TREATMENT UNDER 1-TIME EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE.—Subsection (d) of section 121 is amended by adding at the end the following new paragraph:

"(10) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—

"(A) IN GENERAL.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1995, in respect of such property.

"(B) COORDINATION WITH PARAGRAPH (5).—If this section does not apply to gain attributable to a portion of a residence by reason of paragraph (5), subparagraph (A) shall not

apply to depreciation adjustments attributable to such portion.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1995.

SEC. 12822. NONRECOGNITION OF GAIN ON SALE OF PRINCIPAL RESIDENCE BY NONCITIZENS LIMITED TO NEW RESIDENCES LOCATED IN THE UNITED STATES.

(a) IN GENERAL.—Subsection (d) of section 1034 (relating to limitations) (as amended by section 12821) is amended by adding at the end the following new paragraph:

''(4) NEW RESIDENCE MUST BE LOCATED IN UNITED STATES IN CERTAIN CASES.—

''(A) IN GENERAL.—In the case of a sale of an old residence by a taxpayer—

''(i) who is not a citizen of the United States at the time of sale, and

''(ii) who is not a citizen or resident of the United States on the date which is 2 years after the date of the sale of such old residence,

subsection (a) shall apply only if the new residence is located in the United States or a possession of the United States.

"(B) PROPERTY HELD JOINTLY BY HUSBAND AND WIFE.—Subparagraph (A) shall not apply if—

"(i) the old residence is held by a husband and wife as joint tenants, tenants by the entirety, or community property,

"(ii) such husband and wife make a joint return for the taxable year of the sale or exchange, and

"(iii) one spouse is a citizen of the United States at the time of sale."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to sales of old residences after December 31, 1995.

(2) TREATMENT OF PURCHASES OF NEW RESIDENCES.—The amendment made by this section shall not apply to new residences—

(A) purchased before September 13, 1995, or

(B) purchased on or after such date pursuant to a binding contract in effect on such date

and at all times thereafter before such purchase.

(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, the rules of paragraphs (1), (2), and (3) of section 1034(c) of the Internal Revenue Code of 1986 shall apply.

CHAPTER 4—EXCISE TAX AND TAX-EXEMPT BOND PROVISIONS

SEC. 12831. REPEAL OF DIESEL FUEL TAX REBATE TO PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.

(a) IN GENERAL.—Section 6427 (relating to fuels not used for taxable purposes) is amended by striking subsection (g).

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 34(a) is amended to read as follows:

"(3) under section 6427 with respect to fuels used for nontaxable purposes or resold during the taxable year (determined without regard to section 6427(k))."

(2) Paragraphs (1) and (2)(A) of section 6427(i) are each amended—

(A) by striking "(g),", and

(B) by striking ''(or a qualified diesel powered highway vehicle purchased)'' each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to vehicles purchased after December 31, 1995.

SEC. 12832. REPEAL OF WINE AND FLAVORS CONTENT CREDIT.

(a) IN GENERAL.—Section 5010 (relating to credit for wine content and for flavors content) is repealed.

(b) EFFECTIVE DATE.—The repeal made by this section shall take effect with respect to distilled spirits (as defined in section 5002(a)(8) of the Internal Revenue Code of 1986) removed from bonded premises (as defined in section 5002(a)(3) of such Code) after December 31, 1995.

SEC. 12833. MODIFICATIONS TO EXCISE TAX ON OZONE-DEPLETING CHEMICALS.

(a) IN GENERAL.—Section 4682(d)(1) (relating to recycling) is amended by inserting ''(including any halon imported from any country which is a signatory to the Montreal Protocol on Substances that Deplete the Ozone Layer)'' after ''ozone-depleting chemical''.

(b) CERTIFICATION SYSTEM.—The Secretary of the Treasury, after consultation with the Administrator of the

Environmental Protection Agency, shall develop a certification system to ensure compliance with the recycling requirement for imported halon under section 4682(d)(1) of the Internal Revenue Code of 1986, as amended by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 12834. ELECTION TO AVOID TAX-EXEMPT BOND PENALTIES FOR LOCAL FURNISHERS OF ELECTRICITY AND GAS.

Section 142(f) (relating to local furnishing of electric energy or gas) is amended by adding at the end the following new paragraphs:

"(3) ELECTION TO AVOID PENALTIES FOR CERTAIN FURNISHERS.—

"(A) IN GENERAL.—If—

"(i) the principal user of facilities for the local furnishing of electric energy or gas financed such facilities in whole or in part with exempt facility bonds described in subsection (a)(8) issued before the date of the enactment of this paragraph,

"(ii) such bonds would (but for this paragraph) cease to be tax-exempt by rea-

son of such user failing to meet the local furnishing requirement of such section as a result of a service area expansion by such user, and

"(iii) an election described in subparagraph (B) is made by such user with respect to all such facilities of the user,

then such bonds shall not cease to be tax-exempt by reason of such expansion (and section 150(b)(4) shall not apply to interest on such bonds).

"(B) ELECTION.—An election is described in this subparagraph if it is an election made in such manner as the Secretary prescribes, and such user agrees that—

"(i) no bonds exempt from tax under section 103 may be issued on or after the date of the enactment of this paragraph with respect to the facilities or any other facilities with respect to which such user is a principal user,

"(ii) the expansion of the service area—

"(I) is not financed with the proceeds of any exempt facility bond described in subsection (a)(8), and

"(II) is not treated as a nonqualifying use under the rules of paragraph (2), and

"(iii) all outstanding bonds used to finance the facilities are redeemed not later than 6 months after the later of—

"(I) the earliest date on which such bonds may be redeemed, or

"(II) the date of the agreement.

"(C) PRINCIPAL USER.—For purposes of this paragraph, the term 'principal user' means any person or a group of related persons (within the meaning of section 144(a)(3)) which includes such person.

"(4) APPLICATION OF SECTION.—For purposes of this section, no person may qualify as a local furnisher of electric energy or gas unless such person is such a local furnisher on the date of the enactment of this paragraph."

SEC. 12835. TAX-EXEMPT BONDS FOR SALE OF ALASKA POWER ADMINISTRATION FACILITY.

Sections 142(f)(4) (as added by section 12834(a)) and 147(d) of the Internal Revenue Code of 1986 shall not apply with respect to any private activity bond issued after the date of the enactment of this Act and used to finance the acquisition of the Snettisham hydroelectric project from the Alaska Power Administration in determining if such bond is a qualified bond for purposes of such Code.

CHAPTER 5—FOREIGN TRUST TAX COMPLIANCE

SEC. 12841. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

"(3) REPORTABLE EVENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of

part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) EXCEPTIONS.—

"(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) PENSION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 404(a)(4) or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust,

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

"(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

"(A) IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(B) UNITED STATES AGENT REQUIRED.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited

agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

"(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the

foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(d) SPECIAL RULES.—

"(1) DETERMINATION OF WHETHER UNITED STATES PERSON RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Sec-

retary determines that the United States has no significant tax interest in obtaining the required information.''

(b) INCREASED PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

''SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

''(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

''(1) is not filed on or before the time provided in such section, or

''(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after

the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

"(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is

shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d), as amended by section 12203, is amended by striking "or" at the end of subparagraph (U), by striking the period at the end of subparagraph (V) and inserting ", or", and by inserting after subparagraph (V) the following new subparagraph:

"(W) section 6048(b)(1)(B) (relating to foreign trust reporting requirements)."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 6048. Information with respect to certain foreign trusts."

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the

item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts."

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 12842. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

"(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value."

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTION.—

"(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust."

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)(3)(B)(ii)".

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

"(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

"(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) OUTBOUND TRUST MIGRATIONS.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph."

(d) MODIFICATIONS RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 is amended by adding at the end the following new paragraphs:

"(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.

"(4) TREATMENT OF FORMER UNITED STATES PERSONS.—To the extent provided by the Secretary,

for purposes of this subsection, the term 'United States person' includes any person who was a United States person at any time during the existence of the trust.''

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

''(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),''.

(f) REGULATIONS.—Section 679 is amended by adding at the end the following new subsection:

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 12843. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

''(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) EXCEPTIONS.—

"(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), paragraph (1) shall not apply to any trust if—

"(I) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(II) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to

the grantor or the spouse of the grantor.

"(ii) EXCEPTION.—Clause (i) shall not apply to any trust which has a beneficiary who is a United States person to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to a foreign person who is the grantor of such trust. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift is excluded from taxable gifts under section 2503(b).

"(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying part III of subchapter G (relating to foreign personal holding companies) and part VI of subchapter P (relating to treatment of certain passive foreign investment companies).

"(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases."

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting "subsection (f) and" before "sections 674".

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed

by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income.''

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

''(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.''

(2) Section 665 is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section

shall take effect on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming

a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 12844. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61, as amended by section 12442, is amended by inserting after section 6039F the following new section:

"SEC. 6039G. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

''(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

''(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039F the following new item:

"Sec. 6039G. Notice of large gifts received from foreign persons."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 12845. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph

(2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

"(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996."

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes."

(c) TREATMENT OF LOANS FROM TRUST PROPERTY.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

"(1) GENERAL RULE.—If a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION OF USE.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be de-

termined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title."

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting ", 643(i)," before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) USE OF TRUST PROPERTY.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.

SEC. 12846. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust."

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust."

(2) PENALTY.—Section 1494 is amended by adding at the end the following new subsection:

"(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491 with respect to a trust, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

CHAPTER 6—FINANCIAL ASSET SECURITIZATION INVESTMENTS

SEC. 12851. FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS.

(a) IN GENERAL.—Subchapter M of chapter 1 is amended by adding at the end the following new part:

"PART V—FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS

"Sec. 860H. Taxation of FASIT's.
"Sec. 860I. Taxation of holders of regular interests.
"Sec. 860J. Taxation of holder of ownership interest.
"Sec. 860K. Non-FASIT losses not to offset certain FASIT inclusions.
"Sec. 860L. Treatment of transfers of high-yield interests to disqualified holders.
"Sec. 860M. Definitions and other rules.

"SEC. 860H. TAXATION OF FASIT'S.

"(a) GENERAL RULE.—Except as otherwise provided in this part, solely for purposes of this title, a FASIT shall

be treated as a partnership and shall not be treated as a taxable mortgage pool.

"(b) INCOME TAXABLE TO HOLDERS.—The income of any FASIT shall be taxable to the holder of the ownership interest in such FASIT as provided in this part.

"SEC. 860I. TAXATION OF HOLDERS OF REGULAR INTERESTS.

"(a) GENERAL RULE.—In determining the tax under this chapter of any holder of a regular interest in a FASIT, such interest shall be treated—

"(1) if not otherwise a debt instrument, as a debt instrument, and

"(2) for purposes of section 165(g), as issued by a corporation.

"(b) HOLDERS MUST USE ACCRUAL METHOD.—The amounts includible in gross income with respect to any regular interest in a FASIT shall be determined under the accrual method of accounting.

"SEC. 860J. TAXATION OF HOLDER OF OWNERSHIP INTEREST.

"(a) GENERAL RULE.—Except as otherwise provided in this subtitle, the tax under this chapter of the holder of the ownership interest in a FASIT shall be determined as if—

"(1) such holder were a partner in such FASIT, and

"(2) such FASIT had filed an election under section 754.

"(b) CERTAIN PROVISIONS OF SUBCHAPTER K NOT TO APPLY.—The following provisions shall not apply under subsection (a): Section 704 (other than subsection (d)) and sections 708, 721, 724, 735, 737, and 751.

"(c) OTHER RULES FOR DETERMINING TAXABLE INCOME OF FASIT.—For purposes of this subtitle, the taxable income of a FASIT shall be determined under an accrual method of accounting, and in determining such taxable income—

"(1) regular interests in such FASIT (if not otherwise debt instruments) shall be treated as indebtedness of such FASIT,

"(2) the constant yield method (including the rules of section 1272(a)(6)) shall be applied in determining all interest, acquisition discount, original issue discount, and market discount and all premium deductions or adjustments with respect to all debt instruments held by the FASIT,

"(3) the amount of the tax imposed by section 860M(e) (relating to tax on income from foreclosure property) shall be allowed as a deduction, and

"(4) there shall not be taken into account any item of income, gain, loss, or deduction allocable to prohibited income.

"(d) RECOGNITION OF GAIN ON CONTRIBUTIONS TO FASIT.—

"(1) IN GENERAL.—If property is contributed to a FASIT by the holder of the ownership interest in such FASIT—

"(A) notwithstanding any other provision of this subtitle, gain shall be recognized to the holder of such interest in the same manner as if such holder had sold such property to the FASIT at its fair market value on the date of such contribution, and

"(B) the basis of the FASIT in such property shall be such fair market value.

To the extent provided in regulations, gain recognized under the preceding sentence shall not be includible in gross income before the earliest date on which such property supports any regular interest in such FASIT or any indebtedness of the holder of the ownership interest (or by any person related to such holder).

"(2) GAIN RECOGNITION ON PROPERTY SUPPORTING REGULAR INTERESTS.—Solely for purposes

of determining gain, property held by the holder of the ownership interest in a FASIT (or by any person related to such holder) which supports any regular interest in such FASIT shall be treated as sold on the earliest date such property supports such an interest at its fair market value on such date and as reacquired by such holder (or person) immediately thereafter.

"(3) VALUATION OF PROPERTY.—For purposes of this subsection and subsection (e)—

"(A) IN GENERAL.—In the case of any property contributed to a FASIT (other than cash equivalents), the fair market value of such property shall be equal to the sum of the present values of the reasonably expected payments under such property determined in the manner provided by regulations prescribed by the Secretary—

"(i) as of the date of the contribution or the earliest date of such support (as the case may be), and

"(ii) by using a discount rate equal to 130 percent of the applicable Federal rate (as defined in section 1274(d)), or such

other discount rate specified in such regulations, compounded semiannually.

"(B) SPECIAL RULE FOR REVOLVING LOAN ACCOUNTS.—For purposes of subparagraph (A), in the case of extensions of credit on revolving loan accounts having substantially the same terms—

"(i) each extension of credit shall be treated as a separate debt instrument, and

"(ii) the reasonably expected payments under such an instrument shall be determined using a periodic principal payment rate equal to the reasonably anticipated periodic rate at which principal payments on the accounts will be made, as a proportion of their aggregate outstanding principal balances.

"(e) GAIN RECOGNITION ON CERTAIN DISTRIBUTIONS.—If a FASIT makes a distribution of property with respect to any regular or ownership interest—

"(1) notwithstanding any other provision of this subtitle, gain shall be recognized to such FASIT on the distribution in the same manner as if the FASIT had sold such property to the distributee at its fair market value on the date of such distribution, and

"(2) the basis of the distributee in such property shall be such fair market value.

"(f) TAX-EXEMPT INTEREST LOSES CHARACTER.—Interest accrued by the FASIT which is exempt from tax imposed by this subtitle shall, when taken into account by the holder of the ownership interest in the FASIT, be treated as ordinary income.

"SEC. 860K. NON-FASIT LOSSES NOT TO OFFSET CERTAIN FASIT INCLUSIONS.

"(a) IN GENERAL.—The taxable income of the holder of the ownership interest or high-yield interest in a FASIT for any taxable year shall in no event be less than such holder's taxable income determined solely with respect to such interests.

"(b) COORDINATION WITH SECTION 172.—Any increase in the taxable income of any holder of an ownership interest or high-yield interest in a FASIT for any taxable year by reason of subsection (a) shall be disregarded—

"(1) in determining under section 172 the amount of any net operating loss for such taxable year, and

"(2) in determining taxable income for such taxable year for purposes of the 2nd sentence of section 172(b)(2).

"(c) COORDINATION WITH MINIMUM TAX.—For purposes of part VI of subchapter A of this chapter—

"(1) the reference in section 55(b)(2) to taxable income shall be treated as a reference to taxable income determined without regard to this section,

"(2) the alternative minimum taxable income of any holder of the ownership interest or high-yield interest in a FASIT for any taxable year shall in no event be less than such holder's taxable income determined solely with respect to such interests, and

"(3) any increase in taxable income under this section shall be disregarded for purposes of computing the alternative tax net operating loss deduction.

"SEC. 860L. TREATMENT OF TRANSFERS OF HIGH-YIELD INTERESTS TO DISQUALIFIED HOLDERS.

"(a) GENERAL RULE.—If any high-yield interest is held by a disqualified holder, this chapter shall be applied as if the transferor of such interest to such holder had not transferred such interest.

"(b) EXCEPTIONS.—Rules similar to the rules of paragraphs (4) and (7) of section 860E(e) shall apply to the tax imposed by reason of subsection (a).

"(c) DISQUALIFIED HOLDER.—For purposes of this section, the term 'disqualified holder' means any holder

other than an eligible corporation (as defined in section 860M(a)(2)).

"(d) TREATMENT OF INTERESTS HELD BY CERTAIN DEALERS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to any high-yield interest held by a disqualified holder if—

"(A) such holder is a dealer in goods or services and such interest exclusively represents an interest supported by—

"(i) loans made by the dealer to finance a customer's acquisition of goods or services from such dealer in the ordinary course of business, and

"(ii) assets described in section 860M(c)(1)(D) that are incidental to the securitization of such loans, or

"(B) such holder is a dealer in securities who acquired such interest exclusively for sale to customers in the ordinary course of business (and not for investment).

"(2) CHANGE IN DEALER STATUS.—

"(A) IN GENERAL.—In the case of a dealer described in paragraph (1)(B) which is not an

eligible corporation (as defined in section 860M(a)(2)), if—

"(i) such dealer ceases to be a dealer in securities, or

"(ii) such dealer commences holding the high-yield interest for investment,

there is hereby imposed (in addition to other taxes) an excise tax equal to the product of the highest rate of tax specified in section 11(b)(1) and the income of such dealer attributable to such interest for periods after the date of such cessation or commencement.

"(B) HOLDING FOR 31 DAYS OR LESS.—For purposes of subparagraph (A)(ii), a dealer shall not be treated as holding an interest for investment before the 32d day after the date such dealer acquired such interest unless such interest is so held as part of a plan to avoid the purposes of this paragraph.

"(C) ADMINISTRATIVE PROVISIONS.—The deficiency procedures of subtitle F shall apply to the tax imposed by this paragraph.

"SEC. 860M. DEFINITIONS AND OTHER RULES.

"(a) FASIT.—

"(1) IN GENERAL.—For purposes of this title, the terms 'financial asset securitization investment trust' and 'FASIT' mean any entity—

"(A) for which an election to be treated as a FASIT applies for the taxable year and all prior taxable years,

"(B) all of the interests in which are regular interests or the ownership interest,

"(C) which has 1 (and only 1) ownership interest and such ownership interest is held directly by an eligible corporation,

"(D) as of the close of the 3rd month beginning after the day of its formation and at all times thereafter, substantially all of the assets of which consist of permitted assets,

"(E) which has a taxable year which is the taxable year of the holder of the ownership interest in the FASIT, and

"(F) which is not described in section 851(a).

A rule similar to the rule of the last sentence of section 860D(a) shall apply for purposes of this paragraph.

"(2) ELIGIBLE CORPORATION.—For purposes of paragraph (1)(C), the term 'eligible corporation' means any domestic C corporation other than—

"(A) a corporation which is exempt from tax under this chapter, and

"(B) an entity described in section 851(a) or 856(a).

"(3) FAILURE TO QUALIFY AS FASIT IF RIGHTS TO EXCESSIVE SERVICING FEES HELD BY OTHERS.—For purposes of this subtitle, an entity shall not be treated as a FASIT if any person (other than such entity) retains a stripped interest or has a right to receive excessive servicing fees with respect to any debt instrument held by such entity. A right is described in the preceding sentence only if such right was created at the time such instrument was contributed to such entity (or in anticipation of such right being contributed) or is held by the contributor of such instrument or by any person who is related to such contributor.

"(4) ELECTION.—An entity (otherwise meeting the requirements of paragraph (1)) may elect to be treated as a FASIT for its 1st taxable year. Such an election shall be made on its return for such 1st taxable year. Except as provided in paragraph (5),

such an election shall apply to the taxable year for which made and all subsequent taxable years.

"(5) TERMINATION.—If any entity ceases to be a FASIT at any time during the taxable year, such entity shall not be treated as a FASIT for such taxable year or any succeeding taxable year.

"(6) INADVERTENT TERMINATIONS, ETC.—Rules similar to the rules of section 860D(b)(2)(B) shall apply to inadvertent failures to qualify or remain qualified as a FASIT.

"(b) INTERESTS IN FASIT.—For purposes of this subpart—

"(1) REGULAR INTEREST.—

"(A) IN GENERAL.—The term 'regular interest' means any interest which is issued by a FASIT with fixed terms and which is designated as a regular interest if—

"(i) such interest unconditionally entitles the holder to receive a specified principal amount (or other similar amount),

"(ii) except as otherwise provided by the Secretary—

"(I) in the case of a FASIT which would be treated as a REMIC if an election under section 860D(b)

had been made, interest payments (or other similar amounts), if any, with respect to such interest at or before maturity meet the requirements applicable under clause (i) or (ii) of section 860G(a)(1)(B), or

''(II) in the case of any other FASIT, interest payments (or other similar amounts), if any, with respect to such interest would not be treated as contingent payments (as defined in regulations prescribed by the Secretary under section 1275,

''(iii) such interest does not have a stated maturity (including options to renew) greater than 30 years (or such longer period as may be permitted by regulations),

''(iv) the issue price of such interest does not exceed 125 percent of its stated principal amount, and

''(v) the yield to maturity on such interest is less than the sum determined under section 163(i)(1)(B) with respect to such interest.

Interest shall not fail to meet the requirements of clause (i) merely because the timing (but not the amount) of the principal payments (or other similar amounts) may be contingent on the extent that payments on debt instruments held by the FASIT are made in advance of anticipated payments and on the amount of income from permitted assets.

"(B) HIGH-YIELD INTERESTS.—

"(i) IN GENERAL.—The term 'regular interest' includes any high-yield interest.

"(ii) HIGH-YIELD INTEREST.—The term 'high-yield interest' means any interest which would be described in subparagraph (A) but for failing to meet the requirements of one or more of clauses (i), (iv), or (v) thereof.

"(2) OWNERSHIP INTEREST.—The term 'ownership interest' means the interest issued by a FASIT which is designated as an ownership interest and which is not a regular interest.

"(c) PERMITTED ASSETS.—For purposes of this part—

"(1) IN GENERAL.—The term 'permitted asset' means—

"(A) any investment of amounts received under debt instruments described in subparagraph (B) for a temporary period before distribution to holders of interests in the FASIT,

"(B) debt instruments (as defined in section 1275(a)(1)) under which interest, if any, is payable—

"(i) at a fixed rate,

"(ii) at a qualified variable rate (as defined in regulations prescribed by the Secretary under section 860G(a)(1)(B)(i), or

"(iii) at any other varying rate permitted under regulations prescribed by the Secretary,

"(C) foreclosure property,

"(D) any asset—

"(i) which is an interest rate or foreign currency notional principal contract, letter of credit, insurance, guarantee against payment defaults, or other similar instrument, permitted by the Secretary, and

"(ii) which is a reasonably required to guarantee or hedge against the FASIT's

risks associated with being the obligor on interests issued by the FASIT,

"(E) any interest in a partnership if—

"(i) all of the assets of the partnership are debt instruments described in subparagraph (B), and

"(ii) such interest is an undivided pro rata interest in such assets, and

"(F) contract rights to acquire debt instruments described in subparagraph (B) or assets described in subparagraph (D).

"(2) DEBT ISSUED BY HOLDER OF OWNERSHIP INTEREST NOT PERMITTED ASSET.—The term 'permitted asset' shall not include any debt instrument issued by the holder of the ownership interest in the FASIT or by any person related to such holder or any direct or indirect interest in such a debt instrument.

"(3) FORECLOSURE PROPERTY.—The term 'foreclosure property' means property—

"(A) which would be foreclosure property under section 856(e) (determined without regard to paragraph (5) thereof) if acquired by a real estate investment trust, and

"(B) which is acquired in connection with the default or imminent default of a debt instrument held by the FASIT unless the security interest in such property was created for the principal purpose of permitting the FASIT to invest in such property.

Solely for purposes of subsection (a)(1), the determination of whether any property is foreclosure property shall be made without regard to section 856(e)(4).

"(d) TAX ON PROHIBITED TRANSACTIONS.—

"(1) IN GENERAL.—There is hereby imposed for each taxable year of a FASIT a tax equal to 100 percent of the net income derived from prohibited transactions.

"(2) PROHIBITED TRANSACTIONS.—For purposes of this part, the term 'prohibited transaction' means—

"(A) the receipt of any income derived from any asset that is not a permitted asset,

"(B) except as provided in paragraph (3), the disposition of any permitted asset,

"(C) the receipt of any income derived from any activity other than—

"(i) the acquisition of existing debt instruments,

"(ii) the holding of existing debt instruments, and

"(iii) the processing of payments received on debt instruments held by the FASIT and the distribution of amounts to holders of interests in the FASIT, and

"(D) the receipt of any income representing a fee or other compensation for services (other than any fee received as compensation for a waiver, amendment, or consent under permitted assets (other than foreclosure property) held by the FASIT).

"(3) EXCEPTION FOR INCOME FROM CERTAIN DISPOSITIONS.—

"(A) IN GENERAL.—Paragraph (2)(B) shall not apply to a disposition which would not be a prohibited transaction (as defined in section 860F(a)(2)) by reason of—

"(i) clause (ii), (iii), or (iv) of section 860F(a)(2)(A), or

"(ii) section 860F(a)(5),

if the FASIT were treated as a REMIC and debt instruments described in subsection (c)(1)(B) were treated as qualified mortgages.

"(B) SUBSTITUTION OF DEBT INSTRUMENTS; REDUCTION OF OVER-COLLATERALIZATION.—Paragraph (2)(B) shall not apply to—

"(i) the substitution of a debt instrument described in subsection (c)(1)(B) for another debt instrument which is a permitted asset, or

"(ii) the distribution of a debt instrument contributed by the holder of the ownership interest to such holder in order to reduce over-collateralization of the FASIT,

but only if a principal purpose of acquiring the debt instrument which is disposed of was not the recognition of gain (or the reduction of an loss) as a result of an increase in the market value of the debt instrument after its acquisition by the FASIT.

"(C) LIQUIDATION OF CLASS OF REGULAR INTERESTS.—Paragraph (2)(B) shall not apply to the complete liquidation of any class of regular interests.

"(4) NET INCOME.—For purposes of this subsection, net income shall be determined in accordance with section 860F(a)(3).

"(e) TAX ON INCOME FROM FORECLOSURE PROPERTY.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the net income from foreclosure property of each FASIT. Such tax shall be computed by multiplying the net income from foreclosure property by the highest rate of tax specified in section 11(b).

"(2) NET INCOME FROM FORECLOSURE PROPERTY.—For purposes of this part, the term 'net income from foreclosure property' means the amount which would be the FASIT's net income from foreclosure property under section 857(b)(4)(B) if the FASIT were a real estate investment trust.

"(f) COORDINATION WITH WASH SALES RULES.—Rules similar to the rules of section 860F(d) shall apply to the ownership interest in a FASIT.

"(g) RELATED PERSON.—For purposes of this part, a person (hereinafter in this subsection referred to as the 'related person') is related to any person if—

"(1) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(2) the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of paragraph (1), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent the abuse of the purposes of this part through transactions which are not primarily related to securitization of debt instruments by a FASIT."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 26(b) is amended by striking "and" at the end of subparagraph (M), by striking the period at the end of subparagraph (N) and inserting ", and", and by adding at the end the following new subparagraph:

"(O) section 860L (relating to treatment of transfers of high-yield interests to disqualified holders)."

(2) Paragraph (6) of section 56(g) is amended by striking ''or REMIC'' and inserting ''REMIC, or FASIT''.

(3) Clause (ii) of section 382(l)(4)(B) is amended by striking ''or a REMIC to which part IV of subchapter M applies'' and inserting ''a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies''.

(4) Paragraph (1) of section 582(c) is amended by inserting '', and any regular or ownership interest in a FASIT,'' after ''REMIC''.

(5) Paragraph (4) of section 593(d) is amended—

(A) by adding at the end the following new sentence: ''References in the preceding provisions of this paragraph to a REMIC shall be treated as including a reference to a FASIT.'', and

(B) by inserting ''OR FASIT'S'' after ''REMIC'S'' in the heading.

(6) Subparagraph (E) of section 856(c)(6) is amended by adding at the end the following new sentence: ''References in the preceding provisions of this subparagraph to a REMIC shall be treated as including a reference to a FASIT.''

(7) Subparagraph (C) of section 1202(e)(4) is amended by striking ''or REMIC'' and inserting ''REMIC, or FASIT''.

(8) Clause (xi) of section 7701(a)(19)(C) is amended to read as follows:

> ''(xi) any regular or residual interest in a REMIC, and any regular or ownership interest in a FASIT, but only in the proportion which the assets of such REMIC or FASIT consist of property described in any of the preceding clauses of this subparagraph; except that if 95 percent or more of the assets of such REMIC or FASIT are assets described in clauses (i) through (x), the entire interest in the REMIC or FASIT shall qualify.''

(9) Subparagraph (A) of section 7701(i)(2) is amended by inserting ''or a FASIT'' after ''a REMIC''.

(c) CLERICAL AMENDMENT.—The table of parts for subchapter M of chapter 1 is amended by adding at the end the following new item:

''Part V. Financial asset securitization investment trusts.''

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

CHAPTER 7—DEPRECIATION PROVISIONS

SEC. 12861. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.—

(1) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended—

(A) by redesignating subsection (c) as subsection (e), and

(B) by inserting after subsection (b) the following new subsections:

''(c) SPECIAL RULES FOR WATER AND SEWAGE DISPOSAL UTILITIES.—

''(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

''(A) such amount is a contribution in aid of construction,

''(B) in the case of contribution of property other than water or sewerage disposal fa-

cilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

"(C) such amount (or any property acquired or constructed with such amount) is not included in the taxpayer's rate base for rate-making purposes.

"(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

"(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

"(i) which is the property for which the contribution was made or is of the same type as such property, and

"(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

"(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

"(C) accurate records are kept of the amounts contributed and expenditures made, the expenditures to which contributions are al-

located, and the year in which the contributions and expenditures are received and made.

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

"(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as service charges for starting or stopping services.

"(B) PREDOMINANTLY.—The term 'predominantly' means 80 percent or more.

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

"(4) DISALLOWANCE OF DEDUCTIONS AND CREDIT; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The ad-

justed basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

"(d) STATUTE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (c), then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

"(A) the amount of the expenditure referred to in subparagraph (A) of subsection (c)(2),

"(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

"(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (c)(2); and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the

provisions of any other law or rule of law which would otherwise prevent such assessment.''.

(2) CONFORMING AMENDMENT.—Section 118(b) is amended by inserting ''except as provided in subsection (c),'' before ''the term''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after the date of the enactment of this Act.

(b) RECOVERY METHOD AND PERIOD FOR WATER UTILITY PROPERTY.—

(1) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) is amended by adding at the end the following new subparagraph:

''(F) Water utility property described in subsection (e)(5).''

(2) 25-YEAR RECOVERY PERIOD.—The table contained in section 168(c)(1) is amended by inserting the following item after the item relating to 20-year property:

''Water utility property ..... 25 years''.

(3) WATER UTILITY PROPERTY.—

(A) IN GENERAL.—Section 168(e) is amended by adding at the end the following new paragraph:

''(5) WATER UTILITY PROPERTY.—The term 'water utility property' means property—

"(A) which is an integral part of the gathering, treatment, or commercial distribution of water, and which, without regard to this paragraph, would be 20-year property, and

"(B) any municipal sewer."

(B) CONFORMING AMENDMENTS.—Section 168 is amended—

(i) by striking subparagraph (F) of subsection (e)(3), and

(ii) by striking the item relating to subparagraph (F) in the table in subsection (g)(3).

(4) ALTERNATIVE SYSTEM.—Clause (iv) of section 168(g)(2)(C) is amended by inserting "or water utility property" after "tunnel bore".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act, other than property placed in service pursuant to a binding contract in effect on such date and at all times thereafter before the property is placed in service.

SEC. 12862. DEDUCTION FOR CERTAIN OPERATING AUTHORITY.

(a) GENERAL RULE.—For purpose of chapter 1 of the Internal Revenue Code of 1986, in computing the taxable income of a taxpayer who, on January 1, 1995, held one or more operating authorities preempted by section 601 of the Federal Aviation Administration Authorization Act of 1994, the taxpayer shall be entitled to deduct ratably over the 36-month period beginning with January 1995 an amount equal to the aggregate adjusted bases of such operating authorities held by the taxpayer on January 1, 1995.

(b) TREATMENT AS DEPRECIATION.—Any deduction under subsection (a) shall be treated as a deduction for depreciation for purposes of the Internal Revenue Code of 1986.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years ending after December 31, 1994.

SEC. 12863. CLASS LIFE FOR GAS STATION CONVENIENCE STORES AND SIMILAR STRUCTURES.

(a) IN GENERAL.—Section 168(e)(3)(E) (classifying certain property as 15-year property) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', and'', and by adding at the end the following new clause:

"(iii) any section 1250 property which is a retail motor fuels outlet (whether or not food or other convenience items are sold at the outlet)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property which is placed in service on or after the date of the enactment of this Act and to which section 168 of the Internal Revenue Code of 1986 applies after the amendment made by section 201 of the Tax Reform Act of 1986. A taxpayer may elect to have such amendments apply with respect to any property placed in service before such date and to which such section so applies.

CHAPTER 8—OTHER PROVISIONS

SEC. 12871. APPLICATION OF FAILURE-TO-PAY PENALTY TO SUBSTITUTE RETURNS.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(b).—In the case of any return made by the Secretary under section 6020(b)—

"(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

"(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act.

SEC. 12872. EXTENSION OF WITHHOLDING TO CERTAIN GAMBLING WINNINGS.

(a) REPEAL OF EXEMPTION FOR BINGO AND KENO.—Paragraph (5) of section 3402(q) is amended to read as follows:

"(5) EXEMPTION FOR SLOT MACHINES.—The tax imposed under paragraph (1) shall not apply to winnings from a slot machine."

(b) THRESHOLD AMOUNT.—Paragraph (3) of section 3402(q) is amended—

(1) by striking "(B) and (C)" in subparagraph (A) and inserting "(B), (C), and (D)", and

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

"(D) BINGO AND KENO.—Proceeds of more than $5,000 from a wager placed in a bingo or keno game."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 12873. LOSSES FROM FORECLOSURE PROPERTY.

(a) IN GENERAL.—Section 818(b) is amended by adding at the end the following new paragraph:

"(2) LOSSES FROM FORECLOSURE PROPERTY.—

"(A) IN GENERAL.—In the case of any loss arising from the sale or exchange of foreclosure property which (without regard to this paragraph) is treated as a capital loss—

"(i) only 15 percent of the amount of such loss shall be treated as a capital loss, and

"(ii) the remainder shall be treated as a loss from the sale or exchange of real property used in carrying on an insurance business which is recognized ratably over the 10-taxable year period beginning with the taxable year following the taxable year in which the sale or exchange of the foreclosure property occurred.

"(B) FORECLOSURE PROPERTY.—For purposes of this paragraph, the term "foreclosure property" means any real property used in a

trade or businesses (as defined in section 1231(b) without regard to this subsection) which is acquired by a life insurance company as the result of—

"(i) such company having bid on such property at foreclosure, or

"(ii) such company having otherwise reduced such property to ownership or possession by agreement or process of law, after there was a default (or default was imminent) on indebtedness which such property secured."

(b) CONFORMING AMENDMENTS.—Section 818(b) is amended—

(1) by striking "In the" and inserting:

"(1) IN GENERAL.—In the ", and

(2) by redesignating paragraphs (1) and (2) and subparagraphs (A) and (B) of paragraph (1) as subparagraphs (A) and (B) and clauses (i) and (ii) of subparagraph (A), respectively.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

SEC. 12874. COAL INDUSTRY RETIREE HEALTH EQUITY.

(a) IN GENERAL.—Paragraph (3) of section 9704(e) (relating to shortfalls and surpluses) is amended to read as follows:

"(3) SHORTFALLS AND SURPLUSES.—

"(A) DETERMINATIONS.—

"(i) IN GENERAL.—The trustees of the Combined Fund shall, as of the close of any plan year ending on or after September 30, 1995—

"(I) determine any shortfall or surplus in any premium account established under paragraph (1) and, to the maximum extent possible, reduce or eliminate any shortfall in any such account by transferring amounts to it from any surplus in any other such account, and

"(II) determine, after any transfers under subclause (I), the aggregate shortfall or surplus in the Combined Fund, taking into account all receipts of any kind during the plan year from all sources.

"(ii) DETERMINATIONS MADE ON CASH FLOW BASIS.—

"(I) IN GENERAL.—Subject to the provisions of subclause (II) and clause (iii), any determination under clause (i) for any plan year shall be determined under the cash receipts and disbursements method of accounting, taking into account only receipts and disbursements for the plan year.

"(II) CERTAIN PRIOR YEAR SURPLUSES.—For purposes of applying subclause (I) for any plan year, any surplus determined under subparagraph (A)(i)(II) as of the close of the preceding plan year, including any portion used as provided in subparagraph (B), shall be treated as received in the Combined Fund as of the beginning of the plan year.

"(iii) DISREGARD OF TRANSFERRED AMOUNTS.—For purposes of this subparagraph—

"(I) no amount transferred to the Combined Fund under section 9705, and no disbursements made from such amount, shall be taken into

account in making any determination under subparagraph (A) for the plan year of the transfer or any subsequent plan year, and

"(II) any amount in a premium account which was transferred to the Combined Fund under section 9705 may not be transferred to another account under clause (i)(I).

"(B) TREATMENT OF SURPLUS.—

"(i) NONPREMIUM ADJUSTMENTS.—Any surplus determined under subparagraph (A)(i)(II) for any plan year shall be used first for purposes of the carryover under section 9703(b)(2)(C), but only to the extent the amount of such carryover does not exceed 10 percent of the benefits and administrative costs paid by the Combined Fund during the plan year (determined without regard to benefits paid from transfers under section 9705).

"(ii) PREMIUM ADJUSTMENTS.—In the case of the plan year beginning October 1, 1995, or October 1, 1996, the annual premium for such plan year for each

assigned operator which is not a 1988 agreement operator shall be reduced by an amount which bears the same ratio to the surplus determined under subparagraph (A)(i)(II) as of the close of the preceding plan year (reduced as provided under clause (i)) as—

"(I) such assigned operator's applicable percentage (expressed as a whole number), bears to

"(II) the sum of the applicable percentages (expressed as whole numbers) of all assigned operators which are not 1988 agreement operators.

The reduction in any annual premium under this clause shall be allocated to the premium accounts established under paragraph (1) in the same manner as the annual premium would have been allocated without regard to this clause, and in the case of assigned operators which sought protection under title 11 of the United States Code before October 24, 1992, without regard to section 9706(b)(1)(A).

"(C) SHORTFALLS.—If a shortfall is determined under subparagraph (A)(i)(II) for any plan year, the annual premium for each assigned operator shall be increased by an amount equal to such assigned operator's applicable percentage of the shortfall. Any increase under this subparagraph shall be allocated to each premium account with a shortfall.

"(D) NO AUTHORITY FOR INCREASE.—Nothing in this paragraph shall be construed to allow expenditures for health care benefits in any plan year in excess of the limit under section 9703(b)(2)."

(b) AMOUNT OF PER BENEFICIARY PREMIUM.—Paragraph (2) of section 9704(b) (defining per beneficiary premium) is amended—

(1) by striking subparagraph (A) and inserting:

"(A) $2,116.67, plus", and

(2) by striking "the amount determined under subparagraph (A)" in subparagraph (B) and inserting "$2,116.67,".

(c) DISCLOSURE REQUIREMENTS.—

(1) IN GENERAL.—Section 9704(h) (relating to information) is amended by adding at the end the following new paragraph:

"(2) INFORMATION TO CONTRIBUTORS.—

"(A) IN GENERAL.—The trustees of the Combined Fund shall, within 30 days of a written request, make available to any person required to make contributions to the Combined Fund or their agent—

"(i) all documents which reflect its financial and operational status, including documents under which it is operated, and

"(ii) all documents prepared at the request of the trustees or staff of the Combined Fund which form the basis for any of its actions or reports, including the eligibility of participants in predecessor plans.

"(B) FEES.—The trustees may charge reasonable fees (not in excess of actual expenses) for providing documents under this paragraph."

(2) CONFORMING AMENDMENT.—Section 9704(h) is amended by striking "(h) INFORMATION.—The" and inserting:

"(h) INFORMATION.—

"(1) INFORMATION TO SECRETARY.—The".

(d) CONFORMING AMENDMENT.—Clause (ii) of section 9703(b)(2)(A) is amended by inserting "(without re-

gard to any reduction under section 9704(e)(3)(B)(ii))'' after ''for the plan year''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after September 30, 1995.

SEC. 12875. NEWSPAPER DISTRIBUTORS TREATED AS DIRECT SELLERS.

(a) IN GENERAL.—Section 3508(b)(2)(A) in amended by striking ''or'' at the end of clause (i), by inserting ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

> ''(iii) is engaged in the trade or business of the delivering or distribution of newspapers or shopping news (including any services directly related to such trade or business),''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed after December 31, 1995.

SEC. 12876. NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS BY COMMON TRUST FUNDS TO REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—Section 584 (relating to common trust funds) is amended by redesignating subsection

(h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS TO REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—If—

"(A) pursuant to a single plan, a common trust fund transfers substantially all of its assets to one or more regulated investment companies in exchange solely for stock in the company or companies to which such assets are so transferred, and

"(B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange solely for their interests in such common trust fund,

no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange.

"(2) BASIS RULES.—

"(A) REGULATED INVESTMENT COMPANY.—The basis of any asset received by a regulated investment company in a transfer referred to in paragraph (1)(A) shall be the same

as it would be in the hands of the common trust fund.

"(B) PARTICIPANTS.—The basis of the stock which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property exchanged. If stock in more than one regulated investment company is received in such exchange, the basis determined under the preceding sentence shall be allocated among the stock in each such company on the basis of respective fair market values.

"(3) TREATMENT OF ASSUMPTIONS OF LIABILITY.—

"(A) IN GENERAL.—In determining whether the transfer referred to in paragraph (1)(A) is in exchange solely for stock in one or more regulated investment companies, the assumption by any such company of a liability of the common trust fund, and the fact that any property transferred by the common trust fund is subject to a liability, shall be disregarded.

"(B) SPECIAL RULE WHERE ASSUMED LIABILITIES EXCEED BASIS.—

"(i) IN GENERAL.—If, in any transfer referred to in paragraph (1)(A), the as-

sumed liabilities exceed the aggregate adjusted bases (in the hands of the common trust fund) of the assets transferred to the regulated investment company or companies—

"(I) notwithstanding paragraph (1), gain shall be recognized to the common trust fund on such transfer in an amount equal to such excess,

"(II) the basis of the assets received by the regulated investment company or companies in such transfer shall be increased by the amount so recognized, and

"(III) any adjustment to the basis of a participant's interest in the common trust fund as a result of the gain so recognized shall be treated as occurring immediately before the exchange referred to in paragraph (1)(B).

If the transfer referred to in paragraph (1)(A) is to two or more regulated investment companies, the basis increase under subclause (II) shall be allocated among

such companies on the basis of the respective fair market values of the assets received by each of such companies.

"(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means the aggregate of—

"(I) any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A), and

"(II) any liability to which property so transferred is subject.

"(4) COMMON TRUST FUND MUST MEET DIVERSIFICATION RULES.—This subsection shall not apply to any common trust fund which would not meet the requirements of section 368(a)(2)(F)(ii) if it were a corporation. For purposes of the preceding sentence, Government securities shall not be treated as securities of an issuer in applying the 25-percent and 50-percent test and such securities shall not be excluded for purposes of determining total assets under clause (iv) of section 368(a)(2)(F)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1995.

SEC. 12877. TREATMENT OF CERTAIN INSURANCE CONTRACTS ON RETIRED LIVES.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 817(d) (defining variable contract) is amended by striking ''or'' at the end of subparagraph (A), by striking ''and'' at the end of subparagraph (B) and inserting ''or'', and by inserting after subparagraph (B) the following new subparagraph:

''(C) provides for funding of insurance on retired lives as described in section 807(c)(6), and''.

(2) Paragraph (3) of section 817(d) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', and by inserting after subparagraph (B) the following new subparagraph:

''(C) in the case of funds held under a contract described in paragraph (2)(C), the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12878. TREATMENT OF MODIFIED GUARANTEED CONTRACTS.

(a) GENERAL RULE.—Subpart E of part I of subchapter L of chapter 1 (relating to definitions and special rules) is amended by inserting after section 817 the following new section:

"SEC. 817A. SPECIAL RULES FOR MODIFIED GUARANTEED CONTRACTS.

''(a) COMPUTATION OF RESERVES.—In the case of a modified guaranteed contract, clause (ii) of section 807(e)(1)(A) shall not apply.

''(b) SEGREGATED ASSETS UNDER MODIFIED GUARANTEED CONTRACTS MARKED TO MARKET.—

''(1) IN GENERAL.—In the case of any life insurance company, for purposes of this subtitle—

''(A) Any gain or loss with respect to a segregated asset shall be treated as ordinary income or loss, as the case may be.

''(B) If any segregated asset is held by such company as of the close of any taxable year—

"(i) such company shall recognize gain or loss as if such asset were sold for its fair market value on the last business day of such taxable year, and

"(ii) any such gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this subparagraph at times other than the times provided in this subparagraph.

"(2) SEGREGATED ASSET.—For purposes of paragraph (1), the term 'segregated asset' means any asset held as part of a segregated account referred to in subsection (d)(1) under a modified guaranteed contract.

"(c) SPECIAL RULE IN COMPUTING LIFE INSURANCE RESERVES.—For purposes of applying section 816(b)(1)(A) to any modified guaranteed contract, an assumed rate of interest shall include a rate of interest determined, from time to time, with reference to a market rate of interest.

"(d) MODIFIED GUARANTEED CONTRACT DEFINED.—For purposes of this section, the term 'modified guaranteed contract' means a contract not described in section 817—

"(1) all or part of the amounts received under which are allocated to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company and is valued from time to time with reference to market values,

"(2) which—

"(A) provides for the payment of annuities,

"(B) is a life insurance contract, or

"(C) is a pension plan contract which is not a life, accident, or health, property, casualty, or liability contract,

"(3) for which reserves are valued at market for annual statement purposes, and

"(4) which provides for a net surrender value or a policyholder's fund (as defined in section 807(e)(1)).

If only a portion of a contract is not described in section 817, such portion shall be treated for purposes of this section as a separate contract.

"(e) REGULATIONS.—The Secretary may prescribe regulations—

"(1) to provide for the treatment of market value adjustments under sections 72, 7702, 7702A, and 807(e)(1)(B),

"(2) to determine the interest rates applicable under sections 807(c)(3), 807(d)(2)(B), and 812 with respect to a modified guaranteed contract annually, in a manner appropriate for modified guaranteed contracts and, to the extent appropriate for such a contract, to modify or waive the applicability of section 811(d),

"(3) to provide rules to limit ordinary gain or loss treatment to assets constituting reserves for modified guaranteed contracts (and not other assets) of the company,

"(4) to provide appropriate treatment of transfers of assets to and from the segregated account, and

"(5) as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for subpart E of part I of subchapter L of chapter 1 is amended by inserting after the item relating to section 817 the following new item:

"Sec. 817A. Special rules for modified guaranteed contracts."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) TREATMENT OF NET ADJUSTMENTS.—In the case of any taxpayer required by the amendments made by this section to change its calculation of reserves to take into account market value adjustments and to mark segregated assets to market for any taxable year—

(A) such changes shall be treated as a change in method of accounting initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the adjustments required by reason of section 481 of the Internal Revenue Code of 1986 shall be taken into account as ordinary income or loss by the taxpayer for the taxpayer's first taxable year beginning after December 31, 1995.

Subtitle J—Pension Simplification

CHAPTER 1—GENERAL PROVISIONS

Subchapter A—Simplification of Nondiscrimination Provisions

SEC. 12901. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES; REPEAL OF FAMILY AGGREGATION.

(a) IN GENERAL.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who—

"(A) was a 5-percent owner at any time during the year or the preceding year,

"(B) had compensation for the preceding year from the employer in excess of $80,000, or

"(C) was the most highly compensated officer of the employer for the preceding year.

The Secretary shall adjust the $80,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending September 30, 1996."

(b) SPECIAL RULE FOR TAX EXEMPT AND GOVERNMENTAL PLANS.—Paragraph (2) of section 414(q) is amended to read as follows:

"(2) SPECIAL RULE FOR TAX EXEMPT AND GOVERNMENTAL PLANS.—Solely for purposes of applying subsections (k) and (m) of section 401, paragraph (1)(C) shall not apply to a plan maintained by—

"(A) a State or local government or political subdivision thereof, or any agency or instrumentality thereof, or

"(B) any organization exempt from tax under this subtitle."

(c) REPEAL OF FAMILY AGGREGATION RULES.—

(1) IN GENERAL.—Paragraph (6) of section 414(q) is hereby repealed.

(2) COMPENSATION LIMIT.—Paragraph (17)(A) of section 401(a) is amended by striking the last sentence.

(3) DEDUCTION.—Subsection (l) of section 404 is amended by striking the last sentence.

(d) CONFORMING AMENDMENTS.—

(1) Paragraphs (4), (5), (8), and (12) of section 414(q) are hereby repealed.

(2)(A) Section 414(r) is amended by adding at the end the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of this subsection, the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph."

(B) Subparagraph (A) of section 414(r)(2) is amended by striking ''subsection (q)(8)'' and inserting ''paragraph (9)''.

(3) Section 1114(c)(4) of the Tax Reform Act of 1986 is amended by adding at the end the following new sentence: ''Any reference in this paragraph to section 414(q) shall be treated as a reference to such section as in effect before the Revenue Reconciliation Act of 1995.''

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1996, except that in determining whether an employee is a highly compensated employee for years beginning in 1997, such amendments shall be treated as having been in effect for years beginning in 1996.

(2) FAMILY AGGREGATION.—The amendments made by subsection (c) shall apply to years beginning after December 31, 1995.

SEC. 12902. DEFINITION OF COMPENSATION FOR SECTION 415 PURPOSES.

(a) GENERAL RULE.—Section 415(c)(3) (defining participant's compensation) is amended by adding at the end the following new subparagraph:

"(D) CERTAIN DEFERRALS INCLUDED.—The term 'participant's compensation' shall include—

"(i) any elective deferral (as defined in section 402(g)(3)), and

"(ii) any amount which is contributed by the employer of the election of the employee and which is not includible in the gross income of the employee under section 125 or 457."

(b) CONFORMING AMENDMENTS.—

(1) Section 414(q)(7) is amended to read as follows:

"(7) COMPENSATION.—For purposes of this subsection, the term 'compensation' has the meaning given such term by section 415(c)(3)."

(2) Section 414(s)(2) is amended by inserting "not" after "elect" in the text and heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1997.

SEC. 12903. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) GENERAL RULE.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

"(A) IN GENERAL.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on each day of the plan year such trust benefits at least the lesser of—

"(i) 50 employees of the employer, or

"(ii) the greater of—

"(I) 40 percent of all employees of the employer, or

"(II) 2 employees (or if there is only 1 employee, such employee)."

(b) SEPARATE LINE OF BUSINESS TEST.—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking "paragraph (7)" and inserting "paragraph (2)(A) or (7)".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 12904. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements), as amended by this Act, is amended by adding at the end the following new paragraph:

"(12) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

"(i) meets the contribution requirements of subparagraph (B) or (C), and

"(ii) meets the notice requirements of subparagraph (D).

"(B) MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

"(iii) ALTERNATIVE PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an

arrangement shall not be treated as failing to meet the requirements of clause (i) if—

"(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

"(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

"(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement

in an amount equal to at least 3 percent of the employee's compensation.

"(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

"(E) OTHER REQUIREMENTS.—

"(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions).

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

"(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement."

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions), as amended by this Act, is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(11) ALTERNATIVE METHOD OF SATISFYING TESTS.—

"(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(12),

"(ii) meets the notice requirements of subsection (k)(12)(D), and

"(iii) meets the requirements of subparagraph (B).

"(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

"(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

"(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

"(iii) the matching contribution with respect to any highly compensated em-

ployee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee.''

(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—

(1) CASH OR DEFERRED ARRANGEMENTS.—Clause (ii) of section 401(k)(3)(A) is amended—

(A) by striking ''such year'' and inserting ''the plan year'',

(B) by striking ''for such plan year'' and inserting ''the preceding plan year'', and

(C) by adding at the end the following new sentence: ''An arrangement may apply this clause by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided by the Secretary.''

(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(A) by inserting ''for such plan year'' after ''highly compensated employee'',

(B) by inserting ''for the preceding plan year'' after ''eligible employees'' each place it appears in clause (i) and clause (ii), and

(C) by adding at the end the following flush sentence: ''This subparagraph may be applied by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided the Secretary.''

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end the following new subparagraph:

''(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

''(i) 3 percent, or

''(ii) if the employer makes an election under this subclause, the actual deferral percentage of nonhighly compensated em-

ployees determined for such first plan year.''

(2) Paragraph (3) of section 401(m) is amended by adding at the end thereof the following: ''Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1998.

Subchapter B—Simplified Distribution Rules

SEC. 12911. REPEAL OF 5-YEAR INCOME AVERAGING FOR LUMP-SUM DISTRIBUTIONS.

(a) IN GENERAL.—Subsection (d) of section 402 (relating to taxability of beneficiary of employees' trust) is amended to read as follows:

''(d) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).''

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 402(e)(4) (relating to other rules applicable to exempt trusts) is amended to read as follows:

"(D) LUMP-SUM DISTRIBUTION.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'lump sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

"(I) on account of the employee's death,

"(II) after the employee attains age 59½,

"(III) on account of the employee's separation from service, or

"(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Subclause (III) of this clause shall be ap-

plied only with respect to an individual who is an employee without regard to section 401(c)(1), and subclause (IV) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this clause, a distribution to two or more trusts shall be treated as a distribution to one recipient. For purposes of this paragraph, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

''(ii) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under clause (i)—

''(I) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the em-

ployer shall be treated as a single plan, and

"(II) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

"(iii) COMMUNITY PROPERTY LAWS.—The provisions of this paragraph shall be applied without regard to community property laws.

"(iv) AMOUNTS SUBJECT TO PENALTY.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

"(v) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

"(vi) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

"(vii) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee."

(2) Section 402(c) (relating to rules applicable to rollovers from exempt trusts) is amended by striking paragraph (10).

(3) Paragraph (1) of section 55(c) (defining regular tax) is amended by striking ''shall not include any tax imposed by section 402(d) and''.

(4) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(d)) is hereby repealed.

(5) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(6) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

> ''(ii) LUMP-SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump-sum distribution' means any distribution of the balance to the credit of an employee immediately before the distribution.''

(7) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(8) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(9) Section 691(c) (relating to deduction for estate tax) is amended by striking paragraph (5).

(10) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking ''section 1, 55, or 402(d)(1)'' and inserting ''section 1 or 55''.

(11) Subsection (b) of section 877 (relating to alternative tax) is amended by striking ''section 1, 55, or 402(d)(1)'' and inserting ''section 1 or 55''.

(12) Section 4980A(c)(4) is amended—

(A) by striking ''to which an election under section 402(d)(4)(B) applies'' and inserting ''(as defined in section 402(e)(4)(D)) with respect to which the individual elects to have this paragraph apply'',

(B) by adding at the end the following new flush sentence:

''An individual may elect to have this paragraph apply to only one lump-sum distribution.'', and

(C) by striking the heading and inserting:

''(4) SPECIAL ONE-TIME ELECTION.—''.

(13) Section 402(e) is amended by striking paragraph (5).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

(2) RETENTION OF CERTAIN TRANSITION RULES.—Notwithstanding any other provision of this section, the amendments made by this section shall not apply to any distribution for which the taxpayer elects the benefits of section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986. For purposes of the preceding sentence, the rules of sections 402(c)(10) and 402(d) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this Act) shall apply.

SEC. 12912. REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 101 is hereby repealed.

(b) CONFORMING AMENDMENT.—Subsection (c) of section 101 is amended by striking ''subsection (a) or (b)'' and inserting ''subsection (a)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12913. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

"(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

"(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

"(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

"(i) subsection (b) shall not apply, and

"(ii) the investment in the contract shall be recovered as provided in this paragraph.

"(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

"(i) IN GENERAL.—Gross income shall not include so much of any monthly

annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

"(I) the investment in the contract (as of the annuity starting date), by

"(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

"(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

"(iii) NUMBER OF ANTICIPATED PAYMENTS.—

"If the age of the primary annuitant on the annuity starting date is:	The number of anticipated payments is:
Not more than 55	360
More than 55 but not more than 60	310
More than 60 but not more than 65	260
More than 65 but not more than 70	210
More than 70	160

"(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this para-

graph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

"(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump sum payment—

"(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

"(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

"(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

"(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the

application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

"(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

"(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after December 31, 1995.

SEC. 12914. REQUIRED DISTRIBUTIONS.

(a) IN GENERAL.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

"(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'required beginning date' means April 1 of the calendar year following the later of—

"(I) the calendar year in which the employee attains age 70½, or

"(II) the calendar year in which the employee retires.

"(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply—

"(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or

"(II) for purposes of section 408 (a)(6) or (b)(3).

"(iii) ACTUARIAL ADJUSTMENT.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.

"(iv) EXCEPTION FOR GOVERNMENTAL AND CHURCH PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995.

(c) DATE FOR ADOPTION OF PLAN AMENDMENTS.—If any amendment made by this section or any other provision of this subtitle requires an amendment to any plan, such plan amendment shall not be required to be made before the first day of the first plan year beginning on or after January 1, 1997, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this subsection shall be applied by substituting ''1999'' for ''1997''.

Subchapter C—Targeted Access to Pension Plans For Small Employers

SEC. 12916. CREDIT FOR PENSION PLAN START-UP COSTS OF SMALL EMPLOYERS.

(a) ALLOWANCE OF CREDIT.—Section 38(b) (defining current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12), and inserting '', plus'', and by adding at the end the following new paragraph:

''(13) the small employer pension plan start-up cost credit.''

(b) SMALL EMPLOYER PENSION PLAN START-UP COST CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45D. SMALL EMPLOYER PENSION PLAN START-UP COST CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38—

"(1) IN GENERAL.—The small employer pension plan start-up cost credit for any taxable year is an amount equal to 50 percent of the qualified start-up costs of an eligible employer in establishing a qualified pension plan.

"(2) AGGREGATE LIMITATION.—The amount of the credit under paragraph (1) for any taxable year shall not exceed $500, reduced by the aggregate amount determined under this section for all preceding taxable years of the taxpayer.

"(b) QUALIFIED START-UP COSTS; QUALIFIED PENSION PLAN.—For purposes of this section—

"(1) QUALIFIED START-UP COSTS.—The term 'qualified start-up costs' means any ordinary and necessary expenses of an eligible employer which—

"(A) are paid or incurred in connection with the establishment of a qualified pension plan, and

"(B) are of a nonrecurring nature.

"(2) QUALIFIED PENSION PLAN.—The term 'qualified pension plan' means—

"(A) a qualified salary reduction arrangement described in section 408(p) (relating to simple retirement accounts), or

"(B) an arrangement described in section 401(k)(11).

"(c) ELIGIBLE EMPLOYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible employer' means an employer which did not make any contributions on behalf of any employee to—

"(A) a qualified pension plan,

"(B) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a), or

"(C) a simplified employee pension (as defined in section 408(k)),

during the 2 taxable years immediately preceding the taxable year.

"(2) PROFESSIONAL SERVICE EMPLOYERS EXCLUDED.—Such term shall not include an employer substantially all of the activities of which involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, financial services, or consulting.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (n) or (o) of section 414 shall be treated as one person.

"(2) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowable under this chapter for any qualified start-up costs for which a credit is allowable under subsection (a)."

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(8) NO CARRYBACK OF PENSION CREDIT.—No portion of the unused business credit for any taxable year which is attributable to the small employer pension plan start-up cost credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45D. Small employer pension plan start-up cost credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to costs incurred after the date

of the enactment of this Act in taxable years ending after such date.

SEC. 12917. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) GENERAL RULE.—Clause (ii) of section 401(k)(4)(B) is amended to read as follows:

"(ii) any organization described in section 501(c)(3) which is exempt from tax under section 501(a)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1997, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

Subchapter D—Paperwork Reduction

SEC. 12921. LIMITATION ON COMBINED SECTION 415 LIMIT.

(a) IN GENERAL.—Section 415(e) (relating to limitation in case of defined benefit plan and defined contribution plan for same employee) is amended by adding at the end the following new paragraph:

"(7) LIMITATION ON APPLICATION OF SUBSECTION.—In the case of years beginning after December 31, 1998, this subsection shall only apply to plans maintained by an employer described in section 45D(c)(2)."

(b) EXCESS DISTRIBUTIONS.—Section 4980A is amended by adding at the end the following new subsection:

"(g) LIMITATION ON APPLICATION.—This section shall not apply to distributions during years beginning after December 31, 1995, and before January 1, 1999, and such distributions shall be treated as made first from amounts not described in subsection (f)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

Subchapter E—Miscellaneous Simplification

SEC. 12931. TREATMENT OF LEASED EMPLOYEES.

(a) GENERAL RULE.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

"(C) such services are performed under primary direction or control by the recipient."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of

1986 (as in effect on the day before such date) not to involve a leased employee.

SEC. 12932. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

"(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 12933. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) IN GENERAL.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended—

(1) by striking ''subparagraph (A), (B), or (C)'' and inserting ''subparagraph (A) or (B)''; and

(2) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1996, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1998.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

SEC. 12934. FULL-FUNDING LIMITATION OF MULTIEMPLOYER PLANS.

(a) FULL-FUNDING LIMITATION.—Section 412(c)(7)(C) (relating to full-funding limitation) is amended—

(1) by inserting ''or in the case of a multiemployer plan,'' after ''paragraph (6)(B),'', and

(2) by inserting ''AND MULTIEMPLOYER PLANS'' after ''PARAGRAPH (6)(B)'' in the heading thereof.

(b) VALUATION.—Section 412(c)(9) is amended—

(1) by inserting ''(3 years in the case of a multiemployer plan)'' after ''year'', and

(2) by striking ''ANNUAL VALUATION'' in the heading and inserting ''VALUATION''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1997.

SEC. 12935. TREATMENT OF GOVERNMENTAL AND MULTIEMPLOYER PLANS UNDER SECTION 415.

(a) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

''(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL AND MULTIEMPLOYER PLANS.—In the case of a governmental plan (as defined in section 414(d)) or a multiemployer plan, subparagraph (B)

of paragraph (1) shall not apply. This paragraph shall not apply to any benefit provided under the plan to a State or local legislator.''

(b) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end the following new subsection:

''(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

''(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

''(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

"(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

"(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

"(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

"(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

"(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

"(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits."

(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end the following new paragraph:

"(14) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan."

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking the word "and" at the end of subparagraph (C), by striking the period after subparagraph (D) and inserting ", and", and by adding at the end the following new subparagraph:

"(E) a qualified governmental excess benefit arrangement described in section 415(m)."

(c) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end the following new subparagraph:

"(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL AND ENVIRONMENTAL PLANS.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—

"(i) income received from a governmental plan (as defined in section 414(d)) or a multiemployer plan as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

"(ii) amounts received from either such plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee."

(d) REVOCATION OF GRANDFATHER ELECTION.—

(1) IN GENERAL.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end the following new clause:

"(ii) REVOCATION OF ELECTION.—An election under clause (i) may be revoked not later than the last day of the third plan year beginning after the date of the enactment of this clause. The revocation shall apply to all plan years to which the election applied and to all subsequent plan years. Any amount paid by a plan in a taxable year ending after the revocation shall be includible in income in such taxable year under the rules of this chapter in effect for such taxable year, except that, for purposes of applying the limitations imposed by this section, any portion of such amount which is attributable to any taxable year during which the election was in effect shall be treated as received in such taxable year."

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 415(b)(10) is amended by striking "This" and inserting:

"(i) IN GENERAL.—This".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall apply to years be-

ginning after December 31, 1995. The amendments made by subsection (d) shall apply with respect to revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—Nothing in the amendments made by this section shall be construed to infer that a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) fails to satisfy the requirements of section 415 of such Code for any taxable year beginning before the date of the enactment of this Act.

(3) MULTIEMPLOYER PLANS.—In the case of a multiemployer plan, the amendments made by subsections (a) and (c) shall apply to years beginning after December 31, 1995.

SEC. 12936. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

"(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

"(A) TOTAL AMOUNT PAYABLE IS $3,500 OR LESS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—

"(i) such amount does not exceed $3,500, and

"(ii) such amount may be distributed only if—

"(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

"(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

"(B) ELECTION TO DEFER COMMENCEMENT OF DISTRIBUTIONS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

"(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and

"(ii) the participant may make only 1 such election."

(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—Subsection (e) of section 457, as amended by section 12935(b)(2), is amended by adding at the end the following new paragraph:

"(15) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending September 30, 1994."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12937. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) ALL DISABLED PARTICIPANTS RECEIVING CONTRIBUTIONS.—Section 415(c)(3)(C) is amended by adding at the end the following: ''If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 12938. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS FOR HARDSHIP OR AFTER A CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) or of paragraph

(2) merely by reason of a hardship distribution or a distribution to a participant after attainment of age 59½. For purposes of this section, the term 'hardship distribution' means a distribution described in paragraph (2)(B)(i)(IV) (without regard to the limit of its application to profit-sharing or stock bonus plans).''

(b) DEFINITION OF RURAL COOPERATIVE PLANS.—

(1) PUBLIC UTILITY DISTRICTS.—Clause (i) of section 401(k)(7)(B) (defining rural cooperative) is amended to read as follows:

''(i) any organization which—

''(I) is engaged primarily in providing electric service on a mutual or cooperative basis, or

''(II) is engaged primarily in providing electric service to the public in its area of service and which is exempt from tax under this subtitle or which is a State or local government (or an agency or instrumentality thereof), other than a municipality (or an agency or instrumentality thereof).''

(2) RELATED ORGANIZATIONS.—Subparagraph (B) of section 401(k)(7), as amended by paragraph (1), is amended by striking clause (iv) and inserting the following new clauses:

"(iv) an organization which is a national association of organizations described in any other clause of this subparagraph, or

"(v) any other organization which provides services which are related to the activities of an organization described in clause (i), (ii), (iii), or (iv), but only in the case of a plan with respect to which substantially all of the organizations maintaining it are described in clause (i), (ii), (iii), or (iv)."

(c) EFFECTIVE DATES.—

(1) DISTRIBUTIONS.—The amendments made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) RURAL COOPERATIVE.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 1994.

SEC. 12939. TENURED FACULTY.

(a) IN GENERAL.—Section 457(e)(11) is amended by inserting ''eligible faculty voluntary retirement incentive pay,'' after ''disability pay,''.

(b) DEFINITION.—Section 457(e), as amended by sections 12935(b)(2) and 12936(b), is amended by adding at the end the following new paragraph:

''(16) DEFINITION OF ELIGIBLE FACULTY VOLUNTARY RETIREMENT INCENTIVE PAY.—For purposes of this section, the term 'eligible faculty voluntary retirement incentive pay' means payments under a plan established for employees serving under contracts of unlimited tenure (or similar arrangements providing for unlimited tenure) at an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) which—

''(A) provides—

''(i) payment to employees electing to retire during a specified period of time of limited duration, or

''(ii) payment to employees who elect to retire prior to normal retirement age,

''(B) provides that the total amount of payments to an employee does not exceed the equivalent of twice the employee's annual com-

pensation (within the meaning of section 415(c)(3)) during the year immediately preceding the employee's termination of service, and

"(C) provides that all payments to an employee must be completed within 5 years after the employee's termination of service."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 12940. UNIFORM RETIREMENT AGE.

(a) DISCRIMINATION TESTING.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end the following new subparagraph:

"(F) SOCIAL SECURITY RETIREMENT AGE.—For purposes of testing for discrimination under paragraph (4)—

"(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

"(ii) subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in

whole or in part on an employee's social security retirement age (as so defined).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 12941. MODIFICATIONS OF SECTION 403(b).

(a) MULTIPLE SALARY REDUCTION AGREEMENTS PERMITTED.—

(1) GENERAL RULE.—For purposes of section 403(b) of the Internal Revenue Code of 1986, the frequency that an employee is permitted to enter into a salary reduction agreement, the salary to which such an agreement may apply, and the ability to revoke such an agreement shall be determined under the rules applicable to cash or deferred elections under section 401(k) of such Code.

(2) EFFECTIVE DATE.—This subsection shall apply to taxable years beginning after December 31, 1995.

(b) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—In the case of any contract purchased in a plan year beginning before January 1, 1995, section 403(b) of the Internal Revenue Code of 1986 shall be applied as if any reference to an employer described in section 501(c)(3) of the Internal Revenue Code of 1986 which is

exempt from tax under section 501 of such Code included a reference to an employer which is an Indian tribal government (as defined by section 7701(a)(40) of such Code), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by any of the foregoing.

(c) ELECTIVE DEFERRALS.—

(1) IN GENERAL.—Section 403(b)(1) is amended by inserting ''and'' at the end of subparagraph (C), by striking ''and'' at the end of subparagraph (D), and by striking subparagraph (E).

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 1995.

SEC. 12942. TAX ON PROHIBITED TRANSACTIONS.

(a) IN GENERAL.—Section 4975(a) is amended by striking ''5 percent'' and inserting ''10 percent''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to prohibited transactions occurring after December 31, 1995.

SEC. 12943. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 is amended by striking ''October 1, 2000'' and by inserting ''October 1, 2002''.

CHAPTER 2—CHURCH PLANS

SEC. 12951. NEW QUALIFICATION PROVISION FOR CHURCH PLANS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by adding after section 401 the following new section:

''SEC. 401A. QUALIFIED CHURCH PLAN.

''(a) GENERAL RULE.—For purposes of all Federal laws, including this title, a qualified church plan shall be treated as satisfying the requirements of section 401(a), and all references in (or pertaining to) this title and such laws to a plan described in section 401(a) shall include a qualified church plan. Except as otherwise provided in this section, no paragraph of section 401(a) shall apply to a qualified church plan.

''(b) DEFINITION OF QUALIFIED CHURCH PLAN.—A plan is a qualified church plan if such plan meets the following requirements:

''(1) CHURCH PLAN REQUIREMENT.—The plan is a church plan (within the meaning of section

414(e)), and the election provided by section 410(d) has not been made with respect to such plan.

"(2) EMPLOYEE CONTRIBUTIONS ARE NONFORFEITABLE.—An employee's rights in the employee's accrued benefit derived from the employee's own contributions are nonforfeitable.

"(3) VESTING REQUIREMENTS.—The plan satisfies the requirements of subparagraph (A) or (B).

"(A) 10-YEAR VESTING.—A plan satisfies the requirements of this paragraph if an employee who has at least 10 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(B) 5- TO 15-YEAR VESTING.—A plan satisfies the requirements of this paragraph if an employee who has completed at least 5 years of service has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions which is not less than the percentage determined under the following table:

"Years of service	Nonforfeitable percentage
5	25
6	30
7	35
8	40
9	45
10	50

11	60
12	70
13	80
14	90
15 or more	100.

"(C) YEARS OF SERVICE.—For purposes of this paragraph, an employee's years of service shall be determined in accordance with any reasonable method selected by the plan administrator.

"(4) FUNDING REQUIREMENTS.—The plan meets the funding requirements of section 401(a)(7) as in effect on September 1, 1974.

"(5) ADDITIONAL REQUIREMENTS.—

"(A) The plan meets the requirements of paragraphs (1), (2), (8), (9), (16), (17), (25), (27), and (30) of section 401(a).

"(B) If the plan includes employees of an organization which is not a church, the plan meets the requirements of sections 401(a)(3) and 401(a)(6) (as in effect on September 1, 1974) and sections 401(a)(4), 401(a)(5), and 401(m).

For purposes of subparagraph (B), the plan administrator may elect to treat the portion of the plan maintained by any organization (or organizations) described in subparagraph (B) as a separate plan (or plans).

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) CHURCH.—For purposes of this section, the term 'church' means a church or a convention or association of churches, including an organization described in section 414(e)(3)(A) and an organization described in section 414(e)(3)(B)(ii), other than—

"(A) an organization described in section 170(b)(1)(A)(ii) above the secondary school level (other than a school for religious training), or

"(B) an organization described in section 170(b)(1)(A)(iii)—

"(i) which provides community service for inpatient medical care of the sick or injured (including obstetrical care); and

"(ii) not more than 50 percent of the total patient days of which during any year are customarily assignable to the categories of chronic convalescent and rest, drug and alcoholic, epileptic, mentally deficient, mental, nervous and mental, and tuberculosis, and care for the aged.

"(2) SATISFACTION OF TRUST PROVISION.—A plan shall not fail to be described in this section

merely because such plan is funded through an organization described in section 414(e)(3)(A) if—

"(A) such organization is subject to fiduciary requirements under applicable State law;

"(B) such organization is separately incorporated from the church or convention or association of churches which controls it or with which it is associated;

"(C) the assets which equitably belong to the plan are separately accounted for; and

"(D) under the plan, at any time prior to the satisfaction of all liabilities with respect to participants and their beneficiaries, such assets cannot be used for, or diverted to, purposes other than for the exclusive benefit of participants and their beneficiaries (except that this paragraph shall not be construed to preclude the use of plan assets to defray the reasonable costs associated with administering the plan and informing employees and employers of the availability of the plan).

"(3) CERTAIN SECTIONS APPLY.—Section 401 (b), (c), and (h) shall apply to a qualified church plan.

"(4) FAILURE OF ONE ORGANIZATION MAINTAINING PLAN NOT TO DISQUALIFY PLAN.—If one or more organizations maintaining a church plan fail to satisfy the requirements of subsection (b), such plan shall not be treated as failing to satisfy the requirements of this section with respect to other organizations maintaining such plan.

"(5) CERTAIN EMPLOYEES NOT CONSIDERED HIGHLY COMPENSATED AND EXCLUDED EMPLOYEES.—For purposes of this section, no employee shall be considered an officer, person whose principal duties consist in supervising the work of other employees, or highly compensated employee if such employee during the year or the preceding year received compensation from the employer of less than $50,000. For purposes of this section, there shall be excluded from consideration employees described in section 410(b)(3)(A). The Secretary shall adjust the $50,000 amount under this paragraph at the same time and in the same manner as under section 415(d).

"(6) TIME FOR DETERMINATION OF APPLICABLE LAW.—Except where otherwise specified, the determination of whether a plan meets the requirements of subsection (b) shall be made in accordance

with the provisions of this title as in effect immediately following enactment of the Revenue Reconciliation Act of 1995.''.

(b) EFFECT ON EXISTING PLANS.—A church plan (within the meaning of section 414(e) of the Internal Revenue Code of 1986) which is otherwise subject to the applicable requirements of section 401(a) of such Code and which has not made the election provided by section 410(d) of such Code shall not be subject to section 401A of such Code, and shall remain subject to the applicable requirements of section 401(a) of such Code, unless the board of directors or trustees of an organization described in section 414(e)(3)(A) of such Code, or other appropriate governing body responsible for maintaining the plan, adopts a resolution under which the church plan is made subject to section 401A of such Code.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall be effective for years beginning after December 31, 1994, except that the provisions of section 401A(b)(3) of the Internal Revenue Code of 1986 shall be effective for years beginning after December 31, 1996. No regulation or ruling under section 401(a) of such Code issued after December 31, 1994, shall apply to a qualified church plan de-

scribed in section 401A of such Code unless such regulation or ruling is specifically made applicable by its terms to qualified church plans.

(2) PRIOR YEARS.—Nothing in the amendment made by this section shall be construed to infer that a church plan (within the meaning of section 414(e) of such Code) fails to satisfy the applicable requirements of section 401(a) of such Code for any year beginning prior to January 1, 1995.

SEC. 12952. RETIREMENT INCOME ACCOUNTS OF CHURCHES.

(a) IN GENERAL.—Section 403(b)(9) is amended to read as follows:

"(9) RETIREMENT INCOME ACCOUNTS PROVIDED BY CHURCHES, ETC.—

"(A) AMOUNTS PAID TREATED AS CONTRIBUTIONS.—For purposes of this title—

"(i) a retirement income account shall be treated as an annuity contract described in this subsection, and

"(ii) amounts paid by an employer described in paragraph (1)(A) or by a church or a convention or association of churches, including an organization described in section 414(e)(3)(A) or 414(e)(3)(B)(ii), to a

retirement income account shall be treated as amounts contributed by the employer for an annuity contract for the employee on whose behalf such account is maintained.

"(B) RETIREMENT INCOME ACCOUNT.—For purposes of this paragraph, the term 'retirement income account' means a program established or maintained by a church, a convention or association of churches, including an organization described in section 414(e)(3)(A), to provide benefits under this subsection for an employee described in paragraph (1) or an individual described in paragraph (13)(F), or their beneficiaries.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall be effective for years beginning after December 31, 1994.

(2) PRIOR YEARS.—Nothing in the amendment made by this section shall be construed to infer that a church plan (within the meaning of section 414(e)) fails to satisfy the applicable requirements of section 403(b) for any year beginning prior to January 1, 1995.

SEC. 12953. CONTRACTS PURCHASED BY A CHURCH.

(a) CLARIFICATION OF APPLICABLE NONDISCRIMINATION REQUIREMENTS.—Subparagraph (D) of section 403(b)(1) is amended to read as follows:

"(D) except in the case of a contract purchased by a church, such contract is purchased under a plan which meets the nondiscrimination requirements of paragraph (12)(A), and".

(b) CERTAIN COVERAGE RULES APPLY.—Subparagraph (B) of section 403(b)(12) is amended to read as follows:

"(B) CERTAIN REQUIREMENTS.—If a contract purchased by a church is purchased under a church plan (within the meaning of section 414(e)) by—

"(i) an organization described in section 170(b)(1)(A)(ii) above the secondary school level (other than a school for religious training), or

"(ii) an organization described in section 170(b)(1)(A)(iii)—

"(I) which provides community service for inpatient medical care of the sick or injured (including obstetrical care), and

"(II) no more than 50 percent of the total patient days of which during any year are customarily assignable to the categories of chronic convalescent and rest, drug and alcoholic, epileptic, mentally deficient, mental, nervous and mental, and tuberculosis, and care for the aged,

the plan meets the requirements of sections 401(a)(3) and 401(a)(6), as in effect on September 1, 1974, and sections 401(a)(4), 401(a)(5), 401(a)(17), and 401(m).

For purposes of this subparagraph, the plan administrator may elect to treat the portion of the plan maintained by any organization (or organizations) described in this subparagraph as a separate plan (or plans).".

(c) SPECIAL RULES FOR CHURCHES.—Section 403(b) is amended by adding at the end the following new paragraph:

"(13) DEFINITIONS AND SPECIAL RULES.—

"(A) CONTRACT PURCHASED BY A CHURCH.—For purposes of this subsection, the term 'contract purchased by a church' includes

an annuity described in section 403(b)(1), a custodial account described in section 403(b)(7), and a retirement income account described in section 403(b)(9).

"(B) CHURCH.—For purposes of this subsection, the term 'church' means a church or a convention or association of churches, including an organization described in section 414(e)(3)(A) or section 414(e)(3)(B)(ii).

"(C) VESTING.—In the case of a contract purchased by a church under a church plan (within the meaning of section 414(e))—

"(i) sections 403(b)(1)(C) and 403(b)(6) shall not apply;

"(ii) such contract is not described in this subsection unless an employee's rights in the employee's accrued benefit under such contract which is attributable to contributions made pursuant to a salary reduction agreement are nonforfeitable; and

"(iii) such contract is not described in this subsection unless the plan satisfies the requirements of either of the following:

"(I) The plan provides that an employee who has at least 10 years of

service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(II) The plan provides that an employee who has completed at least 5 years of service has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions which percentage is not less than the percentage determined under the following table:

"Years of service	Nonforfeitable percentage
5	25
6	30
7	35
8	40
9	45
10	50
11	60
12	70
13	80
14	90
15 or more	100.

For purposes of clause (iii), an employee's years of service shall be determined in accordance with any reasonable method selected by the plan administrator.

"(D) FAILURE OF ONE ORGANIZATION MAINTAINING PLAN NOT TO DISQUALIFY PLAN.—In the case of a contract purchased by

a church under a church plan (within the meaning of section 414(e)), if one or more organizations maintaining the church plan fails to satisfy the requirements of this section, such plan shall not be treated as failing to satisfy the requirements of this section with respect to other organizations maintaining such plan.

"(E) CERTAIN EMPLOYEES NOT CONSIDERED HIGHLY COMPENSATED AND EXCLUDED EMPLOYEES.—For purposes of this subsection, no employee for whom a contract is purchased by a church shall be considered an officer, person whose principal duties consist in supervising the work of other employees, or highly compensated employee if such employee during the year or the preceding year received compensation from the employer of less than $50,000. For purposes of this subsection, there shall be excluded employees described in section 410(b)(3)(A). The Secretary shall adjust the $50,000 amount under this subparagraph at the same time and in the same manner as under section 415(d).

"(F) CERTAIN MINISTERS MAY PARTICIPATE.—For purposes of this subsection—

"(i) IN GENERAL.—The term 'employee' shall include a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry who is a self-employed individual (within the meaning of section 401(c)(1)(B)) or any duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry who is employed by an organization other than an organization described in section 501(c)(3).

"(ii) TREATMENT AS EMPLOYER AND EMPLOYEE.—A self-employed minister described in clause (i) shall be treated as his or her own employer which is an organization described in section 501(c)(3) and which is exempt from tax under section 501(a). Such an employee who is employed by an organization other than an organization described in section 501(c)(3) shall be treated as employed by an organization described in section 501(c)(3) and which is exempt from tax under section 501(a).

"(iii) COMPENSATION.—In determining the compensation of a self-employed

minister described in clause (i), the earned income (within the meaning of section 401(c)(2)) of such minister shall be substituted for 'the amount of compensation which is received from the employer' under paragraph (3).

In determining the years of service of a self-employed minister described in clause (i), the years (and portions of years) in which such minister was a self-employed individual (within the meaning of section 401(c)(1)(B)) shall be included for purposes of paragraph (4).

"(G) TIME FOR DETERMINATION OF APPLICABLE LAW.—Except where otherwise specified, the determination of whether a contract purchased by a church meets the requirements of this subsection shall be made in accordance with the provisions of this title as in effect immediately following enactment of the Revenue Reconciliation Act of 1993.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall be effective for years beginning after December 31, 1994, except that the provisions of section 403(b)(13)(C)(iii) of the Internal Revenue

Code of 1986 shall be effective for years beginning after December 31, 1996. No regulation or ruling issued under section 401(a) or 403(b) of such Code after December 31, 1994, shall apply to a contract purchased by a church unless such regulation or ruling is specifically made applicable by its terms to such contracts. For purposes of applying the exclusion allowance of section 403(b)(2) of such Code and the limitations of section 415 of such Code, any contribution made after December 31, 1996, which is forfeitable pursuant to section 403(b)(13)(C) of such Code shall be treated as an amount contributed to the contract in the year for which such contribution is made and not in the year the contribution becomes nonforfeitable.

(2) PRIOR YEARS.—Nothing in the amendments made by this section shall be construed to infer that a church plan (within the meaning of section 414(e) of such Code) fails to satisfy the applicable requirements of section 403(b) of such Code for any year beginning prior to January 1, 1995.

SEC. 12954. CHANGE IN DISTRIBUTION REQUIREMENT FOR RETIREMENT INCOME ACCOUNTS.

(a) IN GENERAL.—Subparagraph (A) of section 403(b)(11) is amended by inserting ''or, in the case of a

retirement income account described in paragraph (9), within the meaning of section 401(k)(2)'' after ''section 72(m)(7)''.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning after December 31, 1994.

SEC. 12955. REQUIRED BEGINNING DATE FOR DISTRIBUTIONS UNDER CHURCH PLANS.

(a) IN GENERAL.—Subparagraph (C) of section 401(a)(9) is amended by striking the last sentence and inserting the following new sentence: ''For purposes of this subparagraph, the term 'church plan' has the meaning given such term by section 414(e).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years after December 31, 1994.

SEC. 12956. PARTICIPATION OF MINISTERS IN CHURCH PLANS.

(a) IN GENERAL.—Section 414 is amended by adding the following new subsection:

''(u) SPECIAL RULES FOR MINISTERS.—Notwithstanding any other provision of this title, if a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry participates in a church plan (within the meaning of section 414(e)), then—

"(1) such minister shall be excluded from consideration for purposes of applying sections 401(a)(3), 401(a)(4), and 401(a)(5), as in effect on September 1, 1974, and sections 401(a)(4), 401(a)(5), 401(a)(26), 401(k)(3), 401(m), 403(b)(1)(D) (including section 403(b)(12)), and 410 to any stock bonus, pension, profit-sharing, or annuity plan (including an annuity described in section 403(b) or a retirement income account described in section 403(b)(9)) described in this part. For purposes of this part, the church plan in which such minister participates shall be treated as a plan or contract meeting the requirements of section 401(a), 401A, or 403(b) (including section 403(b)(9)) with respect to such minister's participation; and

"(2) such minister shall be excluded from consideration for purposes of applying an applicable section to any plan providing benefits described in an applicable section.

For purposes of paragraph (2), the term 'applicable section' means section 79(d), section 105(h), paragraphs (1), (2), and (3) of section 120(c), section 125(b), section 127(b)(2), and paragraphs (2), (3), and (8) of section 129(d).".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning after December 31, 1995.

SEC. 12957. CERTAIN RULES AGGREGATING EMPLOYEES NOT TO APPLY TO CHURCHES, ETC.

(a) IN GENERAL.—Section 414 is amended by adding at the end the following new subsection:

''(v) CERTAIN RULES AGGREGATING EMPLOYEES NOT TO APPLY TO CHURCHES, ETC.—

''(1) IN GENERAL.—If the election provided by paragraph (3) is made, for purposes of sections 401(a)(3), 401(a)(4), and 401(a)(5), as in effect on September 1, 1974, and sections 401(a)(4), 401(a)(5), 401(a)(17), 401(a)(26), 401(h), 401(m), 410(b), 411(d)(1), and 416, subsections (b), (c), (m), (o), and (t) of this section shall not apply to treat the employees of church-related organizations as employed by a single employer, except in the case of employees of church-related organizations which are not exempt from tax under section 501(a) and which have a common, immediate parent.

''(2) DEFINITION OF CHURCH-RELATED ORGANIZATION.—For purposes of this subsection, the term 'church-related organization' means a church or a convention or association of churches, an orga-

nization described in section 414(e)(3)(A), an organization described in section 414(e)(3)(B)(ii), or an organization the employees of which would be aggregated with the employees of such organizations but for the election provided by paragraph (3).

"(3) ELECTION TO DISAGGREGATE.—The provisions of this subsection shall apply if a church-related organization makes an election for itself and other church-related organizations (in such form and manner as the Secretary may by regulations prescribe) on or before the last day of the first plan year beginning on or after January 1, 1998.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1994.

SEC. 12958. SELF-EMPLOYED MINISTERS TREATED AS EMPLOYEES FOR PURPOSES OF CERTAIN WELFARE BENEFIT PLANS AND RETIREMENT INCOME ACCOUNTS.

(a) IN GENERAL.—Section 7701(a)(20) is amended to read as follows:

"(20) EMPLOYEE.—For the purpose of applying the provisions of section 79 with respect to group-term life insurance purchased for employees, for the purpose of applying the provisions of sections

104, 105, and 106 with respect to accident or health insurance or accident or health plans, for the purpose of applying the provisions of section 101(b) with respect to employees' death benefits, for the purpose of applying the provisions of subtitle A with respect to contributions to or under a stock bonus, pension, profit-sharing, or annuity plan, and with respect to distributions under such a plan, or by a trust forming part of such a plan, and for purposes of applying section 125 with respect to cafeteria plans, the term 'employee' shall include a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry who is a self-employed individual (within the meaning of section 401(c)(1)(B)) or a full-time life insurance salesman who is considered an employee for the purpose of chapter 21, or in the case of services performed before January 1, 1951, who would be considered an employee if his services were performed during 1951.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning after December 31, 1994.

SEC. 12959. DEDUCTIONS FOR CONTRIBUTIONS BY CERTAIN MINISTERS TO RETIREMENT INCOME ACCOUNTS.

(a) IN GENERAL.—Section 404(a) is amended by adding the following new paragraph:

"(10) CONTRIBUTIONS BY CERTAIN MINISTERS TO RETIREMENT INCOME ACCOUNTS.—If contributions are made by a minister described in section 403(b)(13)(F) to a retirement income account described in section 403(b)(9) and not by a person other than such minister, such contributions shall be treated as made to a trust which is exempt from tax under section 501(a) which is part of a plan which is described in section 401(a) and shall be deductible under this subsection to the extent such contributions do not exceed the exclusion allowance of such minister, determined under section 403(b)(2)."

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning after December 31, 1994.

SEC. 12960. MODIFICATION FOR CHURCH PLANS OF RULES FOR PLANS MAINTAINED BY MORE THAN ONE EMPLOYER.

(a) IN GENERAL.—Section 413(c) is amended by adding at the end the following new paragraph:

"(8) CHURCH PLANS MAINTAINED BY MORE THAN ONE EMPLOYER.—A church plan (within the meaning of section 414(e)) maintained by more than one employer, and with respect to which the election provided by section 410(d) has not been made, which commingles assets solely for purposes of investment and pooling for mortality experience to provide to participants annuities computed with reference to the balance in the participants' accounts when such accounts become payable shall not be treated as a single plan maintained by more than one employer under this subsection. The rules provided by this paragraph shall apply for purposes of applying section 403(b)(12) to such church plan.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning after December 31, 1994.

SEC. 12961. SECTION 457 NOT TO APPLY TO DEFERRED COMPENSATION OF A CHURCH.

(a) IN GENERAL.—Paragraph (13) of section 457(e) is amended to read as follows:

"(13) SPECIAL RULE FOR CHURCHES.—The term 'eligible employer' shall not include a church (within the meaning of section 401A(c)(1)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 12962. CHURCH PLAN MODIFICATION TO SEPARATE ACCOUNT REQUIREMENT OF SECTION 401(h).

(a) EXCEPTION TO SEPARATE ACCOUNT REQUIREMENT.—Section 401(h) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, in the case of a pension or annuity plan that is a church plan (within the meaning of section 414(e)) which is maintained by more than one employer, paragraph (6) shall not apply to an employee who is a key employee for purposes of section 416 solely because such employee is described in section 416(i)(1)(A)(i) (relating to officers having an annual compensation greater than 150 percent of the amount in effect under section 415(c)(1)(A)).''

(b) APPLICATION OF SECTION 415(l).—Section 415(l)(1) is amended to read as follows:

''(1) IN GENERAL.—For purposes of this section, the following shall be treated as an annual addition to a defined contribution plan for purposes of subsection (c):

"(A) Contributions allocated to any individual medical account which is part of a pension or annuity plan.

"(B) The actuarially determined amount of prefunding for the insurance value of benefits which are—

"(i) described in section 401(h);

"(ii) paid under a pension or annuity plan that is a church plan (within the meaning of section 414(e));

"(iii) paid under a plan maintained by more than one employer; and

"(iv) payable solely to an employee who is a key employee for purposes of section 415 solely because such employee is described in section 416(i)(1)(A)(i) (relating to officers having an annual compensation greater than 150 percent of the amount in effect under section 415(c)(1)(A)), his spouse, or his dependents.

Subparagraph (B) of section (c)(1) shall not apply to any amount treated as an annual addition under the preceding sentence.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1994.

SEC. 12963. RULE RELATING TO INVESTMENT IN CONTRACT NOT TO APPLY TO FOREIGN MISSIONARIES.

(a) IN GENERAL.—The last sentence of section 72(f) is amended to read as follows: ''The preceding sentence shall not apply to amounts which were contributed by the employer, as determined under regulations prescribed by the Secretary, to provide pension or annuity credits, to the extent such credits are attributable to services performed before January 1, 1963, and are provided pursuant to pension or annuity plan provisions in existence on March 12, 1962, and on that date applicable to such services, or to provide pension or annuity credits for foreign missionaries (within the meaning of section 403(b)(2)(D)(iii)).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 12964. REPEAL OF ELECTIVE DEFERRAL CATCH-UP LIMITATION FOR RETIREMENT INCOME ACCOUNTS.

(a) IN GENERAL.—Clause (iii) of section 402(g)(8)(A) is amended to read as follows:

"(iii) except in the case of elective deferrals under a retirement income account described in section 403(b)(9), the excess of $5,000 multiplied by the number of years of service of the employee with the qualified organization over the employer contributions described in paragraph (3) made by the organization on behalf of such employee for prior taxable years (determined in the manner prescribed by the Secretary).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1994.

SEC. 12965. CHURCH PLANS MAY ANNUITIZE BENEFITS.

(a) IN GENERAL.—A retirement income account described in section 403(b)(9) of the Internal Revenue Code of 1986, a church plan (within the meaning of section 414(e) of such Code) that is a plan described in section 401(a) or 401A of such Code, or an account which consists of qualified voluntary employee contributions described in section 219(e)(2) of such Code (as in effect before the date of the enactment of the Tax Reform Act of 1986) and earnings thereon, shall not fail to be described in such sections merely because it pays benefits to participants (and

their beneficiaries) from a pool of assets administered or funded by an organization described in section 414(e)(3)(A) of such Code, rather than through the purchase of annuities from an insurance company.

(b) EFFECTIVE DATE.—This provision shall be effective for years beginning after December 31, 1994.

SEC. 12966. CHURCH PLANS MAY INCREASE BENEFIT PAYMENTS.

(a) IN GENERAL.—A retirement income account described in section 403(b)(9) of the Internal Revenue Code of 1986, a church plan (within the meaning of section 414(e) of such Code) that is a plan described in section 401(a) or 401A of such Code, or an account which consists of qualified voluntary employee contributions described in section 219(e)(2) of such Code (as in effect before the date of the enactment of the Tax Reform Act of 1986) and earnings thereon, shall not fail to be described in such sections merely because it provides benefit payments to participants (and their beneficiaries)—

(1) to take into account the investment performance of the underlying assets or favorable interest or mortality experience, or

(2) that increase in an amount not in excess of 5 percent per year.

(b) EFFECTIVE DATE.—This provision shall be effective for years beginning after December 31, 1994.

SEC. 12967. RULES APPLICABLE TO SELF-INSURED MEDICAL REIMBURSEMENT PLANS NOT TO APPLY TO PLANS OF CHURCHES.

(a) IN GENERAL.—Section 105(h) is amended by adding at the end the following new paragraph:

"(11) PLANS OF CHURCHES.—This subsection shall not apply to a plan maintained by a church (within the meaning of section 401A(c)(1))."

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning after December 31, 1994.

SEC. 12968. RETIREMENT BENEFITS OF MINISTERS NOT SUBJECT TO TAX ON NET EARNINGS FROM SELF-EMPLOYMENT.

(a) IN GENERAL.—Section 1402(a)(8) (defining net earning from self-employment) is amended by inserting ", but shall not include in such net earning from self-employment any retirement benefit received by such individual from a church plan (as defined in section 414(e))" before the semicolon at the end.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning before, on, or after December 31, 1994.