

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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104TH CONGRESS
1ST SESSION

S. 1357

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Balanced Budget Rec-
5 onciliation Act of 1995”.

6 **SEC. 2. TABLE OF TITLES.**

7 The table of titles for this Act is as follows:

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Title I. Committee on Agriculture, Nutrition, and Forestry	2
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1 **TITLE I—COMMITTEE ON AGRI-**
2 **CULTURE, NUTRITION, AND**
3 **FORESTRY**

4 **SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This title may be cited as the
6 “Agricultural Reconciliation Act of 1995”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 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.

1 **Subtitle A—Commodity Programs**

2 **SEC. 1101. ELIGIBILITY FOR ENROLLMENT IN ANNUAL PRO-** 3 **GRAMS.**

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

7 **“TITLE III—ANNUAL PROGRAMS** 8 **FOR 1996 THROUGH 2002 CROPS**

9 **“SEC. 301. ELIGIBILITY FOR ENROLLMENT IN ANNUAL PRO-** 10 **GRAMS.**

11 “(a) IN GENERAL.—To be eligible for enrollment in
 12 1 or more of the annual programs established under this
 13 title, the land on a farm must have been enrolled in 1
 14 or more of the annual programs established under this Act
 15 for rice, upland cotton, feed grains, or wheat for a total
 16 of at least 3 of the 1991 through 1995 crop years, as de-
 17 termined by the Secretary.

1 “(b) ADDITIONAL CRITERIA.—In addition to the re-
2 quirements of subsection (a), for the purpose of determin-
3 ing the eligibility of land for enrollment in 1 or more of
4 the annual programs established under this title, the Sec-
5 retary shall include acreage on the farm considered plant-
6 ed under section 503(c), including a certification of crop
7 acreage base filed with the Secretary in order to preserve
8 base history, for any of the 1991 through 1995 crops.

9 “(c) ELIGIBILITY TO RECEIVE PAYMENTS AND
10 LOANS.—Enrollment in the annual program for a pro-
11 gram crop shall be required as a condition of the receipt
12 of any payment or loan under this title for the program
13 crop.”.

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

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

17 (A) by striking all sections other than sec-
18 tions 101B, 103B, 104(d), 105B, 106, 106A,
19 106B, 107B, 108B, 111, 114, and 115; and

20 (B) by moving sections 101B, 103B,
21 105B, and 107B to the end of title III (as
22 amended by subsection (a)) and redesignating
23 the sections as sections 302, 303, 304, and 305,
24 respectively;

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

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

5 **SEC. 1102. RICE PROGRAM.**

6 Section 302 of the Agricultural Act of 1949 (as re-
7 designated by section 1101(b)(1)(B)) is amended—

8 (1) by striking the section heading and insert-
9 ing the following:

10 **“SEC. 302. LOANS AND PAYMENTS FOR THE 1991 THROUGH**
11 **2002 CROPS OF RICE.”;**

12 (2) in subsection (a)—

13 (A) in paragraph (1), by striking “1995”
14 and inserting “2002”;

15 (B) in paragraph (3), by striking “1995”
16 and inserting “2002”; and

17 (C) in paragraph (5)(D)(i), by striking
18 “August 1, 1991, and ending July 31, 1996”
19 and inserting “August 1, 1996, and ending
20 July 31, 2003”;

21 (3) in subsection (b)(1), by striking “1995”
22 and inserting “2002”;

23 (4) in subsection (c)(1)—

24 (A) in subparagraph (A), by striking
25 “1995” and inserting “2002”;

1 (B) in subparagraph (B)—

2 (i) in clause (ii)—

3 (I) in the clause heading, by
4 striking “AND 1995” and inserting
5 “THROUGH 2002”; and

6 (II) by striking “and 1995” and
7 inserting “through 2002”;

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

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

12 “(iii) MAXIMUM PAYMENT RATE.—
13 The payment rate for rice under this sub-
14 section shall not exceed (per hundred-
15 weight) \$4.21 for the 1996 crop, \$4.19 for
16 the 1997 crop, \$3.86 for the 1998 crop,
17 \$3.48 for the 1999 crop, \$3.23 for the
18 2000 crop, \$2.89 for the 2001 crop, and
19 \$2.66 for the 2002 crop.”; and

20 (iv) in clause (iv) (as so redesignated),
21 by striking “1995” and inserting “2002”;

22 (C) in subparagraph (C)—

23 (i) in clause (i), by striking “within
24 the permitted acreage”; and

25 (ii) in clause (ii)—

1 (I) by striking “85 percent” and
2 inserting “70 percent”; and

3 (II) by striking “less the quan-
4 tity” and all that follows through
5 “(e)(2)(D))”;

6 (D) in subparagraph (D)—

7 (i) in the subparagraph heading, by
8 striking “50/85” and inserting “25/75”;

9 (ii) in clause (i)—

10 (I) by striking “an acreage” and
11 all that follows through “rice and”;

12 (II) by striking “15 percent”
13 each place it appears and inserting
14 “25 percent”;

15 (III) by striking “1997 crops (ex-
16 cept as provided in clause (v)(II))”
17 each place it appears and inserting
18 “2002 crops”;

19 (IV) by striking “(except as pro-
20 vided in subparagraph (E))” each
21 place it appears and inserting “or al-
22 ternative crops described in subpara-
23 graph (E))”; and

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

4 (iii) in clause (ii), by striking “50 per-
5 cent” and inserting “25 percent”;

6 (iv) in clause (iii), by striking “(or
7 other uses as provided in subparagraph
8 (E))” and inserting “or alternative crops
9 described in subparagraph (E)”;

10 (v) in clause (v)—

11 (I) in the clause heading, by
12 striking “PREVENTED PLANTING AND
13 REDUCED” and inserting “REDUCED”;

14 (II) in the first sentence of
15 subclause (I), by striking “under sub-
16 section (e)”;

17 (III) in subclause (II)—

18 (aa) in the subclause head-
19 ing, by striking “1997” and in-
20 serting “2002”;

21 (bb) by striking “1997” and
22 inserting “2002”;

23 (cc) by striking “if an acre-
24 age limitation” and all that fol-

1 lows through “(aa) the” and in-
2 serting “if the”;

3 (dd) by striking “be pre-
4 vented from planting the crop
5 or”;

6 (ee) by striking “8 percent”
7 the first place it appears and in-
8 serting “25 percent”; and

9 (ff) by striking “uses; or”
10 and all that follows through the
11 period at the end of the
12 subclause and inserting “uses.”;

13 (vi) in clause (vi), by striking “per-
14 mitted rice” and all that follows through
15 “this subparagraph” and inserting “rice
16 payment acres of the farm was devoted to
17 conserving uses or alternative crops de-
18 scribed in subparagraph (E)”;

19 (vii) by striking clause (viii); and

20 (E) in the first sentence of subparagraph
21 (E)(ii), by inserting before the period at the end
22 the following: “or other oilseeds as determined
23 by the Secretary”;

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

1 “(e) HAYING AND GRAZING.—

2 “(1) IN GENERAL.—Except as provided in para-
3 graph (2), haying and grazing of acreage under sub-
4 section (e)(1)(C) shall be permitted, except during
5 any consecutive 5-month period that is established
6 by the State committee established under section
7 8(b) of the Soil Conservation and Domestic Allot-
8 ment Act (16 U.S.C. 590h(b)) for a State. The 5-
9 month period shall be established during the period
10 beginning April 1, and ending October 31, of a year.

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

17 (6) in subsection (f)—

18 (A) in paragraph (1), by striking “1995”
19 and inserting “2002”; and

20 (B) in paragraph (4)(C), by striking “re-
21 duced by” and all that follows through “sub-
22 section (e)”;

23 (7) in subsection (n), by striking “1995” and
24 inserting “2002”.

1 **SEC. 1103. COTTON PROGRAM.**

2 Section 303 of the Agricultural Act of 1949 (as re-
3 designated by section 1101(b)(1)(B)) is amended—

4 (1) by striking the section heading and insert-
5 ing the following:

6 **“SEC. 303. LOANS AND PAYMENTS FOR THE 1991 THROUGH**
7 **2002 CROPS OF UPLAND COTTON.”;**

8 (2) in subsection (a)—

9 (A) in paragraph (1), by striking “1997”
10 and inserting “2002”;

11 (B) by striking paragraph (4) and insert-
12 ing the following:

13 “(4) STORAGE PAYMENTS.—The producer shall
14 pay the cost of all storage payments incurred for a
15 10-month nonrecourse loan.”; and

16 (C) in paragraph (5)—

17 (i) by striking “August 1, 1991, and
18 ending July 31, 1998” each place it ap-
19 pears and inserting “August 1, 1996, and
20 ending July 31, 2003”;

21 (ii) in subparagraph (E), by striking
22 “1.25 cents” each place it appears and in-
23 serting “2.50 cents”; and

24 (iii) in subparagraph (F)(i), by strik-
25 ing “August 1991 and ending July 31,

1 1998” and inserting “August 1, 1996, and
2 ending July 31, 2003”;

3 (3) in subsection (b)(1), by striking “1997”
4 and inserting “2002”;

5 (4) in subsection (c)(1)—

6 (A) in subparagraph (A), by striking
7 “1997” and inserting “2002”;

8 (B) in subparagraph (B)—

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

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

13 “(ii) MAXIMUM PAYMENT RATE.—The
14 payment rate for upland cotton under this
15 subsection shall not exceed (per pound) 8.6
16 cents for the 1996 crop, 12.1 cents for the
17 1997 crop, 13.1 cents for the 1998 crop,
18 13.6 cents for the 1999 crop, 13.0 cents
19 for the 2000 crop, 12.0 cents for the 2001
20 crop, and 11.5 cents for the 2002 crop.”;
21 and

22 (iii) in clause (iii) (as so redesign-
23 ated), by striking “1997” and inserting
24 “2002”;

25 (C) in subparagraph (C)—

- 1 (i) in clause (i), by striking “within
2 the permitted acreage”; and
- 3 (ii) in clause (ii)—
- 4 (I) by striking “85 percent” and
5 inserting “70 percent”; and
- 6 (II) by striking “less the quan-
7 tity” and all that follows through
8 “(e)(2)(D)”;
9 (D) in subparagraph (D)—
- 10 (i) in the subparagraph heading, by
11 striking “50/85” and inserting “0/85”;
- 12 (ii) in clause (i)—
- 13 (I) by striking “an acreage” and
14 all that follows through “cotton and”;
- 15 (II) by striking “1997 crops (ex-
16 cept as provided in clause (v)(II))”
17 each place it appears and inserting
18 “2002 crops”;
- 19 (III) by striking “(except as pro-
20 vided in subparagraph (E))” each
21 place it appears and inserting “or al-
22 ternative crops described in subpara-
23 graph (E)”;

- 1 (IV) in subclause (I), by striking
2 “for the purpose” and all that follows
3 through “(e)(2)(D)”; and
- 4 (V) in subclause (II), by striking
5 “, subject to the compliance of the
6 producers with clause (ii)”;
7 (iii) by striking clauses (ii) and (viii);
8 (iv) by redesignating clauses (iii)
9 through (vii) and clause (ix) as clauses (ii)
10 through (vi) and clause (vii), respectively;
11 (v) in clause (ii) (as so redesignated),
12 by striking “(or other uses as provided in
13 subparagraph (E))” and inserting “or al-
14 ternative crops described in subparagraph
15 (E)”;
16 (vi) in clause (iii) (as so redesign-
17 ated), by striking “, without regard to the
18 requirement imposed under clause (ii),”;
19 (vii) in clause (iv) (as so redesign-
20 ated)—
- 21 (I) in the clause heading, by
22 striking “PREVENTED PLANTING AND
23 REDUCED” and inserting “REDUCED”;
- 24 (II) in the first sentence of
25 subclause (I)—

1 (aa) by striking “under sub-
2 section (e)”; and

3 (bb) by striking “without re-
4 gard to the requirement imposed
5 under clause (ii)”; and

6 (III) in subclause (II)—

7 (aa) in the subclause head-
8 ing, by striking “1997” and in-
9 serting “2002”;

10 (bb) by striking “1997” and
11 inserting “2002”;

12 (cc) by striking “clause (iii)
13 without regard” and all that fol-
14 lows through “(aa) the” and in-
15 serting “clause (ii) if the”;

16 (dd) by striking “be pre-
17 vented from planting the crop
18 or”;

19 (ee) by striking “8 percent”
20 the first place it appears and in-
21 serting “15 percent”; and

22 (ff) by striking “uses; or”
23 and all that follows through the
24 period at the end of the
25 subclause and inserting “uses.”;

1 (viii) in clause (v) (as so redesignig-
2 nated), by striking “permitted cotton” and
3 all that follows through “this subpara-
4 graph” and inserting “cotton payment
5 acres of the farm was devoted to conserv-
6 ing uses or alternative crops described in
7 subparagraph (E)”; and

8 (ix) in clause (vi) (as so redesignated),
9 by striking “(vi)” and inserting “(v)”; and
10 (E) in the first sentence of subparagraph
11 (E)(ii), by inserting before the period at the end
12 the following: “or other oilseeds as determined
13 by the Secretary”;

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

16 “(e) HAYING AND GRAZING.—

17 “(1) IN GENERAL.—Except as provided in para-
18 graph (2), haying and grazing of acreage under sub-
19 section (e)(1)(C) shall be permitted, except during
20 any consecutive 5-month period that is established
21 by the State committee established under section
22 8(b) of the Soil Conservation and Domestic Allot-
23 ment Act (16 U.S.C. 590h(b)) for a State. The 5-
24 month period shall be established during the period
25 beginning April 1, and ending October 31, of a year.

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

7 (6) in subsection (f)—

8 (A) in paragraph (1), by striking “1995”
9 and inserting “2002”; and

10 (B) in paragraph (4)(C), by striking “re-
11 duced by” and all that follows through “sub-
12 section (e)”;

13 (7) in subsection (o), by striking “1997” and
14 inserting “2002”.

15 **SEC. 1104. FEED GRAIN PROGRAM.**

16 Section 304 of the Agricultural Act of 1949 (as re-
17 designated by section 1101(b)(1)(B)) is amended—

18 (1) by striking the section heading and insert-
19 ing the following:

20 **“SEC. 304. LOANS AND PAYMENTS FOR THE 1991 THROUGH**
21 **2002 CROPS OF FEED GRAINS.”;**

22 (2) in subsection (a)—

23 (A) in paragraph (1), by striking “1995”
24 and inserting “2002”;

25 (B) in paragraph (4)—

- 1 (i) in subparagraph (A)—
- 2 (I) by striking “may” and insert-
- 3 ing “shall”;
- 4 (II) in clause (i), by inserting
- 5 “or” after the semicolon; and
- 6 (III) in clause (iii), by striking
- 7 “(iii) the” and inserting the following:
- 8 “(III) the”; and
- 9 (ii) in subparagraph (C), by striking
- 10 “1995” and inserting “2002”; and
- 11 (C) in paragraph (6), by striking “1995”
- 12 and inserting “2002”;
- 13 (3) in subsection (b)(1), by striking “1995”
- 14 and inserting “2002”;
- 15 (4) in subsection (c)(1)—
- 16 (A) in subparagraph (A), by striking
- 17 “1995” and inserting “2002”;
- 18 (B) in subparagraph (B)—
- 19 (i) in clause (ii)—
- 20 (I) in the clause heading, by
- 21 striking “AND 1995” and inserting
- 22 “THROUGH 2002”; and
- 23 (II) by striking “and 1995” and
- 24 inserting “through 2002”;

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

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

5 “(iii) MAXIMUM PAYMENT RATE.—
6 The payment rates under this subsection
7 shall not exceed (per bushel)—

8 (I) in the case of corn, \$.53 for
9 the 1996 crop, \$.53 for the 1997
10 crop, \$.57 for the 1998 crop, \$.56 for
11 the 1999 crop, \$.53 for the 2000
12 crop, \$.54 for the 2001 crop, and
13 \$.55 for the 2002 crop;

14 (II) in the case of grain sor-
15 ghums, \$.59 for the 1996 crop, \$.59
16 for the 1997 crop, \$.63 for the 1998
17 crop, \$.61 for the 1999 crop, \$.59 for
18 the 2000 crop, \$.60 for the 2001
19 crop, and \$.61 for the 2002 crop;

20 (III) in the case of oats, \$.12
21 for the 1996 crop, \$.11 for the 1997
22 crop, \$.12 for the 1998 crop, \$.11 for
23 the 1999 crop, \$.09 for the 2000
24 crop, \$.09 for the 2001 crop, and
25 \$.10 for the 2002 crop; and

1 “(IV) in the case of barley, \$.45
2 for the 1996 crop, \$.43 for the 1997
3 crop, \$.44 for the 1998 crop, \$.42 for
4 the 1999 crop, \$.39 for the 2000
5 crop, \$.39 for the 2001 crop, and
6 \$.40 for the 2002 crop.”; and

7 (iv) in clause (iv) (as so redesignated),
8 by striking “1995” each place it appears
9 and inserting “2002”;

10 (C) in subparagraph (C)—

11 (i) in clause (i)—

12 (I) by inserting after “crop” the
13 following: “or to a commodity per-
14 mitted under section 504(b)”;

15 (II) by striking “within the per-
16 mitted acreage”;

17 (ii) in clause (ii)—

18 (I) by striking “85 percent” and
19 inserting “70 percent”;

20 (II) by striking “less the quan-
21 tity” and all that follows through
22 “(e)(2)(D)”;

23 (D) in subparagraph (D)(i), by striking
24 “Notwithstanding the foregoing provisions of
25 this section, if” and inserting “If”;

- 1 (E) in subparagraph (E)—
- 2 (i) in clause (i)—
- 3 (I) by striking “an acreage” and
- 4 all that follows through “grains and”;
- 5 (II) by striking “1997 crops (ex-
- 6 cept as provided in clause (vii))” each
- 7 place it appears and inserting “2002
- 8 crops”;
- 9 (III) by striking “(except as pro-
- 10 vided in subparagraph (F))” each
- 11 place it appears and inserting “or al-
- 12 ternative crops described in subpara-
- 13 graph (F)”;
- 14 (IV) in subclause (I), by striking
- 15 “for the purpose” and all that follows
- 16 through “(e)(2)(D)”;
- 17 (ii) in clause (ii), by striking “(or
- 18 other uses as provided in subparagraph
- 19 (F))” and inserting “or alternative crops
- 20 described in subparagraph (F)”;
- 21 (iii) in clause (iv), by striking “per-
- 22 mitted feed grain” and all that follows
- 23 through “this subparagraph” and inserting
- 24 “feed grain payment acres of the farm was

- 1 devoted to conserving uses or alternative
2 crops described in subparagraph (F)”;
3 (iv) by striking clause (vi);
4 (v) by redesignating clause (vii) as
5 clause (vi); and
6 (vi) in clause (vi) (as so redesign-
7 nated)—
8 (I) in the clause heading, by
9 striking “EXCEPTIONS TO 0/85” and
10 inserting “REDUCED YIELDS”;
11 (II) by striking “an acreage” and
12 all that follows through “crop and”;
13 (III) by striking subclause (II);
14 (IV) in subclause (I)(aa)—
15 (aa) by striking “(aa)”; and
16 (bb) by striking “be pre-
17 vented from planting the crop
18 or”; and
19 (V) in subclause (I)(bb)—
20 (aa) by striking “(bb)” and
21 inserting “(II)”;
22 (bb) by striking “8 percent”
23 and inserting “15 percent”; and
24 (cc) by striking “; or” and
25 inserting a period;

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

3 “(e) HAYING AND GRAZING.—

4 “(1) IN GENERAL.—Except as provided in para-
5 graph (2), haying and grazing of acreage under sub-
6 section (c)(1)(C) shall be permitted, except during
7 any consecutive 5-month period that is established
8 by the State committee established under section
9 8(b) of the Soil Conservation and Domestic Allot-
10 ment Act (16 U.S.C. 590h(b)) for a State. The 5-
11 month period shall be established during the period
12 beginning April 1, and ending October 31, of a year.

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

19 (6) in subsection (f)—

20 (A) in paragraph (1), by striking “1995”
21 and inserting “2002”; and

22 (B) in paragraph (4)(C), by striking “re-
23 duced by” and all that follows through “sub-
24 section (e)”;

1 (7) in subsection (g)(1), by striking “under sub-
2 section (e)”;

3 (8) in subsection (o)(1), by striking “and acre-
4 age reduction”;

5 (9) in subsection (p)(1), by striking “1995”
6 and inserting “2002”;

7 (10) in subsection (q)(1)—

8 (A) by striking “1995” and inserting
9 “2002”;

10 (B) in subparagraph (C), by inserting
11 “and” after the semicolon at the end;

12 (C) in subparagraph (D), by striking “;
13 and” and inserting a period; and

14 (D) by striking subparagraph (E); and

15 (11) in subsection (r), by striking “1995” and
16 inserting “2002”.

17 **SEC. 1105. WHEAT PROGRAM.**

18 Section 305 of the Agricultural Act of 1949 (as re-
19 designated by section 1101(b)(1)(B)) is amended—

20 (1) by striking the section heading and insert-
21 ing the following:

22 **“SEC. 305. LOANS AND PAYMENTS FOR THE 1991 THROUGH**
23 **2002 CROPS OF WHEAT.”;**

24 (2) in subsection (a)—

- 1 (A) in paragraph (1), by striking “1995”
2 and inserting “2002”; and
- 3 (B) in paragraph (4)—
- 4 (i) in subparagraph (A)—
- 5 (I) by striking “may” and insert-
6 ing “shall”;
- 7 (II) in clause (i), by inserting
8 “or” after the semicolon; and
- 9 (III) in clause (iii), by striking
10 “(iii) the” and inserting the following:
11 “(III) the”; and
- 12 (ii) in subparagraph (C), by striking
13 “1995” and inserting “2002”;
- 14 (3) in subsection (b)(1), by striking “1995”
15 and inserting “2002”;
- 16 (4) in subsection (c)(1)—
- 17 (A) in subparagraph (A), by striking
18 “1995” and inserting “2002”;
- 19 (B) in subparagraph (B)—
- 20 (i) in clause (ii)—
- 21 (I) in the clause heading, by
22 striking “AND 1995” and inserting
23 “THROUGH 2002”; and
- 24 (II) by striking “and 1995” and
25 inserting “through 2002”;

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

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

5 “(iii) MAXIMUM PAYMENT RATE.—
6 The payment rate for wheat under this
7 subsection shall not exceed (per bushel)
8 \$.89 for the 1996 crop, \$.94 for the 1997
9 crop, \$.95 for the 1998 crop, \$.89 for the
10 1999 crop, \$.79 for the 2000 crop, \$.78
11 for the 2001 crop, and \$.71 for the 2002
12 crop.”; and

13 (iv) in clause (iv) (as so redesignated),
14 by striking “1995” and inserting “2002”;
15 (C) in subparagraph (C)—

16 (i) in clause (i)—

17 (I) by inserting after “crop” the
18 following: “or to a commodity per-
19 mitted under section 504(b)”;

20 (II) by striking “within the per-
21 mitted acreage”; and

22 (ii) in clause (ii)—

23 (I) by striking “85 percent” and
24 inserting “70 percent”; and

1 (II) by striking “less the quan-
2 tity” and all that follows through
3 “(e)(2)(D)”;

4 (D) in subparagraph (D)(i), by striking
5 “Notwithstanding the foregoing provisions of
6 this section, if” and inserting “If”; and

7 (E) in subparagraph (E)—

8 (i) in clause (i)—

9 (I) by striking “an acreage” and
10 all that follows through “wheat and”;

11 (II) by striking “1997 crops (ex-
12 cept as provided in clause (vii))” each
13 place it appears and inserting “2002
14 crops”;

15 (III) by striking “(except as pro-
16 vided in subparagraph (F))” each
17 place it appears and inserting “or al-
18 ternative crops described in subpara-
19 graph (F)”;

20 (IV) in subclause (I), by striking
21 “for the purpose” and all that follows
22 through “(e)(2)(D)”;

23 (ii) in clause (ii), by striking “(or
24 other uses as provided in subparagraph

1 (F))” and inserting “or alternative crops
2 described in subparagraph (F)”;

3 (iii) in clause (iv), by striking “per-
4 mitted wheat” and all that follows through
5 “this subparagraph” and inserting “wheat
6 grain payment acres of the farm was de-
7 voted to conserving uses or alternative
8 crops described in subparagraph (F)”;

9 (iv) by striking clause (vi);

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

12 (vi) in clause (vi) (as so redesign-
13 nated)—

14 (I) in the clause heading, by
15 striking “EXCEPTIONS TO 0/85” and
16 inserting “REDUCED YIELDS”;

17 (II) by striking “an acreage” and
18 all that follows through “crop and”;

19 (III) by striking subclause (II);

20 (IV) in subclause (I)(aa)—

21 (aa) by striking “(aa)”;

22 (bb) by striking “be pre-
23 vented from planting the crop
24 or”;

25 (V) in subclause (I)(bb)—

1 (aa) by striking “(bb)” and
2 inserting “(II)”;

3 (bb) by striking “8 percent”
4 and inserting “15 percent”; and

5 (cc) by striking “; or” and
6 inserting a period;

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

9 “(e) HAYING AND GRAZING.—

10 “(1) IN GENERAL.—Except as provided in para-
11 graph (2), haying and grazing of acreage under sub-
12 section (c)(1)(C) shall be permitted, except during
13 any consecutive 5-month period that is established
14 by the State committee established under section
15 8(b) of the Soil Conservation and Domestic Allot-
16 ment Act (16 U.S.C. 590h(b)) for a State. The 5-
17 month period shall be established during the period
18 beginning April 1, and ending October 31, of a year.

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

25 (6) in subsection (f)—

1 (A) in paragraph (1), by striking “1995”
2 and inserting “2002”; and

3 (B) in paragraph (4)(C), by striking “re-
4 duced by” and all that follows through “sub-
5 section (e)”;

6 (7) in subsection (g)(1), by striking “under sub-
7 section (e)”;

8 (8) in subsection (o)(1), by striking “and acre-
9 age reduction”;

10 (9) in subsection (p)(2)(B), by striking “less
11 the quantity” and all that follows through
12 “(e)(2)(D)”;

13 (10) in subsection (q), by striking “1995” and
14 inserting “2002”.

15 **SEC. 1106. MILK PROGRAM.**

16 (a) IN GENERAL.—Section 204 of the Agricultural
17 Act of 1949 (7 U.S.C. 1446e) is amended to read as fol-
18 lows:

19 **“SEC. 204. MILK PRICE SUPPORT PROGRAM FOR CALENDAR**
20 **YEARS 1996 THROUGH 2002.**

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

25 “(b) SUPPORT PRICE.—

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

7 “(2) ANNUAL REDUCTION.—For each of cal-
8 endar years 1997 through 2002, the Secretary shall
9 reduce the rate of price support for milk used for
10 cheese by 10 cents per hundredweight.

11 “(c) PURCHASES.—

12 “(1) IN GENERAL.—The price of milk used for
13 cheese shall be supported through the purchase of
14 cheese and based on the support price in effect dur-
15 ing the applicable calendar year.

16 “(2) SALES THROUGH DEIP.—All sales for ex-
17 port under the dairy export incentive program estab-
18 lished under section 153 of the Food Security Act
19 of 1985 (15 U.S.C. 713a–14) shall be considered as
20 total purchases under subsection (d).

21 “(d) SUPPORT RATE ADJUSTMENTS.—Effective Jan-
22 uary 1 of each of the calendar years 1996 through 2002,
23 if the level of purchases of milk and the products of milk
24 by the Commodity Credit Corporation under this section
25 (less sales under section 407 for unrestricted use),

1 through direct purchases or through sales under the dairy
2 export incentive program established under section 153 of
3 the Food Security Act of 1985 (15 U.S.C. 713a–14), as
4 estimated by the Secretary by November 20 of the preced-
5 ing calendar year, will exceed 1,500,000,000 pounds (milk
6 equivalent, total milk solids basis), the Secretary shall de-
7 crease by 25 cents per hundredweight, in addition to the
8 annual reduction under subsection (b)(2), the rate of price
9 support for milk used for cheese in effect for the calendar
10 year. The support rate adjustment provided under this
11 subsection shall be effective only for the calendar year ap-
12 plicable to the estimate of the Secretary. After the support
13 rate adjustment terminates, the support price shall be the
14 level provided under subsection (b)(2).

15 “(e) COMMODITY CREDIT CORPORATION.—The Sec-
16 retary shall carry out the program authorized by this sec-
17 tion through the Commodity Credit Corporation.

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

21 (b) MILK MANUFACTURING MARKETING ADJUST-
22 MENT.—Section 102 of the Food, Agriculture, Conserva-
23 tion, and Trade Act of 1990 (7 U.S.C. 1446e–1) is re-
24 pealed.

1 **SEC. 1107. OILSEEDS PROGRAM.**

2 Section 205 of the Agricultural Act of 1949 (7 U.S.C.
3 1446f) is amended—

4 (1) in the section heading, by striking “**1995**”
5 and inserting “**2002**”;

6 (2) in subsections (b), (c), (e)(1), and (n), by
7 striking “1995” each place it appears and inserting
8 “2002”; and

9 (3) in subsections (c) and (h)(2), by striking
10 “1997” each places it appears and inserting “2002”.

11 **SEC. 1108. SUGAR PROGRAM.**

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

14 (1) in the section heading, by striking “**1997**”
15 and inserting “**2002**”;

16 (2) in subsection (a), by striking “1997” and
17 inserting “2002”;

18 (3) in subsection (b), by striking
19 “nonrecourse”;

20 (4) in subsection (c)—

21 (A) by striking “1997” and inserting
22 “2002”; and

23 (B) by striking “nonrecourse”;

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

1 (6) by inserting after subsection (c) the follow-
2 ing:

3 “(d) LOANS.—

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

7 “ (2) IMPORT TRIGGER FOR NONRECOURSE
8 LOANS.—If in any fiscal year the tariff rate quota
9 for imports of sugar into the United States is estab-
10 lished at a level equal to 1,340,000 or more short
11 tons, raw value, the Secretary shall for the duration
12 of the fiscal year make available nonrecourse loans
13 under this section. A recourse loan made during the
14 fiscal year prior to the tariff rate quota being estab-
15 lished at 1,340,000 or more short tons, raw value,
16 under this section shall be modified by the Secretary
17 into a nonrecourse loan for the remainder of the
18 term of the loan.

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

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

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

10 (7) in subsection (f)(1) (as so redesignated), by
 11 striking “1997” and inserting “2002”;

12 (8) in subsection (h) (as so redesignated), by
 13 striking “subsection (g)” and inserting “subsection
 14 (i)”;

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

16 (A) in the subsection heading, by striking
 17 “NONRECOURSE”; and

18 (B) by striking “price support” each place
 19 it appears;

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

21 (A) in the subsection heading, by striking
 22 “MARKETING ASSESSMENT” and inserting “AS-
 23 SESSMENTS ON ALL MARKETED SUGAR”;

24 (B) in paragraph (1)—

- 1 (i) by striking “1996” and inserting
2 “2002”;
- 3 (ii) in subparagraph (A)—
- 4 (I) by striking “each of fiscal
5 years 1992 through 1994, 1.0” and
6 inserting “fiscal year 1996, 1.1”; and
- 7 (II) by striking “(but” and all
8 that follows through “sugar),”; and
- 9 (iii) in subparagraph (B)—
- 10 (I) by striking “1995 through
11 1998, 1.1” and inserting “1997
12 through 2003, 1.375”; and
- 13 (II) by striking “(but” and all
14 that follows through “sugar),”; and
- 15 (C) in paragraph (2)—
- 16 (i) by striking “1996” and inserting
17 “2002”;
- 18 (ii) in subparagraph (A)—
- 19 (I) by striking “each of fiscal
20 years 1992 through 1994, 1.0722”
21 and inserting “fiscal year 1996,
22 1.1794”; and
- 23 (II) by striking “(but” and all
24 that follows through “sugar),”; and
- 25 (iii) in subparagraph (B)—

1 (I) by striking “1995 through
2 1998, 1.1794” and inserting “1997
3 through 2003, 1.47425”; and

4 (II) by striking “(but” and all
5 that follows through “sugar,”; and

6 (D) by striking paragraph (6); and

7 (11) in subsection (l) (as so redesignated), by
8 striking “1997” and inserting “2002”.

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

16 (c) MARKETING ALLOTMENTS.—Part VII of subtitle
17 B of title III of the Agricultural Adjustment Act of 1938
18 (7 U.S.C. 1359aa et seq.) is repealed.

19 **SEC. 1109. ACREAGE BASE AND YIELD SYSTEM.**

20 Title V of the Agricultural Act of 1949 (7 U.S.C.
21 1461 et seq.) is amended—

22 (1) in section 503 (7 U.S.C. 1463)—

23 (A) in subsection (a)—

1 (i) in paragraph (2), by adding “and
2 historical soybean acreage” after “crop
3 acreage bases”; and

4 (ii) by adding at the end the follow-
5 ing:

6 “(4) HISTORICAL SOYBEAN ACREAGE.—

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

10 “(B) QUANTITY.—

11 “(i) IN GENERAL.—Except as pro-
12 vided in clause (ii), the historical soybean
13 acreage for a farm for a crop year shall be
14 equal to the average of the acreage planted
15 to soybeans for harvest on the farm in
16 each of the previous 5 crop years.

17 “(ii) EXCEPTION.—In determining the
18 historical soybean acreage for a farm for a
19 crop year, the Secretary shall exclude from
20 the acreage any soybean plantings that
21 were considered planted to a program crop
22 or are planted for harvest on a crop acre-
23 age base.”;

24 (B) in subsection (b)—

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

5 (ii) by striking paragraph (2);
6 (C) in subsection (c)—

7 (i) in paragraph (1), by inserting “in
8 the case of each of the 1991 through 1995
9 crops,” after “(1)”;

10 (ii) in paragraph (3), by striking
11 “1997” and inserting “1995”;

12 (iii) in paragraph (4)—

13 (I) by inserting “in the case of
14 the 1991 through 1995 crops, and
15 base acreage in the case of the 1996
16 through 2002 crops,” after “per-
17 mitted acreage”; and

18 (II) by inserting “or conservation
19 uses or related commodity production
20 permitted by the Secretary” after
21 “section 504”; and

22 (iv) in paragraph (6), by inserting “in
23 the case of each of the 1991 through 1995
24 crops,” after “(6)”;

25 (D) by striking subsection (h);

1 (2) in section 504 (7 U.S.C. 1464)—

2 (A) in subsection (b)—

3 (i) in paragraph (1)—

4 (I) in the paragraph heading, by
5 striking “PERMITTED CROPS” and in-
6 serting “PAYMENT ACRES”;

7 (II) by striking “for purposes of
8 this section,”;

9 (III) by striking “a crop acreage
10 base” and inserting “the payment
11 acres of a crop acreage base”;

12 (IV) in subparagraph (D), by
13 striking “and” at the end;

14 (V) in subparagraph (E), by
15 striking the period at the end and in-
16 serting “; and”;

17 (VI) by adding at the end the fol-
18 lowing:

19 “(F) peas and lentils.”; and

20 (ii) by adding at the end the follow-
21 ing:

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

1 Haying and grazing on the acres shall not be re-
2 stricted.”;

3 (B) by striking subsection (c) and insert-
4 ing the following:

5 “(c) LIMITATIONS ON ACREAGE AND PAYMENTS.—

6 “(1) IN GENERAL.—Except as otherwise pro-
7 vided in this section, the planting of a program crop
8 may exceed 100 percent of the crop acreage base of
9 the program crop. The program crop shall be eligible
10 for loans.

11 “(2) UPLAND COTTON AND RICE.—In the case
12 of upland cotton and rice, any crop other than up-
13 land cotton or rice that is planted on an upland cot-
14 ton or rice crop acreage base shall not be eligible for
15 payments.

16 “(3) WHEAT AND FEED GRAINS.—In the case
17 of wheat and feed grains, except as provided in
18 paragraph (4), any crop planted on a wheat or feed
19 grain crop acreage base shall be eligible for pay-
20 ments that are attributable to the payment acres of
21 the wheat or feed grain crop acreage base.

22 “(4) EXCEPTIONS.—

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

1 land cotton or rice crop acreage base may not
2 receive payments with respect to the rice or up-
3 land cotton planted on the wheat or feed grain
4 crop acreage base.

5 “(B) UPLAND COTTON OR RICE PAY-
6 MENTS.—Upland cotton or rice shall not be eli-
7 gible for payments if planted in excess of the
8 respective crop acreage base, except that—

9 “(i) upland cotton or rice planted on
10 acreage not eligible for payments under
11 subsection (b)(4) shall not affect the eligi-
12 bility for payments under this subpara-
13 graph, but shall be eligible for loans; and

14 “(ii) acreage described in subsection
15 (e)(1) shall be eligible for loans, but not
16 for payments.”;

17 (C) by striking subsection (d);

18 (D) by redesignating subsection (e) as sub-
19 section (d);

20 (E) in subsection (d)(2) (as so redesign-
21 ated)—

22 (i) by striking “the producers—” and
23 all that follows through “(A) plant” and
24 inserting “the producers plant”;

1 (ii) by striking “25 percent” and in-
2 serting “100 percent”; and

3 (iii) by striking “crop; and” all that
4 follows through the period at the end and
5 inserting “crop.”; and

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

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

13 “(1) 25 percent of the historical soybean acre-
14 age on the farm; and

15 “(2) 100 percent of the crop acreage base.”;

16 (3) in section 505 (7 U.S.C. 1465)—

17 (A) in subsection (a), by striking “or (e)”;

18 (B) in subsection (b)—

19 (i) in paragraph (1)—

20 (I) by striking “paragraphs (2)
21 and (3)” and inserting “paragraph
22 (2)”;

23 (II) by striking “1997” and in-
24 serting “2002”;

1 (ii) in paragraph (2), by striking
2 “1997” and inserting “2002”; and
3 (iii) by striking paragraphs (3), (4),
4 and (5); and
5 (C) by striking subsections (c), (d), and
6 (e); and
7 (4) in section 509 (7 U.S.C. 1469), by striking
8 “1997” and inserting “2002”.

9 **SEC. 1110. EXTENSION OF RELATED PRICE SUPPORT PRO-**
10 **VISIONS.**

11 Title X of the Food Security Act of 1985 (Public Law
12 99–198; 99 Stat. 1444) is amended—

13 (1) in section 1001 (7 U.S.C. 1308), by striking
14 “1997” each place it appears in paragraphs (1)(A),
15 (1)(B), and (2)(A) and inserting “2002”; and
16 (2) in section 1001C(a) (7 U.S.C. 1308–3(a)),
17 by striking “1997” each place it appears and insert-
18 ing “2002”.

19 **SEC. 1111. REPEAL OF MISCELLANEOUS AUTHORITIES.**

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

23 (1) in subtitle B—
24 (A) by striking parts II through V (7
25 U.S.C. 1326 et seq.); and

1 (B) in part VI, by striking sections 358,
2 358a, and 358d (7 U.S.C. 1358, 1358a, and
3 1359); and

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

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

10 **SEC. 1112. COMMODITY CREDIT CORPORATION INTEREST**
11 **RATE.**

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

18 **SEC. 1113. PEANUT PROGRAM.**

19 (a) PRICE SUPPORT.—Section 108B of the Agricul-
20 tural Act of 1949 (7 U.S.C. 1445c-3) is amended—

21 (1) in the section heading, by striking “1997”
22 and inserting “2000”;

23 (2) in subsection (a)—

24 (A) in paragraph (1), by striking “1997”
25 and inserting “2000”; and

1 (B) by striking paragraph (2) and insert-
2 ing the following:

3 “(2) SUPPORT RATE.—The national average
4 quota support rate for each of the 1996 through
5 2000 crops of quota peanuts shall be \$628 per
6 ton.”;

7 (3) in subsection (b)(1), by striking “1997”
8 and inserting “2000”;

9 (4) in the first sentence of subsection (c)(2)(A),
10 by inserting before the period at the end the follow-
11 ing: “and that, in the case of the 1996 and subse-
12 quent crops, Valencia peanuts not produced in the
13 State shall not be eligible to participate in the pools
14 of the State”;

15 (5) in subsection (g)—

16 (A) in paragraphs (1) and (2)(A)(ii)(II),
17 by striking “1997 crops” each place it appears
18 and inserting “2000 crops”; and

19 (B) by striking “the 1997 crop” each place
20 it appears and inserting “each of the 1997
21 through 2000 crops”; and

22 (6) in subsection (h), by striking “1997” and
23 inserting “2000”.

1 (b) POUNDAGE QUOTAS.—Section 358–1 of the Agri-
2 cultural Adjustment Act of 1938 (7 U.S.C. 1358–1) is
3 amended—

4 (1) in the section heading, by striking “**1997**”
5 and inserting “**2000**”;

6 (2) in subsection (a)—

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

9 (B) by striking paragraph (1) and insert-
10 ing the following:

11 “(1) ESTABLISHMENT.—The Secretary shall es-
12 tablish the national poundage quota for peanuts for
13 each of the 1991 through 2000 marketing years.

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

1 “(A) any stocks of peanuts on hand in the
2 inventory of the Commodity Credit Corporation;
3 and

4 “(B) peanuts or products of peanuts im-
5 ported into the United States;” and

6 (C) in paragraph (4) (as so redesignated),
7 by striking “established under paragraph (1)”;
8 (3) in subsection (b)—

9 (A) by striking “1997” each place it ap-
10 pears and inserting “2000”;

11 (B) in paragraph (2), by striking subpara-
12 graph (B) and inserting the following:

13 “(B) TEMPORARY QUOTA ALLOCATION.—

14 “(i) IN GENERAL.—Subject to clause
15 (iv), temporary allocation of a poundage
16 quota for the marketing year in which a
17 crop of peanuts is planted shall be made to
18 producers for each of the 1991 through
19 2000 marketing years in accordance with
20 this subparagraph.

21 “(ii) QUANTITY.—The temporary
22 quota allocation shall be equal to the quan-
23 tity of seed peanuts (in pounds) planted on
24 a farm, as determined in accordance with
25 regulations issued by the Secretary.

1 “(iii) ALLOCATION.—The allocation of
2 quota pounds to producers under this sub-
3 paragraph shall be performed in such a
4 manner as will not result in a net decrease
5 in quota pounds on a farm in excess of 3
6 percent, after the temporary seed quota is
7 added, from the basic farm quota for the
8 1995 marketing year. A decrease shall
9 occur only once, and shall be applicable
10 only to the 1996 marketing year.

11 “(iv) NO INCREASED COSTS.—The
12 Secretary may carry out this subparagraph
13 only if this subparagraph does not result
14 in—

15 “(I) an increased cost to the
16 Commodity Credit Corporation
17 through displacement of quota pea-
18 nuts by additional peanuts in the do-
19 mestic market;

20 “(II) an increased loss in a loan
21 pool of an area marketing association
22 designated pursuant to section
23 108B(c)(1) of the Agricultural Act of
24 1949 (7 U.S.C. 1445c-3(c)(1)); or

25 “(III) other increased costs.

1 “(v) USE OF QUOTA AND ADDITIONAL
2 PEANUTS.—Nothing in this subparagraph
3 affects the requirements of section
4 358b(b).

5 “(vi) ADDITIONAL ALLOCATION.—The
6 temporary allocation of quota pounds
7 under this subparagraph shall be in addi-
8 tion to the farm poundage quota estab-
9 lished under this subsection and shall be
10 credited to the producers of the peanuts on
11 the farm in accordance with regulations is-
12 sued by the Secretary.”; and

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

14 and

15 (4) in subsection (f), by striking “1997” and
16 inserting “2000”.

17 (c) SALE, LEASE, OR TRANSFER.—Section 358b of
18 the Agricultural Adjustment Act of 1938 (7 U.S.C.
19 1358b) is amended to read as follows:

20 “**SEC. 358b. SALE, LEASE, OR TRANSFER OF FARM POUND-**

21 **AGE QUOTA FOR 1991 THROUGH 2000 CROPS**

22 **OF PEANUTS.**

23 “(a) IN GENERAL.—

24 “(1) AUTHORITY.—

1 “(A) IN GENERAL.—Subject to such terms,
2 conditions, or limitations as the Secretary may
3 prescribe, the owner, or operator with the per-
4 mission of the owner, of any farm for which a
5 farm poundage quota has been established
6 under this Act may sell or lease all or any part
7 of the poundage quota to any other owner or
8 operator of a farm within counties of a State
9 for transfer to the farm, except that any such
10 lease of poundage quota may be entered into in
11 the fall or after the normal planting season—

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

19 “(ii) under such terms and conditions
20 as the Secretary may prescribe by regula-
21 tion.

22 “(B) FALL TRANSFERS.—

23 “(i) NO TRANSFER AUTHORIZA-
24 TION.—In the case of a fall transfer or a
25 transfer after the normal planting season

1 by a cash lessee, the landowner shall not
2 be required to sign the transfer authoriza-
3 tion.

4 “(ii) TIME LIMITATION.—A fall trans-
5 fer or a transfer after the normal planting
6 season may be made not later than 72
7 hours after the peanuts that are the sub-
8 ject of the transfer are inspected and grad-
9 ed.

10 “(iii) LESSEES.—In the case of a fall
11 transfer, poundage quota from a farm may
12 be leased to an owner or operator of an-
13 other farm within the same county or to an
14 owner or operator of another farm in any
15 other county within the State.

16 “(iv) EFFECT OF TRANSFER.—A fall
17 transfer of poundage quota shall not affect
18 the farm quota history for the transferring
19 or receiving farm and shall not result in
20 the reduction of the farm poundage quota
21 on the transferring farm.

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

1 by the owner or operator that is in the same State
2 and that had a farm poundage quota for the crop
3 of the preceding year, if both the transferring and
4 receiving farms were under the control of the owner
5 or operator for at least 3 crop years prior to the
6 crop year in which the farm poundage quota is to be
7 transferred. Any farm poundage quota transferred
8 under this paragraph shall not result in any reduc-
9 tion in the farm poundage quota for the transferring
10 farm if sufficient acreage is planted on the receiving
11 farm to produce the quota pounds transferred.

12 “(3) TRANSFERS IN STATES WITH SMALL
13 QUOTAS.—In the case of any State for which the
14 poundage quota allocated to the State was less than
15 10,000 tons for the crop of the preceding year, all
16 or any part of a farm poundage quota may be trans-
17 ferred by sale or lease or otherwise from a farm in
18 1 county to a farm in another county in the State.

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

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

1 has been established under this Act in a State
2 for which the poundage quota allocated to the
3 State was 10,000 tons or more may sell pound-
4 age quota to any other eligible owner or opera-
5 tor of a farm within the State.

6 “(B) LIMITATIONS BASED ON TOTAL
7 POUNDAGE QUOTA.—

8 “(i) 1996 MARKETING YEAR.—Not
9 more than 15 percent of the total pound-
10 age quota within a county as of January 1,
11 1996, may be sold and transferred under
12 this paragraph during the 1996 marketing
13 year.

14 “(ii) 1997–2000 MARKETING
15 YEARS.—

16 “(I) IN GENERAL.—Except as
17 provided in subclause (II), not more
18 than 5 percent of the quota pounds
19 remaining in a county as of January
20 1, 1997, and each January 1 there-
21 after through January 1, 2000, may
22 be sold and transferred under this
23 paragraph during the applicable mar-
24 keting year.

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

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

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

16 “(E) APPLICATION.—This paragraph shall
17 not apply to a sale within the same county or
18 to any sale, lease, or transfer described in para-
19 graph (1).

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

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

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

3 “(2) TILLABLE CROPLAND.—No transfer of the
4 farm poundage quota shall be permitted if the coun-
5 ty committee established under section 8(b) of the
6 Soil Conservation and Domestic Allotment Act (16
7 U.S.C. 590h(b)) determines that the receiving farm
8 does not have adequate tillable cropland to produce
9 the farm poundage quota.

10 “(3) RECORD.—No transfer of the farm pound-
11 age quota shall be effective until a record of the
12 transfer is filed with the county committee of each
13 county to, and from, which the transfer is made and
14 each committee determines that the transfer com-
15 plies with this section.

16 “(4) OTHER TERMS.—The Secretary may es-
17 tablish by regulation other terms and conditions.

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

20 (d) EXPERIMENTAL AND RESEARCH PROGRAMS FOR
21 PEANUTS.—Section 358c(d) of the Agricultural Adjust-
22 ment Act of 1938 (7 U.S.C. 1358c(d)) is amended by
23 striking “1995” and inserting “2000”.

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

4 (1) in the section heading, by striking “**1997**”
5 and inserting “**2000**”;

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

8 “(7) **PRICE PROTECTION.**—If the domestic mar-
9 ket price for quota peanuts, as determined by the
10 Secretary, exceeds 120 percent of the applicable
11 price support loan rate for quota peanuts for 10
12 consecutive business days, the Secretary shall take
13 immediate steps to facilitate the orderly marketing
14 of additional peanuts for domestic edible use.”; and

15 (3) in subsection (i), by striking “1997” and in-
16 serting “2000”.

17 **SEC. 1114. CATASTROPHIC CROP INSURANCE COVERAGE.**

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

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

24 (1) by striking paragraph (6); and

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

3 (c) CROPS.—The amendments made by subsection
4 (b) shall apply beginning with the 1997 crop of an insur-
5 able commodity.

6 **SEC. 1115. SAVINGS ADJUSTMENT.**

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

9 (1) estimate whether total direct spending sav-
10 ings obtained from the programs established by this
11 subtitle and subtitles B and C, and the amendments
12 made by these subtitles, excluding direct spending
13 for the environmental quality incentives program,
14 are less than \$13,400,000,000; and

15 (2) submit a report on the estimate to the Com-
16 mittee on Agriculture, and the Committee on the
17 Budget, of the House of Representatives and the
18 Committee on Agriculture, Nutrition, and Forestry,
19 and the Committee on the Budget, of the Senate.

20 (b) PAYMENT RATES.—If the Director estimates that
21 total direct spending savings described in subsection (a)(1)
22 are less than \$13,400,000,000, the Secretary of Agri-
23 culture shall reduce the maximum payment rates for defi-
24 ciency payments for rice, upland cotton, feed grains, and
25 wheat provided in sections 302, 303, 304, and 305 of the

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

5 (c) MAXIMUM REDUCTION.—The maximum defi-
6 ciency payment rate reduction under subsection (b) shall
7 not exceed 2 percent.

8 **SEC. 1116. SENSE OF THE SENATE REGARDING TAX PROVI-**
9 **SIONS RELATING TO ETHANOL.**

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

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

14 (2) ethanol and ETBE have been shown to im-
15 prove air quality when used as fuels or fuel addi-
16 tives;

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

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

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

1 (6) the use of ethanol and ETBE adds signifi-
2 cantly to market opportunities for corn, which con-
3 stitutes about 95 percent of the feedstock for etha-
4 nol production, thereby improving corn prices and
5 farm income;

6 (7) the production of ethanol and ETBE con-
7 tributes substantially to improved economic and job
8 growth, particularly in rural communities;

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

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

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

1 **SEC. 1117. EFFECTIVE DATE.**

2 (a) EFFECTIVE DATE.—

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

8 (A) the 1996 crop of an agricultural com-
9 modity; or

10 (B) November 1, 1995.

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

14 (b) PRIOR CROPS.—

15 (1) IN GENERAL.—Except as otherwise specifi-
16 cally provided and notwithstanding any other provi-
17 sion of law, this subtitle and the amendments made
18 by this subtitle shall not affect the authority of the
19 Secretary of Agriculture to carry out a price support
20 or production adjustment program for any of the
21 1991 through 1995 crops of an agricultural com-
22 modity established under a provision of law in effect
23 immediately before the applicable effective date spec-
24 ified in subsection (a).

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

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

4 **Subtitle B—Conservation**

5 **SEC. 1201. CONSERVATION.**

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

9 **“Subtitle E—Funding**

10 **“SEC. 1241. FUNDING.**

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

15 “(1) subchapter B of chapter 1 of subtitle D
16 (including contracts extended by the Secretary pur-
17 suant to section 1437 of the Food, Agriculture, Con-
18 servation, and Trade Act of 1990 (Public Law 101–
19 624; 16 U.S.C. 3831 note));

20 “(2) subchapter C of chapter 1 of subtitle D;
21 and

22 “(3) chapter 2 of subtitle D for practices relat-
23 ed to livestock production.

24 “(b) ENVIRONMENTAL QUALITY INCENTIVES PRO-
25 GRAM.—For each of fiscal years 1996 through 2002,

1 \$100,000,000 of the funds of the Commodity Credit Cor-
2 poration shall be available for providing technical assist-
3 ance, cost-sharing payments, and incentive payments for
4 practices relating to livestock production under the envi-
5 ronmental quality incentives program.

6 “(c) WETLANDS RESERVE PROGRAM.—Spending to
7 carry out the wetlands reserve program under subchapter
8 C of chapter 1 of subtitle D shall be not greater than
9 \$614,000,000 for fiscal years 1996 through 2002.

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

16 “(1) \$1,787,000,000 for fiscal year 1996;

17 “(2) \$1,784,000,000 for fiscal year 1997;

18 “(3) \$1,445,000,000 for fiscal year 1998;

19 “(4) \$1,246,000,000 for fiscal year 1999;

20 “(5) \$1,101,000,000 for fiscal year 2000;

21 “(6) \$999,000,000 for fiscal year 2001; and

22 “(7) \$974,000,000 for fiscal year 2002.”.

23 (b) ENVIRONMENTAL QUALITY INCENTIVES PRO-
24 GRAM.—To carry out the programs funded under the
25 amendment made by subsection (a), subtitle D of title XII

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

4 **“CHAPTER 2—ENVIRONMENTAL QUALITY**
5 **INCENTIVES PROGRAM**

6 **“SEC. 1238. DEFINITIONS.**

7 “In this chapter:

8 “(1) LAND MANAGEMENT PRACTICE.—The
9 term ‘land management practice’ means a site-spe-
10 cific nutrient or manure management, integrated
11 pest management, irrigation management, tillage or
12 residue management, grazing management, or other
13 land management practice that the Secretary deter-
14 mines is needed to protect soil, water, or related re-
15 sources in the most cost effective manner.

16 “(2) LARGE CONFINED LIVESTOCK OPER-
17 ATION.—The term ‘large confined livestock oper-
18 ation’ means a farm or ranch that—

19 “(A) is a confined animal feeding oper-
20 ation; and

21 “(B) has more than—

22 “(i) 700 mature dairy cattle;

23 “(ii) 1,000 beef cattle;

1 “(iii) 30,000 laying hens or broilers
2 (if the facility has continuous overflow wa-
3 tering);

4 “(iv) 100,000 laying hens or broilers
5 (if the facility has a liquid manure sys-
6 tem);

7 “(v) 55,000 turkeys;

8 “(vi) 2,500 swine; or

9 “(vii) 10,000 sheep or lambs.

10 “(3) LIVESTOCK.—The term ‘livestock’ means
11 mature dairy cows, beef cattle, laying hens, broilers,
12 turkeys, swine, sheep, or lambs.

13 “(4) OPERATOR.—The term ‘operator’ means a
14 person who is engaged in crop or livestock produc-
15 tion (as defined by the Secretary).

16 “(5) STRUCTURAL PRACTICE.—The term ‘struc-
17 tural practice’ means the establishment of an animal
18 waste management facility, terrace, grassed water-
19 way, contour grass strip, filterstrip, permanent wild-
20 life habitat, or other structural practice that the
21 Secretary determines is needed to protect soil, water,
22 or related resources in the most cost effective man-
23 ner.

1 **“SEC. 1238A. ESTABLISHMENT AND ADMINISTRATION OF**
2 **ENVIRONMENTAL QUALITY INCENTIVES PRO-**
3 **GRAM.**

4 “(a) ESTABLISHMENT.—

5 “(1) IN GENERAL.—During the 1996 through
6 2002 fiscal years, the Secretary shall provide tech-
7 nical assistance, cost-sharing payments, and incen-
8 tive payments to operators who enter into contracts
9 with the Secretary, through an environmental qual-
10 ity incentives program that replaces the functions of
11 the agricultural conservation program, the Great
12 Plains conservation program, the water quality in-
13 centives program, and the Colorado River Basin sa-
14 linity control program.

15 “(2) ELIGIBLE PRACTICES.—

16 “(A) STRUCTURAL PRACTICES.—An opera-
17 tor who implements a structural practice shall
18 be eligible for technical assistance or cost-shar-
19 ing payments, or both.

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

24 “(3) ELIGIBLE LANDS.—Land on which struc-
25 tural and land management practices may be per-
26 formed under this chapter includes agricultural land

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

8 “(4) PRIORITIES.—The Secretary shall provide
9 technical assistance, cost-sharing payments, and in-
10 centive payments to operators in a region, water-
11 shed, or conservation priority area in which an agri-
12 cultural operation is located, as determined by the
13 Secretary, based on national and regional priorities
14 that include—

15 “(A) the significance of the soil, water, and
16 related natural resource problems;

17 “(B) structural or land management prac-
18 tices for which State or local governments have
19 provided, or will provide, financial or technical
20 assistance to the operators;

21 “(C) structural practices or land manage-
22 ment practices on lands on which agricultural
23 production has been determined to contribute
24 to, or create, the potential for failure to meet
25 applicable water quality standards or other en-

1 vironmental objectives of a Federal or State
2 law; and

3 “(D) maximization of environmental bene-
4 fits per dollar expended.

5 “(b) APPLICATION AND TERM.—

6 “(1) IN GENERAL.—A contract between an op-
7 erator and the Secretary under this chapter may—

8 “(A) apply to 1 or more structural prac-
9 tices or 1 or more land management practices,
10 or both; and

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

15 “(2) DUTIES OF OPERATORS AND SEC-
16 RETARY.—To receive cost sharing or incentive pay-
17 ments, or technical assistance, participating opera-
18 tors shall comply with all terms and conditions of
19 the contract and a plan, as established by the Sec-
20 retary.

21 “(c) STRUCTURAL PRACTICES.—

22 “(1) COMPETITIVE OFFER.—The Secretary
23 shall administer a competitive offer system for oper-
24 ators proposing to receive cost-sharing payments in
25 exchange for the implementation of 1 or more struc-

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

3 “(A) the submission of a competitive offer
4 by the operator in such manner as the Sec-
5 retary may prescribe; and

6 “(B) evaluation of the offer in light of the
7 priorities established by subsection (a)(4) and
8 the projected cost of the proposal, as deter-
9 mined by the Secretary.

10 “(2) CONCURRENCE OF OWNER.—If the opera-
11 tor making an offer to implement a structural prac-
12 tice is a tenant of the land involved in agricultural
13 production, for the offer to be acceptable, the opera-
14 tor shall obtain the concurrence of the owner of the
15 land with respect to the offer.

16 “(d) LAND MANAGEMENT PRACTICES.—The Sec-
17 retary shall establish an application and evaluation proc-
18 ess for awarding technical assistance or incentive pay-
19 ments, or both, to an operator in exchange for the per-
20 formance of 1 or more land management practices by the
21 operator.

22 “(e) COST-SHARING, INCENTIVE PAYMENTS, AND
23 TECHNICAL ASSISTANCE.—

24 “(1) COST-SHARING PAYMENTS.—

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

9 “(B) LIMITATION.—An operator of a large
10 confined livestock operation shall not be eligible
11 for cost-sharing payments to construct an ani-
12 mal waste management facility.

13 “(C) OTHER PAYMENTS.—An operator
14 shall not be eligible for cost-sharing payments
15 for structural practices on eligible land under
16 this chapter if the operator receives cost-shar-
17 ing payments or other benefits for the same
18 land under chapter 1 or 3.

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

24 “(3) TECHNICAL ASSISTANCE.—

1 “(A) FUNDING.—The Secretary shall allo-
2 cate funding under this chapter for the provi-
3 sion of technical assistance according to the
4 purpose and projected cost for which the tech-
5 nical assistance is provided for a fiscal year.
6 The allocated amount may vary according to
7 the type of expertise required, quantity of time
8 involved, and other factors as determined ap-
9 propriate by the Secretary. Funding shall not
10 exceed the projected cost to the Secretary of the
11 technical assistance provided for a fiscal year.

12 “(B) OTHER AUTHORITIES.—The receipt
13 of technical assistance under this chapter shall
14 not affect the eligibility of the operator to re-
15 ceive technical assistance under other authori-
16 ties of law available to the Secretary.

17 “(f) LIMITATION ON PAYMENTS.—

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

21 “(A) \$10,000 for any fiscal year; or

22 “(B) \$50,000 for any multiyear contract.

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

1 terms and conditions of the agricultural conservation
2 program, the Great Plains conservation program,
3 the water quality incentives program, and the Colo-
4 rado River Basin salinity control program, to the ex-
5 tent that the terms and conditions of the programs
6 are consistent with the environmental quality incen-
7 tives program.

8 “(2) EXPIRATION OF AUTHORITY.—The author-
9 ity of the Secretary to carry out paragraph (1) shall
10 terminate on the later of—

11 “(A) the date that is 180 days after the
12 date of enactment of the Agricultural Reconcili-
13 ation Act of 1995; or

14 “(B) March 31, 1996.

15 “(b) PERMANENT ADMINISTRATION.—Effective be-
16 ginning on the later of the dates specified in subsection
17 (a)(2), the Secretary shall provide technical assistance,
18 cost-sharing payments, and incentive payments for struc-
19 tural practices and land management practices related to
20 crop and livestock production in accordance with final reg-
21 ulations issued to carry out the environmental quality in-
22 centives program.”.

23 (c) CONFORMING AMENDMENTS.—

24 (1) COMMODITY CREDIT CORPORATION CHAR-
25 TER ACT.—Section 5(g) of the Commodity Credit

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

3 “(g) Carry out conservation functions and pro-
4 grams.”.

5 (2) WETLANDS RESERVE PROGRAM.—

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

9 (i) in subsection (b)(2)—

10 (I) by striking “not less” and in-
11 sserting “not more”; and

12 (II) by striking “2000” and in-
13 sserting “2002”; and

14 (ii) in subsection (c), by striking
15 “2000” and inserting “2002”.

16 (B) LENGTH OF EASEMENT.—Section
17 1237A(e) of the Food Security Act of 1985 (16
18 U.S.C. 3837a(e)) is amended by striking para-
19 graph (2) and inserting the following:

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

22 (3) CONSERVATION RESERVE PROGRAM.—

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

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

4 (ii) in subsection (d), by striking
5 “total of” and all that follows through the
6 period at the end of the subsection and in-
7 serting “total of 36,400,000 acres during
8 the 1986 through 2002 calendar years (in-
9 cluding contracts extended by the Sec-
10 retary pursuant to section 1437 of the
11 Food, Agriculture, Conservation, and
12 Trade Act of 1990 (Public Law 101–624;
13 16 U.S.C. 3831 note), except that in no
14 case may total spending for the conserva-
15 tion reserve exceed the spending limita-
16 tions in section 1241(d).”.

17 (B) CONFORMING AMENDMENT.—Section
18 1232(c) of the Food Security Act of 1985 (16
19 U.S.C. 3832(c)) is amended by striking “1995”
20 and inserting “2002”.

21 (d) EFFECTIVE DATES.—

22 (1) IN GENERAL.—Except as provided in para-
23 graph (2), this section and the amendments made by
24 this section shall become effective on the later of—

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

1 (B) November 1, 1995.

2 (2) TRANSITION PROVISIONS.—

3 (A) IN GENERAL.—Section 1238B of the
4 Food Security Act of 1985 (as added by sub-
5 section (b)) shall become effective on the date
6 of enactment of this Act.

7 (B) 1991 THROUGH 1995 CALENDAR
8 YEARS.—Notwithstanding any other provision
9 of law, this section and the amendments made
10 by this section shall not affect the authority of
11 the Secretary of Agriculture to carry out a pro-
12 gram for any of the 1991 through 1995 cal-
13 endar years under a provision of law in effect
14 immediately before the effective dates specified
15 in this subsection.

16 **Subtitle C—Agricultural Promotion**
17 **and Export Programs**

18 **SEC. 1301. MARKET PROMOTION PROGRAM.**

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

22 (1) by striking “and” after “1991 through
23 1993,”; and

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

4 **SEC. 1302. EXPORT ENHANCEMENT PROGRAM.**

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

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

12 “(A) \$767,200,000 for fiscal year 1996;

13 “(B) \$705,600,000 for fiscal year 1997;

14 “(C) \$624,800,000 for fiscal year 1998;

15 “(D) \$544,000,000 for fiscal year 1999;

16 “(E) \$463,200,000 for fiscal year 2000;

17 “(F) \$382,400,000 for fiscal year 2001;

18 and

19 “(G) \$382,400,000 for fiscal year 2002.”.

20 **SEC. 1303. EXPORT OF SUNFLOWERSEED OIL AND COTTON-**
21 **SEED OIL.**

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

1 (b) FUNDING.—Notwithstanding any other provision
 2 of law, the Secretary of Agriculture shall not spend any
 3 funds made available under section 32 of the Act entitled
 4 “An Act to amend the Agricultural Adjustment Act, and
 5 for other purposes”, approved August 24, 1935 (7 U.S.C.
 6 612e), to carry out the programs established under section
 7 301(b) of the Disaster Assistance Act of 1988 (Public
 8 Law 100–387; 7 U.S.C. 1464 note) (as in effect prior to
 9 the amendment made by subsection (a)).

10 **Subtitle D—Nutrition Assistance**

11 **CHAPTER 1—FOOD STAMP PROGRAM**

12 **SEC. 1401. TREATMENT OF CHILDREN LIVING AT HOME.**

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

17 **SEC. 1402. OPTIONAL ADDITIONAL CRITERIA FOR SEPA-** 18 **RATE HOUSEHOLD DETERMINATIONS.**

19 Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C.
 20 2012(i)) is amended by inserting after the third sentence
 21 the following: “Notwithstanding the preceding sentences,
 22 a State may establish criteria that prescribe when individ-
 23 uals who live together, and who would be allowed to par-
 24 ticipate as separate households under the preceding sen-
 25 tences, shall be considered a single household, without re-

1 gard to the common purchase of food and preparation of
2 meals.”.

3 **SEC. 1403. ADJUSTMENT OF THRIFTY FOOD PLAN.**

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

6 (1) by striking “and (11)” and inserting
7 “(11)”;

8 (2) by inserting “through October 1, 1994”
9 after “1990, and each October 1 thereafter”; and

10 (3) by inserting before the period at the end the
11 following: “, and (12) on October 1, 1995, and each
12 October 1 thereafter, adjust the cost of the diet to
13 reflect the cost of the diet, in the preceding June,
14 and round the result to the nearest lower dollar in-
15 crement for each household size, except that on Oc-
16 tober 1, 1995, the Secretary may not reduce the cost
17 of the diet in effect on September 30, 1995”.

18 **SEC. 1404. DEFINITION OF HOMELESS INDIVIDUAL.**

19 Section 3(s)(2)(C) of the Food Stamp Act of 1977
20 (7 U.S.C. 2012(s)(2)(C)) is amended by inserting “for not
21 more than 90 days” after “temporary accommodation”.

22 **SEC. 1405. STATE OPTIONS IN REGULATIONS.**

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

1 (1) by striking “(b) The Secretary” and insert-
2 ing the following:

3 “(b) UNIFORM STANDARDS.—Except as otherwise
4 provided in this Act, the Secretary”; and

5 (2) by striking “No plan” and inserting “Ex-
6 cept as otherwise provided in this Act, no plan”.

7 **SEC. 1406. ENERGY ASSISTANCE.**

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

10 (1) by striking paragraph (11); and

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

13 (b) CONFORMING AMENDMENTS.—

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

16 (A) in paragraph (1)—

17 (i) in subparagraph (A), by striking
18 “plan for aid to families with dependent
19 children approved” and inserting “program
20 funded”; and

21 (ii) in subparagraph (B), by striking
22 “, not including energy or utility-cost as-
23 sistance,”;

24 (B) in paragraph (2)—

25 (i) by striking subparagraph (C); and

1 (ii) by redesignating subparagraphs
2 (D) through (H) as subparagraphs (C)
3 through (G), respectively; and
4 (C) by adding at the end the following:

5 “(4) THIRD PARTY ENERGY ASSISTANCE PAY-
6 MENTS.—

7 “(A) ENERGY ASSISTANCE PAYMENTS.—
8 For purposes of subsection (d)(1), a payment
9 made under a Federal or State law to provide
10 energy assistance to a household shall be con-
11 sidered money payable directly to the house-
12 hold.

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

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

22 (A) by striking “(f)(1) Notwithstanding”
23 and inserting “(f) Notwithstanding”;

24 (B) by striking “food stamps,”; and

25 (C) by striking paragraph (2).

1 **SEC. 1407. DEDUCTIONS FROM INCOME.**

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

4 (1) in the second sentence—

5 (A) by striking “and (4)” and inserting
6 “(4)”;

7 (B) by inserting “through October 1,
8 1994” after “October 1 thereafter”; and

9 (C) by inserting before the period at the
10 end the following: “, and (5) on October 1,
11 2002, and each October 1 thereafter, the Sec-
12 retary shall adjust the standard deduction to
13 the nearest lower dollar increment to reflect
14 changes in the Consumer Price Index for all
15 urban consumers published by the Bureau of
16 Labor Statistics, for items other than food, for
17 the 12-month period ending the preceding June
18 30”;

19 (2) in the third sentence, by striking “willfully
20 or fraudulently” and all that follows through “to re-
21 port” and inserting “has not reported”;

22 (3) in the seventh sentence, by striking “may
23 use a standard” and all that follows through “except
24 that a” and inserting “may make the use of a stand-
25 ard utility allowance mandatory for all households
26 with qualifying utility costs if the State agency has

1 developed 1 or more standards that include the cost
2 of heating and cooling and 1 or more standards that
3 do not include the cost of heating and cooling and
4 the Secretary finds that the standards will not result
5 in an increased cost to the Secretary. A State agen-
6 cy that has not made the use of a standard utility
7 allowance mandatory under the preceding sentence
8 shall allow a household to switch, at the end of a
9 certification period, between the standard utility al-
10 lowance and a deduction based on the actual utility
11 costs of the household. A”;

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

15 (b) HOMELESS SHELTER DEDUCTION.—Section
16 11(e)(3) of the Act (7 U.S.C. 2020(e)(3)) is amended by
17 striking the last 3 sentences and inserting the following:
18 “A State agency may develop a standard homeless shelter
19 deduction, which shall not exceed \$139 per month, for
20 such expenses as may reasonably be expected to be in-
21 curred by households in which all members are homeless
22 individuals but are not receiving free shelter throughout
23 the month. A State agency that develops the deduction
24 may use the deduction in determining eligibility and allot-
25 ments for the households, except that the State agency

1 may prohibit the use of the deduction for households with
2 extremely low shelter costs;”.

3 **SEC. 1408. AMOUNT OF VEHICLE ASSET LIMITATION.**

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

9 **SEC. 1409. BENEFITS FOR ALIENS.**

10 Section 5(i) of the Food Stamp Act of 1977 (7 U.S.C.
11 2014(i)) is amended—

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

13 (A) by inserting “or who executed such an
14 affidavit or similar agreement to enable the in-
15 dividual to lawfully remain in the United
16 States,” after “respect to such individual;” and

17 (B) by striking “for a period” and all that
18 follows through the period at the end of the
19 sentence and inserting “until the end of the pe-
20 riod ending on the later of the date agreed to
21 in the affidavit or agreement or the date that
22 is 5 years after the date on which the individual
23 was first lawfully admitted into the United
24 States following the execution of the affidavit or
25 agreement.”;

1 (2) in paragraph (2)—

2 (A) in the first sentence of subparagraph
3 (C)(i), by striking “of three years after entry
4 into the United States” and inserting “deter-
5 mined under paragraph (1)”;

6 (B) in the first sentence of subparagraph
7 (D), by striking “of three years after such
8 alien’s entry into the United States” and insert-
9 ing “determined under paragraph (1)”; and

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

11 “(F) LIMITATION ON MEASUREMENT OF
12 ATTRIBUTED INCOME AND RESOURCES.—

13 “(i) IN GENERAL.—Notwithstanding
14 any other provision of this subsection, if a
15 determination described in clause (ii) is
16 made, the amount of income and resources
17 of the sponsor or the sponsor’s spouse that
18 shall be attributed to the sponsored indi-
19 vidual shall not exceed the amount actually
20 provided to the individual, for—

21 “(I) the 12-month period begin-
22 ning on the date of the determination;
23 or

24 “(II) if the address of the spon-
25 sor is unknown to the sponsored indi-

1 vidual on the date of the determina-
2 tion, the 12-month period beginning
3 on the date the address becomes
4 known to the sponsored individual or
5 to the Secretary (who shall inform the
6 individual of the address not later
7 than 7 days after learning the ad-
8 dress).

9 “(ii) DETERMINATION.—The deter-
10 mination described in this clause shall be a
11 determination by the Secretary that a
12 sponsored individual would, in the absence
13 of the assistance provided by this Act, be
14 unable to obtain food, taking into account
15 the individual’s own income, plus any cash,
16 food, housing, or other assistance provided
17 by other individuals, including the spon-
18 sor.”; and

19 (3) by adding at the end the following:

20 “(3) TREATMENT OF NONCITIZENS.—

21 “(A) IN GENERAL.—Notwithstanding any
22 other provision of law, a noncitizen who has en-
23 tered into the United States on or after the
24 date of the enactment of this paragraph shall
25 not, during the 5-year period beginning on the

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

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

6 “(i) a noncitizen granted asylum
7 under section 208 of the Immigration and
8 Nationality Act (8 U.S.C. 1158) or whose
9 deportation has been withheld under sec-
10 tion 243(h) of the Act (8 U.S.C. 1253(b))
11 for a period of not more than 5 years after
12 the date the noncitizen arrived in the Unit-
13 ed States;

14 “(ii) a noncitizen admitted to the
15 United States as a refugee under section
16 207 of the Act (8 U.S.C. 1157) for not
17 more than 5 years after the date the
18 noncitizen arrived in the United States; or

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

22 “(I) a veteran (as defined in sec-
23 tion 101 of title 38, United States
24 Code) with a discharge characterized

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

3 “(II) the spouse or unmarried de-
4 pendent child of a veteran described
5 in subclause (I).”.

6 **SEC. 1410. DISQUALIFICATION.**

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

9 (1) by striking “(d)(1) Unless otherwise ex-
10 empted by the provisions” and all that follows
11 through “shall be ninety days. The” and inserting
12 the following:

13 “(d) CONDITIONS OF PARTICIPATION.—

14 “(1) WORK REQUIREMENTS.—

15 “(A) IN GENERAL.—No physically and
16 mentally fit individual over the age of 15 and
17 under the age of 60 shall be eligible to partici-
18 pate in the food stamp program if the individ-
19 ual—

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

24 “(ii) refuses without good cause to
25 participate in an employment and training

1 program under paragraph (4), to the ex-
2 tent required by the State agency;

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

8 “(I) the applicable Federal or
9 State minimum wage; or

10 “(II) 80 percent of the wage that
11 would have governed had the mini-
12 mum hourly rate under section
13 6(a)(1) of the Fair Labor Standards
14 Act of 1938 (29 U.S.C. 206(a)(1))
15 been applicable to the offer of employ-
16 ment;

17 “(iv) refuses without good cause to
18 provide a State agency with sufficient in-
19 formation to allow the State agency to de-
20 termine the employment status or the job
21 availability of the individual;

22 “(v) voluntarily and without good
23 cause—

24 “(I) quits a job; or

1 “(II) reduces work effort and,
2 after the reduction, the individual is
3 working less than 30 hours per week;
4 or

5 “(vi) fails to comply with section 20.

6 “(B) HOUSEHOLD INELIGIBILITY.—If an
7 individual who is the head of a household be-
8 comes ineligible to participate in the food stamp
9 program under subparagraph (A), the house-
10 hold shall, at the option of the State agency,
11 become ineligible to participate in the food
12 stamp program for a period, determined by the
13 State agency, that does not exceed the lesser
14 of—

15 “(i) the duration of the ineligibility of
16 the individual determined under subpara-
17 graph (C); or

18 “(ii) 180 days.

19 “(C) DURATION OF INELIGIBILITY.—

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

1 “(I) the date the individual be-
2 comes eligible under subparagraph
3 (A);

4 “(II) the date that is 1 month
5 after the date the individual became
6 ineligible; or

7 “(III) a date determined by the
8 State agency that is not later than 3
9 months after the date the individual
10 became ineligible.

11 “(ii) SECOND VIOLATION.—The sec-
12 ond time that an individual becomes ineli-
13 gible to participate in the food stamp pro-
14 gram under subparagraph (A), the individ-
15 ual shall remain ineligible until the later
16 of—

17 “(I) the date the individual be-
18 comes eligible under subparagraph
19 (A);

20 “(II) the date that is 3 months
21 after the date the individual became
22 ineligible; or

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

1 months after the date the individual
2 became ineligible.

3 “(iii) THIRD OR SUBSEQUENT VIOLA-
4 TION.—The third or subsequent time that
5 an individual becomes ineligible to partici-
6 pate in the food stamp program under sub-
7 paragraph (A), the individual shall remain
8 ineligible until the later of—

9 “(I) the date the individual be-
10 comes eligible under subparagraph
11 (A);

12 “(II) the date that is 6 months
13 after the date the individual became
14 ineligible;

15 “(III) a date determined by the
16 State agency; or

17 “(IV) at the option of the State
18 agency, permanently.

19 “(D) OTHER CONDITIONS.—The”; and

20 (2) in paragraph (1), by striking “Any period
21 of ineligibility” and all that follows through “vio-
22 lated.”.

23 (b) CONFORMING AMENDMENT.—

1 (1) The second sentence of section 17(b)(2) of
2 the Act (7 U.S.C. 2026(b)(2)) is amended by strik-
3 ing “6(d)(1)(i)” and inserting “6(d)(1)(A)(i)”.

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

7 “(f) DISQUALIFICATION.—An individual or a house-
8 hold may become ineligible under section 6(d)(1) to par-
9 ticipate in the food stamp program for failing to comply
10 with this section.”.

11 **SEC. 1411. EMPLOYMENT AND TRAINING.**

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

15 “(O) LIMITATION ON FUNDING.—Notwith-
16 standing any other provision of this paragraph,
17 the amount of funds a State agency uses to
18 carry out this paragraph (including under sub-
19 paragraph (I)) for participants who are receiv-
20 ing benefits under a State program funded
21 under part A of title IV of the Social Security
22 Act (42 U.S.C. 601 et seq.) shall not exceed the
23 amount of funds the State agency used in fiscal
24 year 1995 to carry out this paragraph for par-
25 ticipants who were receiving benefits in fiscal

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

4 (b) FUNDING.—Section 16(h) of the Act (7 U.S.C.
 5 2025(h)) is amended by striking “(h)(1)(A) The Sec-
 6 retary” and all that follows through the end of paragraph
 7 (1) and inserting the following:

8 “(h) FUNDING OF EMPLOYMENT AND TRAINING
 9 PROGRAMS.—

10 “(1) IN GENERAL.—

11 “(A) AMOUNTS.—To carry out employ-
 12 ment and training programs, the Secretary
 13 shall reserve for allocation to State agencies
 14 from funds made available for each fiscal year
 15 under section 18(a)(1) the amount of—

16 “(i) for fiscal year 1996, \$77,000,000;

17 “(ii) for fiscal year 1997,
 18 \$80,000,000;

19 “(iii) for fiscal year 1998,
 20 \$83,000,000;

21 “(iv) for fiscal year 1999,
 22 \$86,000,000;

23 “(v) for fiscal year 2000,
 24 \$89,000,000;

1 “(vi) for fiscal year 2001,
2 \$92,000,000; and

3 “(vii) for fiscal year 2002,
4 \$95,000,000.

5 “(B) ALLOCATION.—The Secretary shall
6 allocate the amounts reserved under subpara-
7 graph (A) among the State agencies using a
8 reasonable formula (as determined by the Sec-
9 retary) that gives consideration to the popu-
10 lation in each State affected by section 6(n).

11 “(C) REALLOCATION.—

12 “(i) NOTIFICATION.—A State agency
13 shall promptly notify the Secretary if the
14 State agency determines that the State
15 agency will not expend all of the funds al-
16 located to the State agency under subpara-
17 graph (B).

18 “(ii) REALLOCATION.—On notification
19 under clause (i), the Secretary shall reallo-
20 cate the funds that the State agency will
21 not expend as the Secretary considers ap-
22 propriate and equitable.

23 “(D) MINIMUM ALLOCATION.—Notwith-
24 standing subparagraphs (A) through (C), the
25 Secretary shall ensure that each State agency

1 operating an employment and training program
2 shall receive not less than \$50,000 for each fis-
3 cal year.”.

4 **SEC. 1412. INCOME CALCULATION.**

5 Section 6(f) of the Food Stamp Act of 1977 (7
6 U.S.C. 2015(f)) is amended by striking the third sentence
7 and inserting the following: “The State agency may con-
8 sider either all income and financial resources of the indi-
9 vidual rendered ineligible to participate in the food stamp
10 program under this subsection, or the income, less a pro
11 rata share, and the financial resources of the ineligible in-
12 dividual, to determine the eligibility and the value of the
13 allotment of the household of which the individual is a
14 member.”.

15 **SEC. 1413. COMPARABLE TREATMENT FOR DISQUALIFICA-**
16 **TION.**

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

20 “(i) COMPARABLE TREATMENT FOR DISQUALIFICA-
21 TION.—

22 “(1) IN GENERAL.—If a disqualification is im-
23 posed on a member of a household for a failure of
24 the member to perform an action required under a
25 Federal, State, or local law relating to a welfare or

1 public assistance program, the State agency may im-
 2 pose the same disqualification on the member of the
 3 household under the food stamp program.

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

11 (b) CONFORMING AMENDMENT.—Section 6(d)(2)(A)
 12 of the Act (7 U.S.C. 2015(d)(2)(A)) is amended by strik-
 13 ing “that is comparable to a requirement of paragraph
 14 (1)”.

15 **SEC. 1414. COOPERATION WITH CHILD SUPPORT AGENCIES.**

16 Section 6 of the Food Stamp Act of 1977 (7 U.S.C.
 17 2015) (as amended by section 1413) is further amended
 18 by adding at the end the following:

19 “(j) CUSTODIAL PARENT’S COOPERATION WITH
 20 CHILD SUPPORT AGENCIES.—

21 “(1) IN GENERAL.—At the option of a State
 22 agency, subject to paragraphs (2) and (3), no natu-
 23 ral or adoptive parent or other individual (collec-
 24 tively referred to in this subsection as ‘the individ-
 25 ual’) who is living with and exercising parental con-

1 trol over a child under the age of 18 who has an ab-
2 sent parent shall be eligible to participate in the food
3 stamp program unless the individual cooperates with
4 the State agency administering the program estab-
5 lished under part D of title IV of the Social Security
6 Act (42 U.S.C. 651 et seq.)—

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

9 “(B) in obtaining support for—

10 “(i) the child; or

11 “(ii) the individual and the child.

12 “(2) GOOD CAUSE FOR NONCOOPERATION.—

13 Paragraph (1) shall not apply to the individual if
14 good cause is found for refusing to cooperate, as de-
15 termined by the State agency in accordance with
16 standards prescribed by the Secretary in consulta-
17 tion with the Secretary of Health and Human Serv-
18 ices. The standards shall take into consideration cir-
19 cumstances under which cooperation may be against
20 the best interests of the child.

21 “(3) FEES.—Paragraph (1) shall not require
22 the payment of a fee or other cost for services pro-
23 vided under part D of title IV of the Social Security
24 Act (42 U.S.C. 651 et seq.).”.

1 **SEC. 1415. DISQUALIFICATION FOR CHILD SUPPORT AR-**
2 **REARS.**

3 Section 6 of the Food Stamp Act of 1977 (7 U.S.C.
4 2015) (as amended by section 1414) is further amended
5 by adding at the end the following:

6 “(k) DISQUALIFICATION FOR CHILD SUPPORT AR-
7 REARS.—

8 “(1) IN GENERAL.—At the option of a State
9 agency, except as provided in paragraph (2), no indi-
10 vidual shall be eligible to participate in the food
11 stamp program as a member of any household dur-
12 ing any month that the individual is delinquent in
13 any payment due under a court order for the sup-
14 port of a child of the individual.

15 “(2) EXCEPTIONS.—Paragraph (1) shall not
16 apply if—

17 “(A) a court is allowing the individual to
18 delay payment; or

19 “(B) the individual is complying with a
20 payment plan approved by a court or the State
21 agency designated under part D of title IV of
22 the Social Security Act (42 U.S.C. 651 et seq.)
23 to provide support for the child of the individ-
24 ual.”.

1 **SEC. 1416. PERMANENT DISQUALIFICATION FOR PARTICI-**
 2 **PATING IN 2 OR MORE STATES.**

3 Section 6 of the Food Stamp Act of 1977 (7 U.S.C.
 4 2015) (as amended by section 1415) is further amended
 5 by adding at the end the following:

6 “(1) PERMANENT DISQUALIFICATION FOR PARTICI-
 7 PATING IN 2 OR MORE STATES.—An individual shall be
 8 permanently ineligible to participate in the food stamp
 9 program as a member of any household if the individual
 10 is found by a State agency to have made, or is convicted
 11 in Federal or State court of having made, a fraudulent
 12 statement or representation with respect to the place of
 13 residence of the individual in order to receive benefits si-
 14 multaneously from 2 or more States under the food stamp
 15 program.”.

16 **SEC. 1417. WORK REQUIREMENT.**

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

20 “(m) WORK REQUIREMENT.—

21 “(1) DEFINITION OF WORK PROGRAM.—In this
 22 subsection, the term ‘work program’ means—

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

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

1 “(C) a program of employment or training
2 operated or supervised by a State or political
3 subdivision of a State that meets standards ap-
4 proved by the Governor of the State, including
5 a program under subsection (d)(4) other than a
6 job search program or a job search training
7 program under clause (i) or (ii) of subsection
8 (d)(4)(B).

9 “(2) WORK REQUIREMENT.—Except as other-
10 wise provided in this subsection, no individual shall
11 be eligible to participate in the food stamp program
12 as a member of any household if, during the preced-
13 ing 12-month period, the individual received food
14 stamp benefits for not less than 6 months during
15 which the individual did not—

16 “(A) work 20 hours or more per week,
17 averaged monthly; or

18 “(B) participate in and comply with the re-
19 quirements of a work program for 20 hours or
20 more per week, as determined by the State
21 agency.

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

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

1 “(B) medically certified as physically or
2 mentally unfit for employment;

3 “(C) a parent or other member of a house-
4 hold with responsibility for a dependent child;
5 or

6 “(D) otherwise exempt under subsection
7 (d)(2).

8 “(4) WAIVER.—On the request of a State agen-
9 cy, the Secretary may waive the applicability of
10 paragraph (2) to any group of individuals in the
11 State if the Secretary makes a determination that
12 the area in which the individuals reside—

13 “(A) has an unemployment rate of over 8
14 percent; or

15 “(B) does not have a sufficient number of
16 jobs to provide employment for the individ-
17 uals.”.

18 (b) TRANSITION PROVISION.—Prior to October 1,
19 1996, the term “preceding 12-month period” in section
20 6(m)(2) of the Food Stamp Act of 1977 (as added by sub-
21 section (a)) means the preceding period that begins on Oc-
22 tober 1, 1995.

1 **SEC. 1418. DISQUALIFICATION OF FLEEING FELONS.**

2 Section 6 of the Food Stamp Act of 1977 (7 U.S.C.
3 2015) (as amended by section 1417) is further amended
4 by adding at the end the following:

5 “(n) DISQUALIFICATION OF FLEEING FELONS.—No
6 member of a household who is otherwise eligible to partici-
7 pate in the food stamp program shall be eligible to partici-
8 pate in the program as a member of that or any other
9 household during any period during which the individual
10 is—

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

18 “(2) violating a condition of probation or parole
19 imposed under a Federal or State law.”.

20 **SEC. 1419. ELECTRONIC BENEFIT TRANSFERS.**

21 Section 7 of the Food Stamp Act of 1977 (7 U.S.C.
22 2016) is amended by adding at the end the following:

23 “(j) ELECTRONIC BENEFIT TRANSFERS.—

24 “(1) APPLICABLE LAW.—

25 “(A) IN GENERAL.—Disclosures, protec-
26 tions, responsibilities, and remedies established

1 by the Federal Reserve Board under section
2 904 of the Electronic Fund Transfer Act (15
3 U.S.C. 1693b) shall not apply to benefits under
4 this Act delivered through any electronic benefit
5 transfer system.

6 “(B) DEFINITION OF ELECTRONIC BENE-
7 FIT TRANSFER SYSTEM.—In this paragraph,
8 the term ‘electronic benefit transfer system’
9 means a system under which a governmental
10 entity distributes benefits under this Act or
11 other benefits or payments by establishing ac-
12 counts to be accessed by recipients of the bene-
13 fits electronically, including through the use of
14 an automated teller machine, a point-of-sale
15 terminal, or an intelligent benefit card.

16 “(2) CHARGING FOR ELECTRONIC BENEFIT
17 TRANSFER CARD REPLACEMENT.—

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

21 “(B) REDUCING ALLOTMENT.—A State
22 agency may collect a charge imposed under sub-
23 paragraph (A) by reducing the monthly allot-
24 ment of the household of which the individual
25 is a member.”.

1 **SEC. 1420. MINIMUM BENEFIT.**

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

5 **SEC. 1421. BENEFITS ON RECERTIFICATION.**

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

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

11 Section 8 of the Food Stamp Act of 1977 (7 U.S.C.
12 2017) is amended by striking subsection (d) and inserting
13 the following:

14 “(d) REDUCTION OF PUBLIC ASSISTANCE BENE-
15 FITS.—If the benefits of a household are reduced under
16 a Federal, State, or local law relating to a welfare or pub-
17 lic assistance program for the failure to perform an action
18 required under the law or program, for the duration of
19 the reduction—

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

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

1 **SEC. 1423. ALLOTMENTS FOR HOUSEHOLDS RESIDING IN**
2 **INSTITUTIONS.**

3 Section 8 of the Food Stamp Act of 1977 (7 U.S.C.
4 2017) is amended by adding at the end the following:

5 “(f) ALLOTMENTS FOR HOUSEHOLDS RESIDING IN
6 INSTITUTIONS.—In the case of an individual who resides
7 in a homeless shelter, or in an institution or center for
8 the purpose of a drug or alcoholic treatment program, de-
9 scribed in the last sentence of section 3(i), a State agency
10 may provide an allotment for the individual to—

11 “(1) the institution as an authorized represent-
12 ative for the individual for a period that is less than
13 1 month; and

14 “(2) the individual, if the individual leaves the
15 institution.”.

16 **SEC. 1424. COLLECTION OF OVERISSUANCES.**

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

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

21 “(b) COLLECTION OF OVERISSUANCES.—

22 “(1) IN GENERAL.—Except as otherwise pro-
23 vided in this subsection, a State agency shall collect
24 any overissuance of coupons issued to a household
25 by—

1 “(A) reducing the allotment of the house-
2 hold;

3 “(B) withholding unemployment compensa-
4 tion from a member of the household under
5 subsection (c);

6 “(C) recovering from Federal pay or a
7 Federal income tax refund under subsection
8 (d); or

9 “(D) any other means.

10 “(2) COST EFFECTIVENESS.—Paragraph (1)
11 shall not apply if the State agency demonstrates to
12 the satisfaction of the Secretary that all of the
13 means referred to in paragraph (1) are not cost ef-
14 fective.

15 “(3) HARDSHIPS.—A State agency may not use
16 an allotment reduction under paragraph (1)(A) as a
17 means of collecting an overissuance from a house-
18 hold if the allotment reduction would cause a hard-
19 ship on the household, as determined by the State
20 agency.

21 “(4) MAXIMUM REDUCTION ABSENT FRAUD.—
22 If a household received an overissuance of coupons
23 without any member of the household being found
24 ineligible to participate in the program under section
25 6(b)(1) and a State agency elects to reduce the allot-

1 ment of the household under paragraph (1)(A), the
2 State agency shall reduce the monthly allotment of
3 the household under paragraph (1)(A) by the great-
4 er of—

5 “(A) 10 percent of the monthly allotment
6 of the household; or

7 “(B) \$10.

8 “(5) PROCEDURES.—A State agency shall col-
9 lect an overissuance of coupons issued to a house-
10 hold under paragraph (1) in accordance with re-
11 quirements established by the State agency for pro-
12 viding notice, electing a means of payment, and es-
13 tablishing a time schedule for payment.”; and

14 (2) in subsection (d)—

15 (A) by striking “as determined under sub-
16 section (b) and except for claims arising from
17 an error of the State agency,” and inserting “,
18 as determined under subsection (b)(1),”; and

19 (B) by inserting before the period at the
20 end the following: “or a Federal income tax re-
21 fund as authorized by section 3720A of title 31,
22 United States Code”.

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

1 (1) by striking “and excluding claims” and all
2 that follows through “such section”; and

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

7 **SEC. 1425. TERMINATION OF FEDERAL MATCH FOR OP-**
8 **TIONAL INFORMATION ACTIVITIES.**

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

11 (1) by striking paragraph (4); and

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

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

19 **SEC. 1426. WORK SUPPLEMENTATION OR SUPPORT PRO-**
20 **GRAM.**

21 Section 16 of the Food Stamp Act of 1977 (7 U.S.C.
22 2025) is amended by adding at the end the following:

23 “(k) WORK SUPPLEMENTATION OR SUPPORT PRO-
24 GRAM.—

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

9 “(2) PROGRAM.—A State agency may elect to
10 use amounts equal to the allotment that would oth-
11 erwise be allotted to a household under the food
12 stamp program, but for the operation of this sub-
13 section, for the purpose of subsidizing or supporting
14 jobs under a work supplementation or support pro-
15 gram established by the State.

16 “(3) PROCEDURE.—If a State agency makes an
17 election under paragraph (2) and identifies each
18 household that participates in the food stamp pro-
19 gram that contains an individual who is participat-
20 ing in the work supplementation or support pro-
21 gram—

22 “(A) the Secretary shall pay to the State
23 agency an amount equal to the value of the al-
24 lotment that the household would be eligible to
25 receive but for the operation of this subsection;

1 “(B) the State agency shall expend the
2 amount paid under subparagraph (A) in accord-
3 ance with the work supplementation or support
4 program in lieu of providing the allotment that
5 the household would receive but for the oper-
6 ation of this subsection;

7 “(C) for purposes of—

8 “(i) sections 5 and 8(a), the amount
9 received under this subsection shall be ex-
10 cluded from household income and re-
11 sources; and

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

16 “(D) the household shall not receive an al-
17 lotment from the State agency for the period
18 during which the member continues to partici-
19 pate in the work supplementation or support
20 program.

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

1 **SEC. 1427. PRIVATE SECTOR EMPLOYMENT INITIATIVES.**

2 Section 17 of the Food Stamp Act of 1977 (7 U.S.C.
3 2026) is amended by adding at the end the following:

4 “(m) PRIVATE SECTOR EMPLOYMENT INITIA-
5 TIVES.—

6 “(1) ELECTION TO PARTICIPATE.—

7 “(A) IN GENERAL.—Subject to the other
8 provisions of this subsection, a State may elect
9 to carry out a private sector employment initia-
10 tive program under this subsection.

11 “(B) REQUIREMENT.—A State shall be eli-
12 gible to carry out a private sector employment
13 initiative under this subsection only if not less
14 than 50 percent of the households that received
15 food stamp benefits during the summer of 1993
16 also received benefits under a State program
17 funded under part A of title IV of the Social
18 Security Act (42 U.S.C. 601 et seq.) during the
19 summer of 1993.

20 “(2) PROCEDURE.—A State that has elected to
21 carry out a private sector employment initiative
22 under paragraph (1) may use amounts equal to the
23 food stamp allotments that would otherwise be allot-
24 ted to a household under the food stamp program,
25 but for the operation of this subsection, to provide
26 cash benefits in lieu of the food stamp allotments to

1 the household if the household is eligible under para-
2 graph (3).

3 “(3) ELIGIBILITY.—A household shall be eligi-
4 ble to receive cash benefits under paragraph (2) if
5 an adult member of the household—

6 “(A) has worked in unsubsidized employ-
7 ment in the private sector for not less than the
8 preceding 90 days;

9 “(B) has earned not less than \$350 per
10 month from the employment referred to in sub-
11 paragraph (A) for not less than the preceding
12 90 days;

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

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

1 “(D) is continuing to earn not less than
2 \$350 per month from the employment referred
3 to in subparagraph (A); and

4 “(E) elects to receive cash benefits in lieu
5 of food stamp benefits under this subsection.”.

6 **SEC. 1428. REAUTHORIZATION OF APPROPRIATIONS.**

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

10 **SEC. 1429. OPTIONAL STATE FOOD ASSISTANCE BLOCK**
11 **GRANT.**

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

14 **“SEC. 24. OPTIONAL STATE FOOD ASSISTANCE BLOCK**
15 **GRANT.**

16 “(a) ESTABLISHMENT.—The Secretary shall estab-
17 lish a program to make grants to States in accordance
18 with this section to provide—

19 “(1) food assistance to needy individuals and
20 families residing in the State;

21 “(2) at the option of a State, wage subsidies
22 and payments in return for work for needy individ-
23 uals under the program;

1 “(3) funds to operate an employment and train-
2 ing program under subsection (g)(2) for needy indi-
3 viduals under the program; and

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

6 “(b) ELECTION.—

7 “(1) IN GENERAL.—A State may elect to par-
8 ticipate in the program established under subsection
9 (a).

10 “(2) ELECTION REVOCABLE.—A State that
11 elects to participate in the program established
12 under subsection (a) may subsequently reverse the
13 election of the State only once thereafter. Following
14 the reversal, the State shall only be eligible to par-
15 ticipate in the food stamp program in accordance
16 with the other sections of this Act and shall not re-
17 ceive a block grant under this section.

18 “(3) PROGRAM EXCLUSIVE.—A State that is
19 participating in the program established under sub-
20 section (a) shall not be subject to, or receive any
21 benefit under, this Act except as provided in this
22 section.

23 “(c) LEAD AGENCY.—

24 “(1) DESIGNATION.—A State desiring to par-
25 ticipate in the program established under this sec-

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

5 “(2) DUTIES.—The lead agency shall—

6 “(A) administer, either directly, through
7 other State agencies, or through local agencies,
8 the assistance received under this section by the
9 State;

10 “(B) develop the State plan to be submit-
11 ted to the Secretary under subsection (d)(1);
12 and

13 “(C) coordinate the provision of food as-
14 sistance under this section with other Federal,
15 State, and local programs.

16 “(d) APPLICATION AND PLAN.—

17 “(1) APPLICATION.—To be eligible to receive
18 assistance under this section, a State shall prepare
19 and submit to the Secretary an application at such
20 time, in such manner, and containing such informa-
21 tion as the Secretary shall by regulation require, in-
22 cluding—

23 “(A) an assurance that the State will com-
24 ply with the requirements of this section;

1 “(B) a State plan that meets the require-
2 ments of paragraph (3); and

3 “(C) an assurance that the State will com-
4 ply with the requirements of the State plan
5 under paragraph (3).

6 “(2) ANNUAL PLAN.—The State plan contained
7 in the application under paragraph (1) shall be sub-
8 mitted for approval annually.

9 “(3) REQUIREMENTS OF PLAN.—

10 “(A) LEAD AGENCY.—The State plan shall
11 identify the lead agency.

12 “(B) USE OF BLOCK GRANT FUNDS.—The
13 State plan shall provide that the State shall use
14 the amounts provided to the State for each fis-
15 cal year under this section—

16 “(i) to provide food assistance to
17 needy individuals and families residing in
18 the State, other than residents of institu-
19 tions who are ineligible for food stamps
20 under section 3(i);

21 “(ii) at the option of a State, to pro-
22 vide wage subsidies or workfare under sec-
23 tion 20(a) (except that any reference in
24 section 20(a) to an allotment shall be con-
25 sidered a reference to the food assistance

1 or benefits in lieu of food assistance re-
2 ceived by an individual or family during a
3 month under this section) for needy indi-
4 viduals and families participating in the
5 program;

6 “(iii) to administer an employment
7 and training program under subsection
8 (g)(2) for needy individuals under the pro-
9 gram and to provide reimbursements to
10 needy individuals and families as would be
11 allowed under section 16(h)(3); and

12 “(iv) to pay administrative costs in-
13 curred in providing the assistance.

14 “(C) ASSISTANCE FOR ENTIRE STATE.—

15 The State plan shall provide that benefits under
16 this section shall be available throughout the
17 entire State.

18 “(D) NOTICE AND HEARINGS.—The State
19 plan shall provide that an individual or family
20 who applies for, or receives, assistance under
21 this section shall be provided with notice of, and
22 an opportunity for a hearing on, any action
23 under this section that adversely affects the in-
24 dividual or family.

25 “(E) OTHER ASSISTANCE.—

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

7 “(ii) PENALTIES.—If an individual or
8 family is penalized for violating part A of
9 title IV of the Act, the State plan may re-
10 duce the amount of assistance provided
11 under this section or otherwise penalize the
12 individual or family.

13 “(F) ELIGIBILITY LIMITATIONS.—The
14 State plan shall describe the income and re-
15 source eligibility limitations that are established
16 for the receipt of assistance under this section.

17 “(G) RECEIVING BENEFITS IN MORE THAN
18 1 JURISDICTION.—The State plan shall estab-
19 lish a system to verify and otherwise ensure
20 that no individual or family shall receive bene-
21 fits under this section in more than 1 jurisdic-
22 tion within the State.

23 “(H) PRIVACY.—The State plan shall pro-
24 vide for safeguarding and restricting the use
25 and disclosure of information about any individ-

1 ual or family receiving assistance under this
2 section.

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

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

10 “(e) LIMITATIONS ON STATE ALLOTMENTS.—

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

13 “(A) entitles any individual or family to
14 assistance under this section; or

15 “(B) limits the right of a State to impose
16 additional limitations or conditions on assist-
17 ance under this section.

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

23 “(f) BENEFITS FOR ALIENS.—

24 “(1) ELIGIBILITY.—No individual shall be eligi-
25 ble to receive benefits under a State plan approved

1 under subsection (d)(4) if the individual is not eligi-
2 ble to participate in the food stamp program under
3 section 6(f).

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

7 “(g) EMPLOYMENT AND TRAINING.—

8 “(1) WORK REQUIREMENTS.—No individual or
9 member of a family shall be eligible to receive bene-
10 fits under a State plan funded under this section if
11 the individual is not eligible to participate in the
12 food stamp program under subsection (d) or (m) of
13 section 6.

14 “(2) WORK PROGRAMS.—Each State shall im-
15 plement an employment and training program de-
16 scribed in section 6(d)(4) for needy individuals
17 under the program.

18 “(h) ENFORCEMENT.—

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

23 “(2) NONCOMPLIANCE.—

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

4 “(i) there has been a failure by the
5 State to comply substantially with any pro-
6 vision or requirement set forth in the State
7 plan approved under subsection (d)(4); or

8 “(ii) in the operation of any program
9 or activity for which assistance is provided
10 under this section, there is a failure by the
11 State to comply substantially with any pro-
12 vision of this section;

13 the Secretary shall notify the State of the find-
14 ing and that no further payments will be made
15 to the State under this section (or, in the case
16 of noncompliance in the operation of a program
17 or activity, that no further payments to the
18 State will be made with respect to the program
19 or activity) until the Secretary is satisfied that
20 there is no longer any failure to comply or that
21 the noncompliance will be promptly corrected.

22 “(B) OTHER SANCTIONS.—In the case of a
23 finding of noncompliance made pursuant to
24 subparagraph (A), the Secretary may, in addi-
25 tion to, or in lieu of, imposing the sanctions de-

1 scribed in subparagraph (A), impose other ap-
2 propriate sanctions, including recoupment of
3 money improperly expended for purposes pro-
4 hibited or not authorized by this section and
5 disqualification from the receipt of financial as-
6 sistance under this section.

7 “(C) NOTICE.—The notice required under
8 subparagraph (A) shall include a specific identi-
9 fication of any additional sanction being im-
10 posed under subparagraph (B).

11 “(3) ISSUANCE OF REGULATIONS.—The Sec-
12 retary shall establish by regulation procedures for—

13 “(A) receiving, processing, and determin-
14 ing the validity of complaints concerning any
15 failure of a State to comply with the State plan
16 or any requirement of this section; and

17 “(B) imposing sanctions under this sec-
18 tion.

19 “(4) INCOME AND ELIGIBILITY VERIFICATION
20 SYSTEM.—The Secretary may withhold not more
21 than 5 percent of the amount allotted to a State
22 under subsection (1)(2) if the State does not use an
23 income and eligibility verification system established
24 under section 1137 of the Social Security Act (42
25 U.S.C. 1320b-7).

1 “(i) PAYMENTS.—

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

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

13 “(3) SPENDING OF FUNDS BY STATE.—

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

19 “(B) CARRYOVER.—The State may reserve
20 up to 10 percent of an allotment under sub-
21 section (l)(2) for a fiscal year to provide assist-
22 ance under this section in subsequent fiscal
23 years, except that the reserved funds may not
24 exceed 30 percent of the total allotment re-
25 ceived under this section for a fiscal year.

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

4 “(A) not less than 80 percent shall be for
5 food assistance; and

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

8 “(5) PROVISION OF FOOD ASSISTANCE.—A
9 State may provide food assistance under this section
10 in any manner determined appropriate by the State
11 to provide food assistance to needy individuals and
12 families in the State, such as electronic benefits
13 transfer limited to food purchases, coupons limited
14 to food purchases, or direct provision of commod-
15 ities.

16 “(6) DEFINITION OF FOOD ASSISTANCE.—In
17 this section, the term ‘food assistance’ means assist-
18 ance that may be used only to obtain food, as de-
19 fined in section 3(g).

20 “(j) AUDITS.—

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

1 “(2) INDEPENDENT AUDITOR.—An audit under
2 this section shall be conducted by an entity that is
3 independent of any agency administering activities
4 that receive assistance under this section and be in
5 accordance with generally accepted auditing prin-
6 ciples.

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

12 “(4) SUBMISSION.—Not later than 30 days
13 after the completion of an audit under this section,
14 the State shall submit a copy of the audit to the leg-
15 islature of the State and to the Secretary.

16 “(5) REPAYMENT OF AMOUNTS.—Each State
17 shall repay to the United States any amounts deter-
18 mined through an audit under this section to have
19 not been expended in accordance with this section or
20 to have not been expended in accordance with the
21 State plan, or the Secretary may offset the amounts
22 against any other amount paid to the State under
23 this section.

24 “(k) NONDISCRIMINATION.—

1 “(1) IN GENERAL.—The Secretary shall not
2 provide financial assistance for any program,
3 project, or activity under this section if any person
4 with responsibilities for the operation of the pro-
5 gram, project, or activity discriminates with respect
6 to the program, project, or activity because of race,
7 religion, color, national origin, sex, or disability.

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

12 “(1) ALLOTMENTS.—

13 “(1) DEFINITION OF STATE.—In this section,
14 the term ‘State’ means each of the 50 States, the
15 District of Columbia, Guam, and the Virgin Islands
16 of the United States.

17 “(2) STATE ALLOTMENT.—

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

1 “(i) the greater of, as determined by
2 the Secretary—

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

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

12 “(ii) the greater of, as determined by
13 the Secretary—

14 “(I) the total amount received by
15 the State for administrative costs and
16 the employment and training program
17 under subsections (a) and (h), respec-
18 tively, of section 16 of this Act for fis-
19 cal year 1994; or

20 “(II) the average per fiscal year
21 of the total amount received by the
22 State for administrative costs and the
23 employment and training program
24 under subsections (a) and (h), respec-
25 tively, of section 16 of this Act for

1 each of fiscal years 1992 through
2 1994.

3 “(B) INSUFFICIENT FUNDS.—If the Sec-
4 retary finds that the total amount of allotments
5 to which States would otherwise be entitled for
6 a fiscal year under subparagraph (A) will ex-
7 ceed the amount of funds that will be made
8 available to provide the allotments for the fiscal
9 year, the Secretary shall reduce the allotments
10 made to States under this subsection, on a pro
11 rata basis, to the extent necessary to allot
12 under this subsection a total amount that is
13 equal to the funds that will be made available.”.

14 **SEC. 1430. EFFECTIVE DATE.**

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

18 **CHAPTER 2—CHILD NUTRITION**

19 **PROGRAMS**

20 **PART I—REIMBURSEMENT RATES**

21 **SEC. 1441. TERMINATION OF ADDITIONAL PAYMENT FOR**
22 **LUNCHES SERVED IN HIGH FREE AND RE-**
23 **DUCE PRICE PARTICIPATION SCHOOLS.**

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

1 striking “except that” and all that follows through “2
2 cents more”.

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

5 **SEC. 1442. LUNCHES, BREAKFASTS, AND SUPPLEMENTS.**

6 (a) **IN GENERAL.**—Section 11(a)(3)(B) of the Na-
7 tional School Lunch Act (42 U.S.C. 1759a(a)(3)(B)) is
8 amended—

9 (1) by designating the second and third sen-
10 tences as subparagraphs (C) and (D), respectively;
11 and

12 (2) by striking subparagraph (D) (as so des-
13 igned) and inserting the following:

14 “(D) **ROUNDING.**—Except as otherwise
15 provided in this paragraph, in the case of each
16 school year, the Secretary shall—

17 “(i) base the adjustment made under
18 this paragraph on the amount of the
19 unrounded adjustment for the preceding
20 school year;

21 “(ii) adjust the resulting amount in
22 accordance with subparagraphs (B) and
23 (C); and

24 “(iii) round the result to the nearest
25 lower cent increment.

1 “(E) ADJUSTMENT ON JANUARY 1, 1996.—

2 On January 1, 1996, the Secretary shall adjust
3 the rates and factor for the remainder of the
4 school year by rounding the previously estab-
5 lished rates and factor to the nearest lower cent
6 increment.

7 “(F) ADJUSTMENT FOR 24-MONTH PERIOD

8 BEGINNING JULY 1, 1996.—In the case of the
9 24-month period beginning July 1, 1996, the
10 national average payment rates for paid
11 lunches, paid breakfasts, and paid supplements
12 shall be the same as the national average pay-
13 ment rate for paid lunches, paid breakfasts, and
14 paid supplements, respectively, for the school
15 year beginning July 1, 1995, rounded to the
16 nearest lower cent increment.

17 “(G) ADJUSTMENT FOR SCHOOL YEAR BE-

18 GINNING JULY 1, 1998.—In the case of the
19 school year beginning July 1, 1998, the Sec-
20 retary shall—

21 “(i) base the adjustments made under
22 this paragraph for—

23 “(I) paid lunches and paid break-
24 fasts on the amount of the unrounded
25 adjustment for paid lunches for the

1 school year beginning July 1, 1995;
2 and

3 “(II) paid supplements on the
4 amount of the unrounded adjustment
5 for paid supplements for the school
6 year beginning July 1, 1995;

7 “(ii) adjust each resulting amount in
8 accordance with subparagraph (C); and

9 “(iii) round each result to the nearest
10 lower cent increment.”.

11 (b) EFFECTIVE DATE.—The amendments made by
12 subsection (a) shall become effective on January 1, 1996.

13 **SEC. 1443. FREE AND REDUCED PRICE BREAKFASTS.**

14 (a) IN GENERAL.—Section 4(b) of the Child Nutri-
15 tion Act of 1966 (42 U.S.C. 1773(b)) is amended—

16 (1) in paragraph (1)(B)—

17 (A) in the first sentence, by striking “sec-
18 tion 11(a)” and inserting “subparagraphs (B)
19 through (E) of section 11(a)(3)”; and

20 (B) in the second sentence, by striking “,
21 adjusted to the nearest one-fourth cent” and in-
22 serting “(as adjusted pursuant to subpara-
23 graphs (B) through (E) of section 11(a)(3) of
24 the National School Lunch Act (42 U.S.C.
25 1759a(a)(3)))”; and

1 (2) in paragraph (2)(B)(ii)—

2 (A) by striking “nearest one-fourth cent”
3 and inserting “nearest lower cent increment for
4 the applicable school year”; and

5 (B) by inserting before the period at the
6 end the following: “, and the adjustment re-
7 quired by this clause shall be based on the
8 unrounded adjustment for the preceding school
9 year”.

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

12 **SEC. 1444. CONFORMING REIMBURSEMENT FOR PAID**
13 **BREAKFASTS AND LUNCHES.**

14 (a) IN GENERAL.—The last sentence of section
15 4(b)(1)(B) of the Child Nutrition Act of 1966 (42 U.S.C.
16 1773(b)(1)(B)) is amended by striking “8.25 cents” and
17 all that follows through “Act)” and inserting “the same
18 as the national average lunch payment for paid meals es-
19 tablished under section 4(b) of the National School Lunch
20 Act (42 U.S.C. 1753(b))”.

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

1 **PART II—GRANT PROGRAMS**

2 **SEC. 1451. SCHOOL BREAKFAST STARTUP GRANTS.**

3 (a) IN GENERAL.—Section 4 of the Child Nutrition
4 Act of 1966 (42 U.S.C. 1773) is amended by striking sub-
5 section (g).

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

8 **PART III—OTHER AMENDMENTS**

9 **SEC. 1461. CHILD AND ADULT CARE FOOD PROGRAM.**

10 (a) IMPROVED TARGETING OF DAY CARE HOME RE-
11 IMBURSEMENTS.—

12 (1) RESTRUCTURED DAY CARE HOME REIM-
13 BURSEMENTS.—Section 17(f)(3) of the National
14 School Lunch Act (42 U.S.C. 1766(f)(3)) is amend-
15 ed by striking “(3)(A) Institutions” and all that fol-
16 lows through the end of subparagraph (A) and in-
17 serting the following:

18 “(3) REIMBURSEMENT OF FAMILY OR GROUP
19 DAY CARE HOME SPONSORING ORGANIZATIONS.—

20 “(A) REIMBURSEMENT FACTOR.—

21 “(i) IN GENERAL.—An institution
22 that participates in the program under this
23 section as a family or group day care home
24 sponsoring organization shall be provided,
25 for payment to a home sponsored by the
26 organization, reimbursement factors in ac-

1 cordance with this subparagraph for the
2 cost of obtaining and preparing food and
3 prescribed labor costs involved in providing
4 meals under this section.

5 “(ii) TIER I FAMILY OR GROUP DAY
6 CARE HOMES.—

7 “(I) DEFINITION.—In this para-
8 graph, the term ‘tier I family or group
9 day care home’ means—

10 “(aa) a family or group day
11 care home that is located in a ge-
12 ographic area, as defined by the
13 Secretary based on census data,
14 in which at least 50 percent of
15 the children residing in the area
16 are members of households whose
17 incomes meet the income eligi-
18 bility guidelines for free or re-
19 duced price meals under section
20 9;

21 “(bb) a family or group day
22 care home that is located in an
23 area served by a school enrolling
24 elementary students in which at
25 least 50 percent of the total num-

1 ber of children enrolled are cer-
2 tified as eligible to receive free or
3 reduced price school meals under
4 this Act or the Child Nutrition
5 Act of 1966 (42 U.S.C. 1771 et
6 seq.); or

7 “(cc) a family or group day
8 care home that is operated by a
9 provider whose household meets
10 the income eligibility guidelines
11 for free or reduced price meals
12 under section 9 and whose in-
13 come is verified by the sponsor-
14 ing organization of the home
15 under regulations established by
16 the Secretary.

17 “(II) REIMBURSEMENT.—Except
18 as provided in subclause (III), a tier
19 I family or group day care home shall
20 be provided reimbursement factors
21 under this clause without a require-
22 ment for documentation of the costs
23 described in clause (i), except that re-
24 imbursement shall not be provided
25 under this subclause for meals or sup-

1 plements served to the children of a
2 person acting as a family or group
3 day care home provider unless the
4 children meet the income eligibility
5 guidelines for free or reduced price
6 meals under section 9.

7 “(III) FACTORS.—Except as pro-
8 vided in subclause (IV), the reim-
9 bursement factors applied to a home
10 referred to in subclause (II) shall be
11 the factors in effect on the date of en-
12 actment of this subclause.

13 “(IV) ADJUSTMENTS.—The re-
14 imbursement factors under this sub-
15 paragraph shall be adjusted on Au-
16 gust 1, 1996, July 1, 1997, and each
17 July 1 thereafter, to reflect changes in
18 the Consumer Price Index for food at
19 home for the most recent 12-month
20 period for which the data are avail-
21 able. The reimbursement factors
22 under this subparagraph shall be
23 rounded to the nearest lower cent in-
24 crement and based on the unrounded

1 adjustment in effect on June 30 of
2 the preceding school year.

3 “(iii) TIER II FAMILY OR GROUP DAY
4 CARE HOMES.—

5 “(I) IN GENERAL.—

6 “(aa) FACTORS.—Except as
7 provided in subclause (II), with
8 respect to meals or supplements
9 served under this clause by a
10 family or group day care home
11 that does not meet the criteria
12 set forth in clause (ii)(I), the re-
13 imbursement factors shall be \$1
14 for lunches and suppers, 30 cents
15 for breakfasts, and 15 cents for
16 supplements.

17 “(bb) ADJUSTMENTS.—The
18 factors shall be adjusted on July
19 1, 1997, and each July 1 there-
20 after, to reflect changes in the
21 Consumer Price Index for food at
22 home for the most recent 12-
23 month period for which the data
24 are available. The reimbursement
25 factors under this item shall be

1 rounded down to the nearest
2 lower cent increment and based
3 on the unrounded adjustment for
4 the preceding 12-month period.

5 “(cc) REIMBURSEMENT.—A
6 family or group day care home
7 shall be provided reimbursement
8 factors under this subclause with-
9 out a requirement for docu-
10 mentation of the costs described
11 in clause (i), except that reim-
12 bursement shall not be provided
13 under this subclause for meals or
14 supplements served to the chil-
15 dren of a person acting as a fam-
16 ily or group day care home pro-
17 vider unless the children meet the
18 income eligibility guidelines for
19 free or reduced price meals under
20 section 9.

21 “(II) OTHER FACTORS.—A fam-
22 ily or group day care home that does
23 not meet the criteria set forth in
24 clause (ii)(I) may elect to be provided
25 reimbursement factors determined in

1 accordance with the following require-
2 ments:

3 “(aa) CHILDREN ELIGIBLE
4 FOR FREE OR REDUCED PRICE
5 MEALS.—In the case of meals or
6 supplements served under this
7 subsection to children who are
8 members of households whose in-
9 comes meet the income eligibility
10 guidelines for free or reduced
11 price meals under section 9, the
12 family or group day care home
13 shall be provided reimbursement
14 factors set by the Secretary in
15 accordance with clause (ii)(III).

16 “(bb) INELIGIBLE CHIL-
17 DREN.—In the case of meals or
18 supplements served under this
19 subsection to children who are
20 members of households whose in-
21 comes do not meet the income
22 eligibility guidelines, the family
23 or group day care home shall be
24 provided reimbursement factors
25 in accordance with subclause (I).

1 “(III) INFORMATION AND DE-
2 TERMINATIONS.—

3 “(aa) IN GENERAL.—If a
4 family or group day care home
5 elects to claim the factors de-
6 scribed in subclause (II), the
7 family or group day care home
8 sponsoring organization serving
9 the home shall collect the nec-
10 essary income information, as de-
11 termined by the Secretary, from
12 any parent or other caretaker to
13 make the determinations speci-
14 fied in subclause (II) and shall
15 make the determinations in ac-
16 cordance with rules prescribed by
17 the Secretary.

18 “(bb) CATEGORICAL ELIGI-
19 BILITY.—In making a determina-
20 tion under item (aa), a family or
21 group day care home sponsoring
22 organization may consider a child
23 participating in or subsidized
24 under, or a child with a parent
25 participating in or subsidized

1 under, a federally or State sup-
2 ported child care or other benefit
3 program with an income eligi-
4 bility limit that does not exceed
5 the eligibility standard for free or
6 reduced price meals under section
7 9 to be a child who is a member
8 of a household whose income
9 meets the income eligibility
10 guidelines under section 9.

11 “(cc) FACTORS FOR CHIL-
12 DREN ONLY.—A family or group
13 day care home may elect to re-
14 ceive the reimbursement factors
15 prescribed under clause (ii)(III)
16 solely for the children participat-
17 ing in a program referred to in
18 item (bb) if the home elects not
19 to have income statements col-
20 lected from parents or other care-
21 takers.

22 “(IV) SIMPLIFIED MEAL COUNT-
23 ING AND REPORTING PROCEDURES.—
24 The Secretary shall prescribe sim-
25 plified meal counting and reporting

1 procedures for use by a family or
2 group day care home that elects to
3 claim the factors under subclause (II)
4 and by a family or group day care
5 home sponsoring organization that
6 sponsors the home. The procedures
7 the Secretary prescribes may include
8 1 or more of the following:

9 “(aa) Setting an annual per-
10 centage for each home of the
11 number of meals served that are
12 to be reimbursed in accordance
13 with the reimbursement factors
14 prescribed under clause (ii)(III)
15 and an annual percentage of the
16 number of meals served that are
17 to be reimbursed in accordance
18 with the reimbursement factors
19 prescribed under subclause (I),
20 based on the family income of
21 children enrolled in the home in a
22 specified month or other period.

23 “(bb) Placing a home into 1
24 of 2 or more reimbursement cat-
25 egories annually based on the

1 percentage of children in the
2 home whose households have in-
3 comes that meet the income eligi-
4 bility guidelines under section 9,
5 with each such reimbursement
6 category carrying a set of reim-
7 bursement factors such as the
8 factors prescribed under clause
9 (ii)(III) or subclause (I) or fac-
10 tors established within the range
11 of factors prescribed under clause
12 (ii)(III) and subclause (I).

13 “(cc) Such other simplified
14 procedures as the Secretary may
15 prescribe.

16 “(V) MINIMUM VERIFICATION
17 REQUIREMENTS.—The Secretary may
18 establish any necessary minimum ver-
19 ification requirements.”.

20 (2) GRANTS TO STATES TO PROVIDE ASSIST-
21 ANCE TO FAMILY OR GROUP DAY CARE HOMES.—
22 Section 17(f)(3) of the Act is amended by adding at
23 the end the following:

1 “(D) GRANTS TO STATES TO PROVIDE AS-
2 SISTANCE TO FAMILY OR GROUP DAY CARE
3 HOMES.—

4 “(i) IN GENERAL.—

5 “(I) RESERVATION.—From
6 amounts made available to carry out
7 this section, the Secretary shall re-
8 serve \$5,000,000 of the amount made
9 available for fiscal year 1996.

10 “(II) PURPOSE.—The Secretary
11 shall use the funds made available
12 under subclause (I) to provide grants
13 to States for the purpose of provid-
14 ing—

15 “(aa) assistance, including
16 grants, to family and day care
17 home sponsoring organizations
18 and other appropriate organiza-
19 tions, in securing and providing
20 training, materials, automated
21 data processing assistance, and
22 other assistance for the staff of
23 the sponsoring organizations; and

24 “(bb) training and other as-
25 sistance to family and group day

1 care homes in the implementation
2 of the amendments to subpara-
3 graph (A) made by section
4 1461(a)(1) of the Agricultural
5 Reconciliation Act of 1995.

6 “(ii) ALLOCATION.—The Secretary
7 shall allocate from the funds reserved
8 under clause (i)(I)—

9 “(I) \$30,000 in base funding to
10 each State; and

11 “(II) any remaining amount
12 among the States, based on the num-
13 ber of family day care homes partici-
14 pating in the program in a State dur-
15 ing fiscal year 1994 as a percentage
16 of the number of all family day care
17 homes participating in the program
18 during fiscal year 1994.

19 “(iii) RETENTION OF FUNDS.—Of the
20 amount of funds made available to a State
21 for fiscal year 1996 under clause (i), the
22 State may retain not to exceed 30 percent
23 of the amount to carry out this subpara-
24 graph.

1 “(iv) ADDITIONAL PAYMENTS.—Any
2 payments received under this subpara-
3 graph shall be in addition to payments
4 that a State receives under subparagraph
5 (A) (as amended by section 1461(a)(1) of
6 the Agricultural Reconciliation Act of
7 1995).”.

8 (3) PROVISION OF DATA.—Section 17(f)(3) of
9 the Act (as amended by paragraph (2)) is further
10 amended by adding at the end the following:

11 “(E) PROVISION OF DATA TO FAMILY OR
12 GROUP DAY CARE HOME SPONSORING ORGANI-
13 ZATIONS.—

14 “(i) CENSUS DATA.—The Secretary
15 shall provide to each State agency admin-
16 istering a child and adult care food pro-
17 gram under this section data from the
18 most recent decennial census survey or
19 other appropriate census survey for which
20 the data are available showing which areas
21 in the State meet the requirements of sub-
22 paragraph (A)(ii)(I)(aa). The State agency
23 shall provide the data to family or group
24 day care home sponsoring organizations lo-
25 cated in the State.

1 “(ii) SCHOOL DATA.—

2 “(I) IN GENERAL.—A State
3 agency administering the school lunch
4 program under this Act or the school
5 breakfast program under the Child
6 Nutrition Act of 1966 (42 U.S.C.
7 1771 et seq.) shall provide to ap-
8 proved family or group day care home
9 sponsoring organizations a list of
10 schools serving elementary school chil-
11 dren in the State in which not less
12 than ½ of the children enrolled are
13 certified to receive free or reduced
14 price meals. The State agency shall
15 collect the data necessary to create
16 the list annually and provide the list
17 on a timely basis to any approved
18 family or group day care home spon-
19 soring organization that requests the
20 list.

21 “(II) USE OF DATA FROM PRE-
22 CEDING SCHOOL YEAR.—In determin-
23 ing for a fiscal year or other annual
24 period whether a home qualifies as a
25 tier I family or group day care home

1 under subparagraph (A)(ii)(I), the
2 State agency administering the pro-
3 gram under this section, and a family
4 or group day care home sponsoring
5 organization, shall use the most cur-
6 rent available data at the time of the
7 determination.

8 “(iii) DURATION OF DETERMINA-
9 TION.—For purposes of this section, a de-
10 termination that a family or group day
11 care home is located in an area that quali-
12 fies the home as a tier I family or group
13 day care home (as the term is defined in
14 subparagraph (A)(ii)(I)), shall be in effect
15 for 3 years (unless the determination is
16 made on the basis of census data, in which
17 case the determination shall remain in ef-
18 fect until more recent census data are
19 available) unless the State agency deter-
20 mines that the area in which the home is
21 located no longer qualifies the home as a
22 tier I family or group day care home.”.

23 (4) CONFORMING AMENDMENTS.—Section 17(c)
24 of the Act is amended by inserting “except as pro-
25 vided in subsection (f)(3),” after “For purposes of

1 this section,” each place it appears in paragraphs
2 (1), (2), and (3).

3 (b) ELIMINATION OF STATE PAPERWORK AND OUT-
4 REACH BURDEN.—Section 17 of the Act is amended by
5 striking subsection (k) and inserting the following:

6 “(k) TRAINING AND TECHNICAL ASSISTANCE.—A
7 State participating in the program established under this
8 section shall provide sufficient training, technical assist-
9 ance, and monitoring to facilitate effective operation of the
10 program. The Secretary shall assist the State in develop-
11 ing plans to fulfill the requirements of this subsection.”.

12 (c) EFFECTIVE DATE.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), the amendments made by this section
15 shall become effective on the date of enactment of
16 this Act.

17 (2) IMPROVED TARGETING OF DAY CARE HOME
18 REIMBURSEMENTS.—The amendments made by
19 paragraphs (1), (3), and (4) of subsection (a) shall
20 become effective on August 1, 1996.

21 **CHAPTER 3—ADDITIONAL SAVINGS**

22 **SEC. 1471. EARNINGS OF STUDENTS.**

23 Section 5(d)(7) of the Food Stamp Act of 1977 (7
24 U.S.C. 2014(d)(7)) is amended by striking “21” and in-
25 serting “17”.

1 **SEC. 1472. STANDARD DEDUCTION.**

2 Section 5(e) of the Food Stamp Act of 1977 (7
3 U.S.C. 2014(e)) is amended by adding at the end the fol-
4 lowing: “Notwithstanding any other provision of this sub-
5 section, the Secretary shall allow a standard deduction of
6 \$134 for fiscal year 1995, \$132 for the period consisting
7 of October 1, 1995, through December 31, 1995, and
8 \$116 for the period consisting of January 1, 1996,
9 through fiscal year 2002, except that households in Alas-
10 ka, Hawaii, Guam, and the Virgin Islands of the United
11 States shall be allowed a standard deduction of \$229,
12 \$189, \$269, and \$118, respectively, for fiscal year 1995;
13 \$225, \$186, \$265, and \$116, respectively, for the period
14 consisting of October 1, 1995, through December 31,
15 1995; and \$198, \$164, \$233, and \$102, respectively, for
16 the period consisting of January 1, 1996, through fiscal
17 year 2002.”.

18 **SEC. 1473. VENDOR PAYMENTS FOR TRANSITIONAL HOUS-**
19 **ING COUNTED AS INCOME.**

20 Section 5(k)(2) of the Food Stamp Act of 1977 (7
21 U.S.C. 2014(k)(2)) (as amended by section
22 1406(b)(1)(B)) is amended—

23 (1) by striking subparagraph (E); and

24 (2) by redesignating subparagraphs (F) and
25 (G) as subparagraphs (E) and (F), respectively.

1 **SEC. 1474. EXTENDING CLAIMS RETENTION RATES.**

2 The first sentence of section 16(a) of the Food Stamp
3 Act of 1977 (7 U.S.C. 2025(a)) is amended by striking
4 “1995” each place it appears and inserting “2002”.

5 **SEC. 1475. REAUTHORIZATION OF PUERTO RICO NUTRI-**
6 **TION ASSISTANCE PROGRAM.**

7 The first sentence of section 19(a)(1)(A) of the Food
8 Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended
9 by striking “\$974,000,000” and all that follows through
10 “fiscal year 1995” and inserting “\$1,143,000,000 for
11 each of fiscal years 1995 and 1996, \$1,171,000,000 for
12 fiscal year 1997, \$1,212,000,000 for fiscal year 1998,
13 \$1,255,000,000 for fiscal year 1999, \$1,299,000,000 for
14 fiscal year 2000, \$1,342,000,000 for fiscal year 2001, and
15 \$1,376,000,000 for fiscal year 2002”.

16 **SEC. 1476. VALUE OF FOOD ASSISTANCE.**

17 (a) IN GENERAL.—Section 6(e)(1) of the National
18 School Lunch Act (42 U.S.C. 1755(e)(1)) is amended by
19 striking subparagraph (B) and inserting the following:

20 “(B) ADJUSTMENTS.—

21 “(i) IN GENERAL.—The value of food
22 assistance for each meal shall be adjusted
23 each July 1 by the annual percentage
24 change in a 3-month average value of the
25 Price Index for Foods Used in Schools and

1 Institutions for March, April, and May
2 each year.

3 “(ii) ADJUSTMENTS.—Except as oth-
4 erwise provided in this subparagraph, in
5 the case of each school year, the Secretary
6 shall—

7 “(I) base the adjustment made
8 under clause (i) on the amount of the
9 unrounded adjustment for the preced-
10 ing school year;

11 “(II) adjust the resulting amount
12 in accordance with clause (i); and

13 “(III) round the result to the
14 nearest lower cent increment.

15 “(iii) ADJUSTMENT ON JANUARY 1,
16 1996.—On January 1, 1996, the Secretary
17 shall adjust the value of food assistance for
18 the remainder of the school year by round-
19 ing the previously established value of food
20 assistance to the nearest lower cent incre-
21 ment.

22 “(iv) ADJUSTMENT FOR 24-MONTH
23 PERIOD BEGINNING JULY 1, 1996.—In the
24 case of the 24-month period beginning
25 July 1, 1996, the value of food assistance

1 shall be the same as the value of food as-
2 sistance in effect on June 30, 1996.

3 “(v) ADJUSTMENT FOR SCHOOL YEAR
4 BEGINNING JULY 1, 1998.—In the case of
5 the school year beginning July 1, 1998, the
6 Secretary shall—

7 “(I) base the adjustment made
8 under clause (i) on the amount of the
9 unrounded adjustment for the value of
10 food assistance for the school year be-
11 ginning July 1, 1995;

12 “(II) adjust the resulting amount
13 to reflect the annual percentage
14 change in a 3-month average value of
15 the Price Index for Foods Used in
16 Schools and Institutions for March,
17 April, and May for the most recent
18 12-month period for which the data
19 are available; and

20 “(III) round the result to the
21 nearest lower cent increment.”.

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

1 **SEC. 1477. COMMODITY ASSISTANCE.**

2 (a) IN GENERAL.—Section 6(g) of the National
3 School Lunch Act (42 U.S.C. 1755(g)) is amended by
4 striking “12 percent” and inserting “10 percent”.

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

7 **SEC. 1478. SUMMER FOOD SERVICE PROGRAM FOR CHIL-**
8 **DREN.**

9 (a) IN GENERAL.—Section 13(b) of the National
10 School Lunch Act (42 U.S.C. 1761(b)) is amended—

11 (1) by striking “(b)(1)” and all that follows
12 through the end of paragraph (1) and inserting the
13 following:

14 “(b) SERVICE INSTITUTIONS.—

15 “(1) PAYMENTS.—

16 “(A) IN GENERAL.—Except as otherwise
17 provided in this paragraph, payments to service
18 institutions shall equal the full cost of food
19 service operations (which cost shall include the
20 costs of obtaining, preparing, and serving food,
21 but shall not include administrative costs).

22 “(B) MAXIMUM AMOUNTS.—Subject to
23 subparagraph (C), payments to any institution
24 under subparagraph (A) shall not exceed—

25 “(i) \$1.82 for each lunch and supper
26 served;

1 “(ii) \$1.13 for each breakfast served;

2 and

3 “(iii) 46 cents for each meal supple-

4 ment served.

5 “(C) ADJUSTMENTS.—Amounts specified
6 in subparagraph (B) shall be adjusted each
7 January 1 to the nearest lower cent increment
8 in accordance with the changes for the 12-
9 month period ending the preceding November
10 30 in the series for food away from home of the
11 Consumer Price Index for All Urban Consum-
12 ers published by the Bureau of Labor Statistics
13 of the Department of Labor. Each adjustment
14 shall be based on the unrounded adjustment for
15 the prior 12-month period.”;

16 (2) in the second sentence of paragraph (3), by
17 striking “levels determined” and all that follows
18 through “this subsection” and inserting “level deter-
19 mined by the Secretary”; and

20 (3) by striking paragraph (4).

21 (b) EFFECTIVE DATE.—The amendments made by
22 subsection (a) shall become effective on January 1, 1996.

1 **SEC. 1479. SPECIAL MILK PROGRAM.**

2 (a) IN GENERAL.—Section 3(a) of the Child Nutri-
3 tion Act of 1966 (42 U.S.C. 1772(a)) is amended by strik-
4 ing paragraph (8) and inserting the following:

5 “(8) ADJUSTMENTS.—

6 “(A) IN GENERAL.—Except as otherwise
7 provided in this paragraph, in the case of each
8 school year, the Secretary shall—

9 “(i) base the adjustment made under
10 paragraph (7) on the amount of the
11 unrounded adjustment for the preceding
12 school year;

13 “(ii) adjust the resulting amount in
14 accordance with paragraph (7); and

15 “(iii) round the result to the nearest
16 lower cent increment.

17 “(B) ADJUSTMENT ON JANUARY 1, 1996.—

18 On January 1, 1996, the Secretary shall adjust
19 the minimum rate for the remainder of the
20 school year by rounding the previously estab-
21 lished minimum rate to the nearest lower cent
22 increment.

23 “(C) ADJUSTMENT FOR 24-MONTH PERIOD
24 BEGINNING JULY 1, 1996.—In the case of the
25 24-month period beginning July 1, 1996, the

1 minimum rate shall be the same as the mini-
2 mum rate in effect on June 30, 1996.

3 “(D) ADJUSTMENT FOR SCHOOL YEAR BE-
4 GINNING JULY 1, 1998.—In the case of the
5 school year beginning July 1, 1998, the Sec-
6 retary shall—

7 “(i) base the adjustment made under
8 paragraph (7) on the amount of the
9 unrounded adjustment for the minimum
10 rate for the school year beginning July 1,
11 1995;

12 “(ii) adjust the resulting amount to
13 reflect changes in the Producer Price
14 Index for Fresh Processed Milk published
15 by the Bureau of Labor Statistics of the
16 Department of Labor for the most recent
17 12-month period for which the data are
18 available; and

19 “(iii) round the result to the nearest
20 lower cent increment.”.

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

1 **SEC. 1480. NUTRITION EDUCATION AND TRAINING PRO-**
2 **GRAMS.**

3 (a) IN GENERAL.—Section 19(i)(2)(A) of the Child
4 Nutrition Act of 1966 (42 U.S.C. 1788(i)(2)(A)) is
5 amended by striking “\$10,000,000” and inserting
6 “\$7,000,000”.

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

9 **SEC. 1481. EFFECTIVE DATE.**

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

13 **CHAPTER 4—EFFECTIVE DATE**

14 **SEC. 1491. EFFECTIVE DATE.**

15 Notwithstanding any other provision of this subtitle,
16 if the Act entitled “An Act to restore the American family,
17 reduce illegitimacy, control welfare spending and reduce
18 welfare dependence” is enacted on or before December 31,
19 1996, the amendments made by chapters 1 and 2 of this
20 subtitle shall be effective only during the period prior to
21 the date of enactment of such Act.

1 **TITLE II—COMMITTEE ON**
2 **ARMED SERVICES**

3 **SEC. 2001. SALE OF NAVAL PETROLEUM RESERVES.**

4 (a) SALE OF REQUIRED.—Chapter 641 of title 10,
5 United States Code, is amended by inserting after section
6 7421 the following:

7 **“§ 7421a. Sale of Naval Petroleum Reserve Numbered**
8 **1 (Elk Hills)**

9 “(a) SALE REQUIRED.—(1) Notwithstanding any
10 other provision of this chapter other than section
11 7431(a)(2) of this title, the Secretary shall sell all right,
12 title, and interest of the United States in and to lands
13 owned or controlled by the United States inside Naval Pe-
14 troleum Reserve Numbered 1. Subject to subsection (j),
15 within one year after the effective date, the Secretary shall
16 enter into one or more contracts for the sale of all of the
17 interest of the United States in the reserve.

18 “(2) In this section:

19 “(A) The terms ‘Naval Petroleum Reserve
20 Numbered 1’ and ‘reserve’ mean Naval Petroleum
21 Reserve Numbered 1, commonly referred to as the
22 Elk Hills Unit, located in Kern County, California,
23 and established by Executive order of the President,
24 dated September 2, 1912.

1 “(B) The term ‘unit plan contract’ means the
2 unit plan contract between equity owners of the
3 lands within the boundaries of Naval Petroleum Re-
4 serve Numbered 1 entered into on June 19, 1944.

5 “(C) The term ‘effective date’ means the date
6 of the enactment of the Omnibus Budget Reconcili-
7 ation Act of 1995.

8 “(b) EQUITY FINALIZATION.—(1) Not later than five
9 months after the effective date, the Secretary shall finalize
10 equity interests of the known oil and gas zones in Naval
11 Petroleum Reserve Numbered 1 in the manner provided
12 by this subsection.

13 “(2) The Secretary shall retain the services of an
14 independent petroleum engineer, mutually acceptable to
15 the equity owners, who shall prepare a recommendation
16 on final equity figures. The Secretary may accept the rec-
17 ommendation of the independent petroleum engineer for
18 final equity in each known oil and gas zone and establish
19 final equity interest in the Naval Petroleum Reserve Num-
20 bered 1 in accordance with such recommendation, or the
21 Secretary may use such other method to establish final
22 equity interest in the reserve as the Secretary considers
23 appropriate.

24 “(3) If, on the effective date, there is an ongoing eq-
25 uity redetermination dispute between the equity owners

1 under section 9(b) of the unit plan contract, such dispute
2 shall be resolved in the manner provided in the unit plan
3 contract within five months after the effective date. Such
4 resolution shall be considered final for all purposes under
5 this section.

6 “(c) TIMING AND ADMINISTRATION OF SALE.—(1)
7 Not later than two months after the effective date, the
8 Secretary shall publish a notice of intent to sell the Naval
9 Petroleum Reserve Numbered 1. The Secretary shall make
10 all technical, geological, and financial information relevant
11 to the sale of the reserve available to all interested and
12 qualified buyers upon request. The Secretary, in consulta-
13 tion with the Administrator of General Services, shall en-
14 sure that the sale process is fair and open to all interested
15 and qualified parties.

16 “(2)(A) Not later than two months after the effective
17 date, the Secretary shall retain the services of five inde-
18 pendent experts in the valuation of oil and gas fields to
19 conduct separate assessments, in a manner consistent with
20 commercial practices, of the value of the interest of the
21 United States in Naval Petroleum Reserve Numbered 1.
22 In making their assessments, the independent experts
23 shall consider (among other factors) all equipment and fa-
24 cilities to be included in the sale, the estimated quantity
25 of petroleum and natural gas in the reserve, and the net

1 present value of the anticipated revenue stream that the
2 Secretary and the Director of the Office of Management
3 and Budget jointly determine the Treasury would receive
4 from the reserve if the reserve were not sold, adjusted for
5 any anticipated increases in tax revenues that would result
6 if the reserve were sold. The independent experts shall
7 complete their assessments within six months after the ef-
8 fective date.

9 “(B) The independent experts shall also determine
10 and submit to the Secretary the estimated total amount
11 of the cost of any environmental restoration and remedi-
12 ation necessary at the reserve. The Secretary shall report
13 the estimate to the Director of the Office of Management
14 and Budget, the Secretary of the Treasury, and Congress.

15 “(C) The Secretary, in consultation with the Director
16 of the Office of Management and Budget, shall set the
17 minimum acceptable price for the reserve. The Secretary
18 may not set the minimum acceptable price below the aver-
19 age of three of the assessments (after excluding the high
20 and low assessments) made under subparagraph (A).

21 “(3) Not later than two months after the effective
22 date, the Secretary shall retain the services of an invest-
23 ment banker to independently administer, in a manner
24 consistent with commercial practices and in a manner that
25 maximizes sale proceeds to the Government, the sale of

1 Naval Petroleum Reserve Numbered 1 under this section.
2 Notwithstanding section 7433(b) of this title, costs and
3 fees of retaining the investment banker may be paid out
4 of the proceeds of the sale of the reserve.

5 “(4)(A) Not later than six months after the effective
6 date, the investment banker serving as the sales adminis-
7 trator under paragraph (3) shall complete a draft contract
8 or contracts for the sale of Naval Petroleum Reserve
9 Numbered 1, which shall accompany the solicitation of of-
10 fers and describe the terms and provisions of the sale of
11 the interest of the United States in the reserve.

12 “(B) The draft contract or contracts shall identify—

13 “(i) all equipment and facilities to be included
14 in the sale; and

15 “(ii) any potential claim or liability (including
16 liability for environmental restoration and remedi-
17 ation), and the extent of any such claim or liability,
18 for which the United States is responsible under
19 subsection (d).

20 “(C) The draft contract or contracts, including the
21 terms and provisions of the sale of the interest of the Unit-
22 ed States in the reserve, shall be subject to review and
23 approval by the Secretary, the Secretary of the Treasury,
24 and the Director of the Office of Management and Budget.
25 Each of those officials shall complete the review of, and

1 approve or disapprove, the draft contract or contracts not
2 later than seven months after the effective date.

3 “(5) Not later than seven months after the effective
4 date, the Secretary shall publish the solicitation of offers
5 for the Naval Petroleum Reserve Numbered 1.

6 “(6) Not later than 10 months after the effective
7 date, the Secretary shall identify the highest responsible
8 offer or offers for purchase of the interest of the United
9 States in Naval Petroleum Reserve Numbered 1 that, in
10 total, meet or exceed the minimum acceptable price deter-
11 mined under paragraph (2).

12 “(7) The Secretary shall take such action imme-
13 diately after the effective date as is necessary to obtain
14 from an independent petroleum engineer within six
15 months after that date a reserve report prepared in a man-
16 ner consistent with commercial practices. The Secretary
17 shall use the reserve report in support of the preparation
18 of the solicitation of offers for the reserve.

19 “(d) FUTURE LIABILITIES.—The United States shall
20 hold harmless and fully indemnify the purchaser or pur-
21 chasers (as the case may be) of the interest of the United
22 States in Naval Petroleum Reserve Numbered 1 from and
23 against any claim or liability as a result of ownership in
24 the reserve by the United States, including any claim re-
25 ferred to in subsection (e).

1 “(e) TREATMENT OF STATE OF CALIFORNIA
2 CLAIM.—After the costs incurred in the conduct of the
3 sale of Naval Petroleum Reserve Numbered 1 under this
4 section are deducted, seven percent of the remaining pro-
5 ceeds from the sale of the reserve shall be reserved in a
6 contingent fund in the Treasury (for a period not to ex-
7 ceed 10 years after the effective date) for payment to the
8 State of California in the event that, and to the extent
9 that, the claims of the State against the United States
10 regarding production and proceeds of sale from Naval Pe-
11 troleum Reserve Numbered 1 are resolved in favor of the
12 State by a court of competent jurisdiction. Funds in the
13 contingent fund shall be available for paying any such
14 claim to the extent provided in appropriation Acts. After
15 final disposition of the claims, any unobligated balance in
16 the contingent fund shall be credited to the general fund
17 of the Treasury.

18 “(f) MAINTAINING ELK HILLS UNIT PRODUCTION.—
19 Until the sale of Naval Petroleum Reserve Numbered 1
20 is completed under this section, the Secretary shall con-
21 tinue to produce the reserve at the maximum daily oil or
22 gas rate from a reservoir, which will permit maximum eco-
23 nomic development of the reservoir consistent with sound
24 oil field engineering practices in accordance with section
25 3 of the unit plan contract. The definition of maximum

1 efficient rate in section 7420(6) of this title shall not apply
2 to the reserve.

3 “(g) EFFECT ON EXISTING CONTRACTS.—(1) In the
4 case of any contract, in effect on the effective date, for
5 the purchase of production from any part of the United
6 States’ share of Naval Petroleum Reserve Numbered 1,
7 the sale of the interest of the United States in the reserve
8 shall be subject to the contract for a period of three
9 months after the closing date of the sale or until termi-
10 nation of the contract, whichever occurs first. The term
11 of any contract entered into after the effective date for
12 the purchase of such production shall not exceed the an-
13 ticipated closing date for the sale of the reserve.

14 “(2) The Secretary shall exercise the termination pro-
15 cedures provided in the contract between the United
16 States and Bechtel Petroleum Operation, Inc., Contract
17 Number DE-ACO1-85FE60520 so that the contract ter-
18 minates not later than the date of closing of the sale of
19 Naval Petroleum Reserve Numbered 1 under subsection
20 (c).

21 “(3) The Secretary shall exercise the termination pro-
22 cedures provided in the unit plan contract so that the unit
23 plan contract terminates not later than the date of closing
24 of the sale of reserve.

1 “(h) EFFECT ON ANTITRUST LAWS.—Nothing in this
2 section shall be construed to alter the application of the
3 antitrust laws of the United States to the purchaser or
4 purchasers (as the case may be) of Naval Petroleum Re-
5 serve Numbered 1 or to the lands in the reserve subject
6 to sale under this section upon the completion of the sale.

7 “(i) PRESERVATION OF PRIVATE RIGHT, TITLE, AND
8 INTEREST.—Nothing in this section shall be construed to
9 adversely affect the ownership interest of any other entity
10 having any right, title, and interest in and to lands within
11 the boundaries of Naval Petroleum Reserve Numbered 1
12 and which are subject to the unit plan contract.

13 “(j) NOTICE TO CONGRESS.—(1) Subject to para-
14 graph (2), the Secretary may not enter into any contract
15 for the sale of the reserve until the end of the 31-day pe-
16 riod beginning on the date on which the Secretary notifies
17 the Committee on Armed Services of the Senate and the
18 Committee on National Security and the Committee on
19 Commerce of the House of Representatives of the condi-
20 tions of the proposed sale and the Secretary’s assessment
21 of whether it is in the best interests of the United States
22 to sell the reserve under those conditions.

23 “(2) If the Secretary receives only one offer for pur-
24 chase of the reserve or any parcel thereof, the Secretary

1 may not enter into a contract for the sale of the reserve
2 or parcel (as the case may be) unless—

3 “(A) the Secretary submits to Congress a noti-
4 fication of the receipt of only one offer together with
5 the conditions of the proposed sale of the reserve or
6 parcel (as the case may be) to the offeror; and

7 “(B) a joint resolution of approval described in
8 subsection (k) is enacted within 45 days after the
9 date of the notification.

10 “(3) It is the sense of Congress that, if the Secretary
11 includes in a notification regarding a proposed sale that
12 is submitted to Congress under paragraph (1) an assess-
13 ment that the sale is not in the best interests of the United
14 States—

15 “(A) Congress should promptly consider and
16 act on legislation regarding whether to proceed with
17 the sale; and

18 “(B) the President should act promptly on any
19 legislation described in subparagraph (A) that is
20 presented to the President.

21 “(k) JOINT RESOLUTION OF APPROVAL.—(1) For
22 the purpose of paragraph (2)(B) of subsection (j), ‘joint
23 resolution of approval’ means only a joint resolution that
24 is introduced after the date on which the notification re-
25 ferred to in that paragraph is received by Congress, and—

1 “(A) that does not have a preamble;

2 “(B) the matter after the resolving clause of
3 which reads only as follows: ‘That Congress ap-
4 proves the proposed sale of Naval Petroleum Reserve
5 Numbered 1 reported in the notification submitted
6 to Congress by the Secretary of Energy on
7 _____.’ (the blank space being filled in with
8 the appropriate date); and

9 “(C) the title of which is as follows: ‘Joint reso-
10 lution approving the sale of Naval Petroleum Re-
11 serve Numbered 1’.

12 “(2) A resolution described in paragraph (1) intro-
13 duced in the House of Representatives shall be referred
14 to the Committee on National Security of the House of
15 Representatives. A resolution described in paragraph (1)
16 introduced in the Senate shall be referred to the Commit-
17 tee on Armed Services of the Senate. Such a resolution
18 may not be reported before the 8th day after its introduc-
19 tion.

20 “(3) If the committee to which is referred a resolution
21 described in paragraph (1) has not reported such resolu-
22 tion (or an identical resolution) at the end of 15 calendar
23 days after its introduction, such committee shall be
24 deemed to be discharged from further consideration of

1 such resolution and such resolution shall be placed on the
2 appropriate calendar of the House involved.

3 “(4)(A) When the committee to which a resolution
4 is referred has reported, or has been deemed to be dis-
5 charged (under paragraph (3)) from further consideration
6 of, a resolution described in paragraph (1), it is at any
7 time thereafter in order (even though a previous motion
8 to the same effect has been disagreed to) for any Member
9 of the respective House to move to proceed to the consider-
10 ation of the resolution, and all points of order against the
11 resolution (and against consideration of the resolution) are
12 waived. The motion is highly privileged in the House of
13 Representatives and is privileged in the Senate and is not
14 debatable. The motion is not subject to amendment, or
15 to a motion to postpone, or to a motion to proceed to the
16 consideration of other business. A motion to reconsider the
17 vote by which the motion is agreed to or disagreed to shall
18 not be in order. If a motion to proceed to the consideration
19 of the resolution is agreed to, the resolution shall remain
20 the unfinished business of the respective House until dis-
21 posed of.

22 “(B) Debate on the resolution, and on all debatable
23 motions and appeals in connection therewith, shall be lim-
24 ited to not more than 10 hours, which shall be divided
25 equally between those favoring and those opposing the res-

1 olution. A motion further to limit debate is in order and
2 not debatable. An amendment to, or a motion to postpone,
3 or a motion to proceed to the consideration of other busi-
4 ness, or a motion to recommit the resolution is not in
5 order. A motion to reconsider the vote by which the resolu-
6 tion is agreed to or disagreed to is not in order.

7 “(C) Immediately following the conclusion of the de-
8 bate on a resolution described in paragraph (2), and a sin-
9 gle quorum call at the conclusion of the debate if re-
10 quested in accordance with the rules of the appropriate
11 House, the vote on final passage of the resolution shall
12 occur.

13 “(D) Appeals from the decisions of the Chair relating
14 to the application of the rules of the Senate or the House
15 of Representatives, as the case may be, to the procedure
16 relating to a resolution described in paragraph (1) shall
17 be decided without debate.

18 “(5) If, before the passage by one House of a resolu-
19 tion of that House described in paragraph (1), that House
20 receives from the other House a resolution described in
21 paragraph (1), then the following procedures shall apply:

22 “(A) The resolution of the other House shall
23 not be referred to a committee.

1 “(B) With respect to a resolution described in
2 paragraph (2) of the House receiving the resolu-
3 tion—

4 “(i) the procedure in that House shall be
5 the same as if no resolution had been received
6 from the other House; but

7 “(ii) the vote on final passage shall be on
8 the resolution of the other House.

9 “(6) This subsection is enacted by Congress—

10 “(A) as an exercise of the rulemaking power of
11 the Senate and House of Representatives, respec-
12 tively, and as such it is deemed a part of the rules
13 of each House, respectively, but applicable only with
14 respect to the procedure to be followed in that
15 House in the case of a resolution described in para-
16 graph (1), and it supersedes other rules only to the
17 extent that it is inconsistent with such rules; and

18 “(B) with full recognition of the constitutional
19 right of either House to change the rules (so far as
20 relating to the procedure of that House) at any time,
21 in the same manner, and to the same extent as in
22 the case of any other rule of that House.

23 “(1) NONCOMPLIANCE WITH DEADLINES.—If, at any
24 time during the one-year period beginning on the effective
25 date, the Secretary determines that the actions necessary

1 to complete the sale of the reserve within that period are
2 not being taken or timely completed, the Secretary shall
3 transmit to the Committee on Armed Services of the Sen-
4 ate and the Committees on National Security and on Com-
5 merce of the House of Representatives a notification of
6 that determination together with a plan setting forth the
7 actions that will be taken to ensure that the sale of the
8 reserve will be completed within that period. The Secretary
9 shall consult with the Director of the Office of Manage-
10 ment and Budget in preparing the plan for submission to
11 the committees.

12 “(m) OVERSIGHT.—The Comptroller General shall
13 monitor the actions of the Secretary relating to the sale
14 of the reserve and report to the Committee on Armed
15 Services of the Senate and the Committee on National Se-
16 curity of the House of Representatives any findings on
17 such actions that the Comptroller General considers ap-
18 propriate to report to such committees.

19 “(n) ACQUISITION OF SERVICES.—The Secretary
20 may enter into contracts for the acquisition of services re-
21 quired under this section under the authority of paragraph
22 (7) of section 303(c) of the Federal Property and Admin-
23 istrative Services Act of 1949 (41 U.S.C. 253(c)), except
24 that the notification required under subparagraph (B) of
25 such paragraph for each contract shall be submitted to

1 Congress not less than 7 days before the award of the
2 contract.

3 **“§ 7421b. Sale of naval petroleum reserves other than**
4 **Naval Petroleum Reserve Numbered 1**
5 **(Elk Hills)**

6 “(a) SALE REQUIRED.—(1) Notwithstanding any
7 other provision of this chapter other than section
8 7431(a)(2) of this title, the Secretary shall sell all right,
9 title, and interest of the United States in and to lands
10 owned or controlled by the United States inside the naval
11 petroleum reserves.

12 “(b) ADMINISTRATION OF SALE.—(1) Except as pro-
13 vided in paragraph (2), subsections (c), (d), (h), (i), (j),
14 (k), (l), (m), and (n) of section 7421a of this title shall
15 apply to the sale of the naval petroleum reserves under
16 this section as if the reference to Naval Petroleum Reserve
17 Numbered 1 in such subsections referred to the naval pe-
18 troleum reserves.

19 “(2)(A) The time requirements set forth in sub-
20 section (e) do not apply under paragraph (1) to the sale
21 of the naval petroleum reserves under this section.

22 “(B) In the application of subsection (d) under para-
23 graph (1), the reference in that subsection to subsection
24 (e) does not apply.

1 “(C) In the application of subsections (j) and (k) to
2 the sale of the naval petroleum reserves under paragraph
3 (1), ‘joint resolution of approval’ means only a joint reso-
4 lution that is introduced after the date on which the notifi-
5 cation to which the joint resolution relates is received by
6 Congress, and—

7 “(i) that does not have a preamble;

8 “(ii) the matter after the resolving clause of
9 which reads only as follows: ‘That Congress ap-
10 proves the proposed sale of naval petroleum reserves
11 reported in the notification submitted to Congress by
12 the Secretary of Energy on _____.’ (the
13 blank space being filled in with the appropriate
14 date); and

15 “(iii) the title of which is as follows: ‘Joint reso-
16 lution approving the sale of naval petroleum re-
17 serves’.

18 “(D) In the application of subsection (l) to the sale
19 of the naval petroleum reserves under paragraph (1), the
20 period referred to in that subsection shall be deemed to
21 be the two-year period beginning on the effective date.

22 “(c) COMPLETION OF SALE.—The Secretary shall
23 complete the sale of lands under subsection (a) not later
24 than September 30, 1997.

1 “(d) INAPPLICABILITY TO NAVAL PETROLEUM RE-
2 SERVE NUMBERED 1.—This section does not apply to
3 Naval Petroleum Reserve Numbered 1, as defined in sec-
4 tion 7421a(a)(2)(A) of this title.”.

5 (b) CLERICAL AMENDMENT.—The table of sections at
6 the beginning of such chapter is amended by inserting
7 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).”.

8 **SEC. 2002. DISPOSAL OF OBSOLETE AND EXCESS MATE-**
9 **RIALS CONTAINED IN THE NATIONAL DE-**
10 **FENSE STOCKPILE.**

11 (a) DISPOSAL AUTHORIZED.—During the 7-year pe-
12 riod beginning on October 1, 1995, the President shall sell
13 in accordance with this section such quantities of mate-
14 rials currently contained in the National Defense Stockpile
15 (within the limits of subsection (c)) as are necessary to
16 achieve proceeds in the total amount of \$649,000,000.

17 (b) MINIMUM SALES EACH YEAR.—The President
18 shall sell materials under subsection (a) as necessary in
19 a fiscal year to ensure that, by the end of that fiscal year,
20 the total amount of the proceeds received by the United
21 States from such sales and from the sales under sub-
22 section (a) during preceding fiscal years equals or exceeds
23 the amount indicated for that fiscal year as follows:

1 (1) By the end of fiscal year 1996,
2 \$71,000,000.

3 (2) By the end of fiscal year 1997,
4 \$115,000,000.

5 (3) By the end of fiscal year 1998,
6 \$181,000,000.

7 (4) By the end of fiscal year 1999,
8 \$272,000,000.

9 (5) By the end of fiscal year 2000,
10 \$388,000,000.

11 (6) By the end of fiscal year 2001,
12 \$530,000,000.

13 (7) By the end of fiscal year 2002,
14 \$649,000,000.

15 (c) MATERIALS COVERED.— The materials subject to
16 sale under this section and the maximum quantity of each
17 material authorized to be sold by the President are set
18 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 co- balt
Columbium Carbide	10,000 pounds of contained colum- bium
Columbium Ferro	500,000 pounds of contained colum- bium
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 tanta- lum
Tantalum, Minerals	750,000 pounds of contained tanta- lum
Tantalum, Oxide	40,000 pounds of contained tanta- lum
Titanium Sponge	15,000 short tons
Tungsten, Ore and Concentrate	19,850,000 pounds of contained tungsten
Tungsten Carbide	50,000 pounds of contained tung- sten
Tungsten Metal Powder	50,000 pounds of contained tung- sten
Tungsten Ferro	50,000 pounds of contained tung- sten
Vegetable Tannin, Chestnut	2,500 long tons
Vegetable Tannin, Quebracho	35,000 long tons
Vegetable Tannin, Wattle	3,000 long tons

1 (d) RELATIONSHIP TO OTHER DISPOSAL AUTHOR-
2 ITY.—(1) The disposal authority provided in this section
3 is in addition to any other disposal authority provided by
4 law.

5 (2) The President may not sell materials under this
6 section before disposing of the maximum quantities of ma-
7 terials in the National Defense Stockpile that the Presi-
8 dent is authorized to dispose of under laws enacted before
9 the date of the enactment of this Act (except the Strategic
10 and Critical Materials Stock Piling Act).

1 (e) DISPOSITION OF PROCEEDS.—Proceeds of sales
 2 under this section shall be credited to the general fund
 3 of the Treasury for reduction of budget deficits.

4 **TITLE III—COMMITTEE ON**
 5 **BANKING, HOUSING, AND**
 6 **URBAN AFFAIRS**

7 **SEC. 3001. STABILIZATION OF THE SAVINGS ASSOCIATION**
 8 **INSURANCE FUND.**

9 (a) SPECIAL ASSESSMENT TO CAPITALIZE SAIF.—

10 (1) IN GENERAL.—Except as provided in para-
 11 graph (6), the Board of Directors shall impose a
 12 special assessment on the SAIF-assessable deposits
 13 of each insured depository institution at a rate that
 14 the Board of Directors, in its sole discretion, deter-
 15 mines will cause the Savings Association Insurance
 16 Fund to achieve the designated reserve ratio on the
 17 first business day of January 1996.

18 (2) FACTORS TO BE CONSIDERED.—In carrying
 19 out paragraph (1), the Board of Directors shall base
 20 its determination on—

21 (A) the monthly Savings Association Insur-
 22 ance Fund balance most recently calculated;

23 (B) data on insured deposits reported in
 24 the most recent reports of condition filed not
 25 later than 70 days before the date of enactment

1 of this Act by insured depository institutions;
2 and

3 (C) any other factors that the Board of Di-
4 rectors deems appropriate.

5 (3) DATE OF DETERMINATION.—For purposes
6 of paragraph (1), the amount of the SAIF-assess-
7 able deposits of an insured depository institution
8 shall be determined as of March 31, 1995.

9 (4) DATE PAYMENT DUE.—The special assess-
10 ment imposed under this section shall be—

11 (A) due on the first business day of Janu-
12 ary 1996; and

13 (B) paid to the Corporation on the later
14 of—

15 (i) the first business day of January
16 1996; or

17 (ii) such other date as the Corpora-
18 tion shall prescribe, but not later than 60
19 days after the date of enactment of this
20 Act.

21 (5) ASSESSMENT DEPOSITED IN SAIF.—Not-
22 withstanding any other provision of law, the pro-
23 ceeds of the special assessment imposed under this
24 subsection shall be deposited in the Savings Associa-
25 tion Insurance Fund.

1 (6) DISCRETION TO EXEMPT WEAK INSTITU-
2 TIONS.—

3 (A) IN GENERAL.—The Board of Directors
4 may, by order, in its sole discretion, exempt any
5 insured depository institution that the Board of
6 Directors determines to be weak from paying
7 the special assessment imposed under this sub-
8 section if the Board of Directors determines
9 that the exemption would reduce risk to the
10 Savings Association Insurance Fund.

11 (B) GUIDELINES REQUIRED.—Not later
12 than 30 days after the date of enactment of
13 this Act, the Board of Directors shall prescribe
14 guidelines setting forth the criteria that the
15 Board of Directors will use in exempting insti-
16 tutions under subparagraph (A). Such guide-
17 lines shall be published in the Federal Register.

18 (C) EXEMPT INSTITUTIONS REQUIRED TO
19 PAY ASSESSMENTS AT FORMER RATES.—

20 (i) PAYMENTS TO SAIF AND DIF.—

21 Any insured depository institution that the
22 Board of Directors exempts under this
23 paragraph from paying the special assess-
24 ment imposed under this subsection shall
25 pay semiannual assessments—

1 (I) into the Savings Association
2 Insurance Fund during calendar years
3 1996 and 1997, based on SAIF-as-
4 sessable deposits of that institution, at
5 assessment rates calculated under the
6 schedule in effect for Savings Associa-
7 tion Insurance Fund members on
8 June 30, 1995; and

9 (II) into the Deposit Insurance
10 Fund during the period beginning on
11 January 1, 1998 and ending on De-
12 cember 31, 1999, based on SAIF-as-
13 sessable deposits of that institution, at
14 assessment rates calculated under the
15 schedule in effect for Savings Associa-
16 tion Insurance Fund members on
17 June 30, 1995, except that subclause
18 (I) shall continue to apply if and only
19 so long as the Bank Insurance Fund
20 and the Savings Association Insurance
21 Fund are not merged into the Deposit
22 Insurance Fund.

23 (ii) OPTIONAL PRO RATA PAYMENT OF
24 SPECIAL ASSESSMENT.—This subpara-
25 graph shall not apply with respect to any

1 insured depository institution (or successor
2 insured depository institution) that has
3 paid, during any calendar year from 1997
4 through 1999, upon such terms as the
5 Corporation may announce, an amount
6 equal to the product of—

7 (I) 12.5 percent of the special as-
8 sessment that the institution would
9 have been required to pay under para-
10 graph (1), if the Board of Directors
11 had not exempted the institution; and

12 (II) the number of full semi-
13 annual periods remaining between the
14 date of the payment and December
15 31, 1999.

16 (7) ADJUSTMENT OF SPECIAL ASSESSMENT FOR
17 CERTAIN BANK INSURANCE FUND MEMBER
18 BANKS.—

19 (A) IN GENERAL.—For purposes of com-
20 puting the special assessment imposed under
21 this subsection with respect to a Bank Insur-
22 ance Fund member bank, the amount of any
23 deposits which section 5(d)(3) of the Federal
24 Deposit Insurance Act treats as insured by the
25 Savings Association Insurance Fund shall be

1 reduced by 5 percent, if the adjusted attrib-
2 utable deposit amount of the Bank Insurance
3 Fund member bank is less than 50 percent of
4 the total deposits of that member bank as of
5 June 30, 1995.

6 (B) ADJUSTED ATTRIBUTABLE DEPOSIT
7 AMOUNT.—For purposes of this paragraph, the
8 “adjusted attributable deposit amount” shall be
9 determined in accordance with section
10 5(d)(3)(C) of the Federal Deposit Insurance
11 Act.

12 (8) ADJUSTMENT TO THE ADJUSTED ATTRIB-
13 UTABLE DEPOSIT AMOUNT FOR CERTAIN BANK IN-
14 SURANCE FUND MEMBER BANKS.—Section 5(d)(3)
15 of the Federal Deposit Insurance Act (12 U.S.C.
16 1815(d)(3)) is amended—

17 (A) in subparagraph (C), by striking “The
18 adjusted attributable deposit amount” and in-
19 serting “Except as provided in subparagraph
20 (K), the adjusted attributable deposit amount”;
21 and

22 (B) by adding at the end the following new
23 subparagraph:

24 “(K) ADJUSTMENT OF ADJUSTED ATTRIB-
25 UTABLE DEPOSIT AMOUNT.—The amount deter-

1 mined under subparagraph (C)(i) for deposits
2 acquired by March 31, 1995, shall be reduced
3 by 5 percent for purposes of computing the ad-
4 justed attributable deposit amount for the pay-
5 ment of any assessment for any semiannual pe-
6 riod after December 31, 1995 (other than the
7 special assessment imposed under section
8 3001(a) of the Balanced Budget Reconciliation
9 Act of 1995), for a Bank Insurance Fund mem-
10 ber bank that had an adjusted attributable de-
11 posit amount that was less than 50 percent of
12 the total deposits of that member bank as of
13 June 30, 1995.”.

14 (9) ADJUSTMENT OF SPECIAL ASSESSMENT FOR
15 CERTAIN SAVINGS ASSOCIATIONS.—

16 (A) SPECIAL ASSESSMENT REDUCTION.—

17 For purposes of computing the special assess-
18 ment imposed under this subsection, in the case
19 of any converted association, the amount of any
20 deposits of such association which were insured
21 by the Savings Association Insurance Fund as
22 of March 31, 1995, shall be reduced by 5 per-
23 cent.

1 (B) CONVERTED ASSOCIATION.—For pur-
 2 poses of this paragraph, the term “converted
 3 association” means—

4 (i) any Federal savings association
 5 that is a member of the Savings Associa-
 6 tion Insurance Fund and that had been, or
 7 has acquired by merger, consolidation, or
 8 otherwise the deposits of an institution
 9 that had been, a State savings bank, the
 10 deposits of which were insured under the
 11 Federal Deposit Insurance Act prior to
 12 August 9, 1989; and

13 (ii) a State depository institution that
 14 is a member of the Savings Association In-
 15 surance Fund that had been a State sav-
 16 ings bank prior to October 1, 1992, and
 17 was a Federal savings association on Au-
 18 gust 9, 1989.

19 (b) FINANCING CORPORATION ASSESSMENTS
 20 SHARED PROPORTIONALLY BY ALL INSURED DEPOSI-
 21 TORY INSTITUTIONS.—

22 (1) IN GENERAL.—Section 21 of the Federal
 23 Home Loan Bank Act (12 U.S.C. 1441) is amend-
 24 ed—

25 (A) in subsection (f)(2)—

1 (i) in the matter immediately preced-
2 ing subparagraph (A)—

3 (I) by striking “Savings Associa-
4 tion Insurance Fund member” and in-
5 serting “insured depository institu-
6 tion”; and

7 (II) by striking “members” and
8 inserting “institutions”; and

9 (ii) in subparagraph (A), by striking
10 “against Savings Association Insurance
11 Fund members” and inserting “against in-
12 sured depository institutions”;

13 (B) in subsection (k)—

14 (i) by striking “section—” and insert-
15 ing “section, the following definitions shall
16 apply.”;

17 (ii) by striking paragraph (1);

18 (iii) by redesignating paragraphs (2)
19 and (3) as paragraphs (1) and (2), respec-
20 tively; and

21 (iv) by adding at the end the following
22 new paragraph:

23 “(3) INSURED DEPOSITORY INSTITUTION.—The
24 term ‘insured depository institution’ has the same

1 meaning as in section 3 of the Federal Deposit In-
2 surance Act.”.

3 (2) CONFORMING AMENDMENT.—Section
4 7(b)(2)(D) of the Federal Deposit Insurance Act (12
5 U.S.C. 1817(b)(2)(D)) is amended by striking
6 “against Savings Association Insurance Fund mem-
7 bers” and inserting “against insured depository in-
8 stitutions”.

9 (3) EFFECTIVE DATE.—This subsection and the
10 amendments made by this subsection shall become
11 effective on January 1, 1996.

12 (c) INSURANCE PREMIUMS FOR CAPITALIZED INSUR-
13 ANCE FUNDS.—

14 (1) REBATES FOR CAPITALIZED FUND.—Sec-
15 tion 7 of the Federal Deposit Insurance Act (12
16 U.S.C. 1817) is amended—

17 (A) by redesignating subsections (d)
18 through (n) as subsections (e) through (o), re-
19 spectively; and

20 (B) by inserting after subsection (c) the
21 following new subsection:

22 “(d) BANK INSURANCE FUND ASSESSMENT CRED-
23 ITS.—

24 “(1) CREDIT AMOUNT.—

1 “(A) IN GENERAL.—Notwithstanding any
2 other provision of law, if the Corporation deter-
3 mines, after considering the operating costs and
4 expenses, case resolution expenditures, invest-
5 ment income, and assessment income of the
6 Bank Insurance Fund, that the reserve ratio of
7 the Bank Insurance Fund is expected to exceed
8 the designated reserve ratio during the succeed-
9 ing semiannual period, the Board of Directors
10 may, in its sole discretion, provide an assess-
11 ment credit with respect to Bank Insurance
12 Fund assessments (for that succeeding semi-
13 annual period)—

14 “(i) in an amount that the Corpora-
15 tion determines will reduce the reserve
16 ratio of the Bank Insurance Fund to the
17 designated reserve ratio; or

18 “(ii) in a lesser amount, as deter-
19 mined by the Corporation.

20 “(B) LIMIT.—The amount of assessment
21 credit under subparagraph (A) shall not exceed
22 100 percent of the net assessment income to be
23 received with respect to the Bank Insurance
24 Fund in the succeeding semiannual period.

1 “(2) DEFINITIONS.—For purposes of this sub-
2 section, the terms ‘net assessment income’, ‘operat-
3 ing costs and expenses’, ‘insurance costs’, and ‘in-
4 vestment income’ shall have the same meanings as
5 in paragraphs (4) and (5) of section 7(d) of the
6 Federal Deposit Insurance Act, as in effect on the
7 day before the date of enactment of the Federal De-
8 posit Insurance Corporation Improvement Act of
9 1991, except that the term ‘semiannual period’ shall
10 be substituted for the term ‘calendar year’ wherever
11 that term appears.”.

12 (2) STABILIZING PREMIUMS FOR BIF AND
13 SAIF.—Section 7(b) of the Federal Deposit Insur-
14 ance Act (12 U.S.C. 1817(b)) is amended by adding
15 at the end the following new paragraph:

16 “(8) RATE COMPARABILITY.—Notwithstanding
17 any other provision of law, assessment rates for
18 members of the Savings Association Insurance Fund
19 shall not be lower than assessment rates for mem-
20 bers of the Bank Insurance Fund of comparable risk
21 until the first full semiannual period following the
22 last maturity date of all obligations issued by the Fi-
23 nancing Corporation pursuant to section 21(c) of the
24 Federal Home Loan Bank Act.”.

25 (d) MERGER OF BIF AND SAIF.—

1 (1) IN GENERAL.—Effective as provided in
2 paragraph (4)—

3 (A) the Bank Insurance Fund and the
4 Savings Association Insurance Fund shall be
5 merged into the Deposit Insurance Fund estab-
6 lished by section 11(a)(4) of the Federal De-
7 posit Insurance Act, as amended by this sub-
8 section;

9 (B) all assets and liabilities of the Bank
10 Insurance Fund and the Savings Association
11 Insurance Fund shall be transferred to the De-
12 posit Insurance Fund; and

13 (C) the separate existence of the Bank In-
14 surance Fund and the Savings Association In-
15 surance Fund shall cease.

16 (2) SPECIAL RESERVE OF THE DEPOSIT INSUR-
17 ANCE FUND.—Effective as provided in paragraph
18 (4), if, immediately before the merger of the Bank
19 Insurance Fund and the Savings Association Insur-
20 ance Fund, the reserve ratio of the Savings Associa-
21 tion Insurance Fund exceeds the designated reserve
22 ratio, the amount by which that reserve ratio ex-
23 ceeds the designated reserve ratio shall be placed in
24 the Special Reserve of the Deposit Insurance Fund,
25 established under section 11(a)(5) of the Federal

1 Deposit Insurance Act, as amended by this sub-
2 section.

3 (3) CONFORMING AMENDMENTS.—

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

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

9 (ii) by striking subparagraph (A) and
10 inserting the following:

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

14 “(i) maintain and administer;

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

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

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

1 (iii) by striking “(4) GENERAL PROVI-
2 SIONS RELATING TO FUNDS.—” and in-
3 serting the following:

4 “(4) DEPOSIT INSURANCE FUND.—”.

5 (B) OTHER REFERENCES.—Section
6 11(a)(4)(C) of the Federal Deposit Insurance
7 Act (12 U.S.C. 1821(a)(4)(C) (as redesignated
8 by subparagraph (A) of this paragraph)) is
9 amended by striking “Bank Insurance Fund
10 and the Savings Association Insurance Fund”
11 and inserting “Deposit Insurance Fund”.

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

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

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

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

1 “(A) SPECIAL RESERVE OF DEPOSIT IN-
2 SURANCE FUND ESTABLISHED.—

3 “(i) ESTABLISHMENT.—There is es-
4 tablished a Special Reserve of the Deposit
5 Insurance Fund, which shall be adminis-
6 tered by the Corporation and shall be in-
7 vested in accordance with section 13(a).

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

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

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

21 “(ii) the Corporation expects the re-
22 serve ratio of the Deposit Insurance Fund
23 to remain less than 50 percent of the des-
24 ignated reserve ratio for each of the next
25 4 calendar quarters.

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

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

11 (i) in subclause (I), by striking “to
12 Savings Associations Insurance Fund
13 members” and inserting “to insured depos-
14 itory institutions, and their successors,
15 which were Savings Association Insurance
16 Fund members on September 1, 1995”;
17 and

18 (ii) in subclause (II), by striking “to
19 Savings Associations Insurance Fund
20 members” and inserting “to insured depos-
21 itory institutions, and their successors,
22 which were Savings Association Insurance
23 Fund members on September 1, 1995”.

24 (F) REPEALS.—

1 (i) SECTION 3.—Section 3 of the Fed-
2 eral Deposit Insurance Act (12 U.S.C.
3 1813) is amended—

4 (I) by striking subsection (y);

5 and

6 (II) by redesignating subsection
7 (z) as subsection (y).

8 (ii) SECTION 7.—Section 7 of the
9 Federal Deposit Insurance Act (12 U.S.C.
10 1817) is amended—

11 (I) by striking subsection (l);

12 (II) by redesignating subsections
13 (m) and (n) as subsections (l) and
14 (m), respectively;

15 (III) in subsection (b)(2), by
16 striking subparagraph (B); and

17 (IV) in subsection (b)(2), by re-
18 designating subparagraphs (C)
19 through (H) as subparagraphs (B)
20 through (G), respectively.

21 (iii) SECTION 11.—Section 11(a) of
22 the Federal Deposit Insurance Act (12
23 U.S.C. 1121(a)) is amended—

24 (I) by striking paragraphs (6)

25 and (7); and

1 (II) by redesignating paragraph
2 (8) as paragraph (6).

3 (iv) RATE COMPARABILITY.—Section
4 7(b) of the Federal Deposit Insurance Act
5 (12 U.S.C. 1817(b)) is amended by strik-
6 ing paragraph (8) (as added by subsection
7 (c) of this section).

8 (4) EFFECTIVE DATE.—This subsection and the
9 amendments made by this subsection shall become
10 effective on January 1, 1998, if no insured depository
11 institution is a savings association on that date.

12 (e) DEFINITIONS.—For purposes of this section—

13 (1) the term “Bank Insurance Fund” means
14 the fund established pursuant to section
15 (11)(a)(5)(A) of the Federal Deposit Insurance Act,
16 as that section existed on the day before the date of
17 enactment of this Act;

18 (2) the terms “Board of Directors”, “Corpora-
19 tion”, “insured depository institution”, “Federal
20 savings association”, “savings association”, “State
21 savings bank”, and “State depository institution”
22 have the same meanings as in section 3 of the Fed-
23 eral Deposit Insurance Act;

24 (3) the term “Deposit Insurance Fund” means
25 the fund established under section 11(a)(4) of the

1 Federal Deposit Insurance Act, as amended by sub-
2 section (d) of this section;

3 (4) the term “designated reserve ratio” has the
4 same meaning as in section 7(b)(2)(A)(iv) of the
5 Federal Deposit Insurance Act;

6 (5) the term “Savings Association Insurance
7 Fund” means the fund established pursuant to sec-
8 tion 11(a)(6)(A) of the Federal Deposit Insurance
9 Act, as that section existed on the day before the
10 date of enactment of this Act; and

11 (5) the term “SAIF-assessable deposit”
12 means—

13 (A) a deposit that is subject to assessment
14 for purposes of the Savings Association Insur-
15 ance Fund under the Federal Deposit Insur-
16 ance Act; and

17 (B) a deposit that section 5(d)(3) of the
18 Federal Deposit Insurance Act treats as in-
19 sured by the Savings Association Insurance
20 Fund.

21 **SEC. 3002. DEPOSIT INSURANCE STUDY.**

22 (a) IN GENERAL.—The Secretary of the Treasury
23 shall conduct a study of the feasibility of converting the
24 Federal Deposit Insurance Corporation into a self-funded
25 deposit insurance system.

- 1 (b) CONTENTS.—The study required by subsection
2 (a) shall examine and evaluate—
- 3 (1) savings to the Federal Government if the
4 Corporation becomes self-funded and operates inde-
5 pendently of the Federal Government;
 - 6 (2) the time necessary to convert the Corpora-
7 tion to a self-funded entity and factors that would
8 affect the timing of such a conversion;
 - 9 (3) the composition of the administrative body
10 of a self-funded deposit insurance system;
 - 11 (4) the appropriate level of insurance to protect
12 small depositors;
 - 13 (5) re-insurance;
 - 14 (6) the “too big to fail” doctrine and the appro-
15 priate role of deposit insurance, if any, in covering
16 systemic risk;
 - 17 (7) industry capital necessary to a self-funding
18 deposit insurance fund;
 - 19 (8) supervision of financial institutions by the
20 Federal banking supervisory agencies, consistent
21 with early intervention and prompt corrective action
22 provisions of the Federal Deposit Insurance Act;
 - 23 (9) the effect of a self-funded deposit insurance
24 system on the supervision of financial institutions;

1 (10) increased risks, if any, to the payment sys-
2 tem from a self-funded system; and

3 (11) the type of financial institutions whose li-
4 abilities should be covered by deposit insurance.

5 (c) CONSULTATION.—In conducting the study re-
6 quired by this section, the Secretary of the Treasury shall
7 consult with—

8 (1) the Board of Governors of the Federal Re-
9 serve System;

10 (2) the Office of the Comptroller of the Cur-
11 rency;

12 (3) the National Credit Union Administration;

13 (4) the Office of Management and Budget;

14 (5) individuals from the private sector with ex-
15 pertise in deposit insurance;

16 (6) the Corporation; and

17 (7) individuals from the financial services in-
18 dustry.

19 (d) REPORT TO THE CONGRESS.—Not later than 18
20 months after the date of enactment of this Act, the Sec-
21 retary shall submit to the Congress a report containing
22 a detailed statement of findings made and conclusions
23 drawn from the study conducted under this section, in-
24 cluding such recommendations for administrative and leg-

1 islative action as the Secretary determines to be appro-
2 priate.

3 (e) DEFINITION.—For purposes of this section, the
4 term “Corporation” means the Federal Deposit Insurance
5 Corporation.

6 **SEC. 3003. ANNUAL ADJUSTMENT FACTORS FOR OPERAT-**
7 **ING COSTS ONLY; RESTRAINT ON SECTION 8**
8 **RENT INCREASES FOR STAYERS IN THE CER-**
9 **TIFICATE PROGRAM.**

10 (a) ANNUAL ADJUSTMENT FACTORS FOR OPERAT-
11 ING COSTS ONLY.—Section 8(c)(2)(A) of the United
12 States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A))
13 is amended—

14 (1) by striking “(2)(A)” and inserting
15 “(2)(A)(i)”;

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

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

20 “(ii)(I) Except as provided in subclause (II), if the
21 maximum monthly rent for a unit in a new construction
22 or substantial rehabilitation project to be adjusted using
23 an annual adjustment factor exceeds 100 percent of the
24 fair market rent for an existing dwelling unit in the mar-
25 ket area, the Secretary shall adjust the rent using an oper-

1 ating costs factor that increases the rent to reflect in-
2 creases in operating costs in the market area.

3 “(II) If the owner of a unit in a project described
4 in subclause (I) demonstrates that the adjusted rent deter-
5 mined under subclause (I) would not exceed the rent for
6 an unassisted unit of similar quality, type, and age in the
7 same market area, as determined by the Secretary, the
8 Secretary shall use the otherwise applicable annual adjust-
9 ment factor.”.

10 (b) RESTRAINT ON SECTION 8 RENT INCREASES FOR
11 STAYERS IN THE CERTIFICATE PROGRAM.—Section
12 8(c)(2)(A) of the United States Housing Act of 1937 (42
13 U.S.C. 1437f(c)(2)(A)), as amended by subsection (a), is
14 amended by adding at the end the following new clause:

15 “(iii) In the case of assistance under the certificate
16 program under this section, 0.01 shall be subtracted from
17 the amount of the annual adjustment factor, except that
18 the annual adjustment factor shall not be reduced to less
19 than 1.0.”.

20 (c) APPLICABILITY.—The amendments made by sub-
21 section (a) shall apply to all contracts for new construction
22 or substantial rehabilitation projects under which rents
23 are adjusted under section 8(c)(2)(A) of the United States
24 Housing Act of 1937, by applying an annual adjustment
25 factor.

1 (d) EFFECTIVE DATE.—The amendments made by
 2 subsections (a) and (b) shall become effective on October
 3 1, 1996.

4 **SEC. 3004. WORKING FAMILY PREFERENCE FOR ADMISSION**
 5 **TO ASSISTED HOUSING.**

6 Section 8(d)(1)(A)(i) of the United States Housing
 7 Act of 1937 (42 U.S.C. 1437f(d)(1)(A)(i)) is amended to
 8 read as follows:

9 “(i) provide that not less than 50 per-
 10 cent of the units shall be made available
 11 for occupancy by families that include one
 12 or more adult members who are employed
 13 on a full- or part-time basis;”.

14 **TITLE IV—COMMITTEE ON COM-**
 15 **MERCE, SCIENCE, AND**
 16 **TRANSPORTATION**
 17 **Subtitle A—Communications**

18 **SEC. 4001. SPECTRUM AUCTIONS.**

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

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

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

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

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

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

17 “(B) for public safety radio services, in-
18 cluding non-Government uses that protect the
19 safety of life, health, and property and that are
20 not made commercially available to the public;
21 or

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

1 existing television licenses, unless the Commis-
2 sion—

3 “(i) not later than 180 days after the
4 date of enactment of the Omnibus Budget
5 Reconciliation Act of 1995, after notice
6 and public comment, submits to Congress
7 a proposal to use the authority provided in
8 this subsection for the assignment of initial
9 licenses or construction permits for use of
10 the electromagnetic spectrum allocated but
11 not assigned as of the date of enactment of
12 that Act for television broadcast services;
13 and

14 “(ii) the Congress takes action to ap-
15 prove the plan or to authorize the use of
16 the authority provided by this subsection
17 for such licenses or permits.

18 Except as provided in this subparagraph, the
19 Commission may not assign initial licenses or
20 construction permits under this title to terres-
21 trial commercial television broadcast licensees
22 to replace their existing broadcast licenses be-
23 fore January 1, 1998.”; and

24 (B) by striking “1998” in paragraph (11)
25 and inserting “2002”.

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

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

5 (1) IN GENERAL.—The Federal Communica-
6 tions Commission shall complete all actions nec-
7 essary to permit the assignment, by September 30,
8 2002, by competitive bidding pursuant to section
9 309(j) of the Communications Act of 1934 (47
10 U.S.C. 309(j)) of licenses for the use of bands of
11 frequencies that—

12 (A) individually span not less than 25
13 megahertz, unless a combination of smaller
14 bands can, notwithstanding the provisions of
15 paragraph (7) of such section, reasonably be ex-
16 pected to produce greater receipts;

17 (B) in the aggregate span not less than
18 100 megahertz;

19 (C) are located below 3 gigahertz; and

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

22 (i) been assigned or designated by
23 Commission regulation for assignment pur-
24 suant to such section;

1 (ii) been identified by the Secretary of
2 Commerce pursuant to section 113 of the
3 National Telecommunications and Infor-
4 mation Administration Organization Act
5 (47 U.S.C. 923); or

6 (iii) reserved for Federal Government
7 use pursuant to section 305 of the Com-
8 munications Act of 1934 (47 U.S.C. 305).

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

12 (2) CRITERIA FOR REASSIGNMENT.—In making
13 available bands of frequencies for competitive bid-
14 ding pursuant to paragraph (1), the Commission
15 shall—

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

18 (B) take into account the cost to incum-
19 bent licensees of relocating existing uses to
20 other bands of frequencies or other means of
21 communication;

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

1 (D) comply with the requirements of inter-
2 national agreements concerning spectrum allo-
3 cations; and

4 (E) take into account the costs to satellite
5 service providers that could result from multiple
6 auctions of like spectrum internationally for
7 global satellite systems.

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

10 (A) the Commission is not able to provide
11 for the effective relocation of incumbent licens-
12 ees to bands of frequencies that are available to
13 the Commission for assignment; and

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

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

18 (ii) allocated for Federal Government
19 use, but that could be reallocated pursuant
20 to part B of the National Telecommuni-
21 cations and Information Administration
22 Organization Act (47 U.S.C. 921 et seq.),
23 as amended by this Act.

24 (c) IDENTIFICATION AND REALLOCATION OF FRE-
25 QUENCIES; RELOCATION OF FEDERAL GOVERNMENT STA-

1 TIONS.—The National Telecommunications and Informa-
2 tion Administration Organization Act (47 U.S.C. 901 et
3 seq.) is amended—

4 (1) by adding at the end of section 113 the fol-
5 lowing:

6 “(f) ADDITIONAL REALLOCATION REPORT.—If the
7 Secretary receives a notice from the Commission pursuant
8 to section 4001(b)(3) of the Omnibus Budget Reconcili-
9 ation Act of 1995, the Secretary shall prepare and submit
10 to the President and the Congress a report recommending
11 for reallocation for use other than by Federal Government
12 stations under section 305 of the 1934 Act (47 U.S.C.
13 305), bands of frequencies that are suitable for the uses
14 identified in the Commission’s notice.

15 “(g) RELOCATION OF FEDERAL GOVERNMENT STA-
16 TIONS.—

17 “(1) IN GENERAL.—In order to expedite the ef-
18 ficient use of the electromagnetic spectrum and not-
19 withstanding section 3302(b) of title 31, United
20 States Code, any Federal entity which operates a
21 Federal Government station may accept payment in
22 advance or in-kind reimbursement of costs, or a
23 combination of payment in advance and in-kind re-
24 imbursement, from any person to defray entirely the
25 expenses of relocating the Federal entity’s oper-

1 ations from one or more radio spectrum frequencies
2 to any other frequency or frequencies, including,
3 without limitation, the costs of any modification, re-
4 placement, or reissuance of equipment, facilities, op-
5 erating manuals, regulations, or other expenses in-
6 curred by that entity. Any such payment shall be de-
7 posited in the account of such Federal entity in the
8 Treasury of the United States. Funds deposited ac-
9 cording to this section shall be available, without ap-
10 propriation or fiscal year limitation, only for the op-
11 erations of the Federal entity for which such funds
12 were deposited under this section.

13 “(2) PROCESS FOR RELOCATION.—Any person
14 seeking to relocate a Federal Government station
15 that has been assigned a frequency within a band al-
16 located for mixed Federal and non-Federal use may
17 submit a petition for such relocation to NTIA. The
18 NTIA shall limit the Federal Government station’s
19 operating license to secondary status when the fol-
20 lowing requirements are met—

21 “(A) the person seeking relocation of the
22 Federal Government station has guaranteed to
23 defray entirely, through payment in advance,
24 in-kind reimbursement of costs, or a combina-
25 tion thereof, all relocation costs incurred by the

1 Federal entity, including all engineering, equip-
2 ment, site acquisition and construction, and
3 regulatory fee costs;

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

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

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

22 “(i) consistent with obligations under-
23 taken by the United States in international
24 agreements and with United States na-

1 tional security and public safety interests;
2 and
3 “(ii) suitable for the technical charac-
4 teristics of the band and consistent with
5 other uses of the band.

6 In exercising its authority under subparagraph
7 (D) with respect to issues that could have na-
8 tional security or foreign relations implications,
9 NTIA shall consult with the Secretary of De-
10 defense or the Secretary of State, or both, as ap-
11 propriate.

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

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

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

12 “(i) DEFINITIONS.—For purposes of this section—

13 “(1) FEDERAL ENTITY.—The term ‘Federal en-
14 tity’ means any Department, agency, or other ele-
15 ment of the Federal Government that utilizes radio
16 frequency spectrum in the conduct of its authorized
17 activities, including a Federal power agency.

18 “(2) SPECTRUM REALLOCATION FINAL RE-
19 PORT.—The term ‘Spectrum Reallocation Final Re-
20 port’ means the report submitted by the Secretary to
21 the President and Congress in compliance with the
22 requirements of subsection (a).”; and

23 (2) by striking “(a) or (d)(1)” in section
24 114(a)(1) and inserting “(a), (d)(1), or (f)”.

1 (d) IDENTIFICATION AND REALLOCATION OF
2 AUCTIONABLE FREQUENCIES.—The National Tele-
3 communications and Information Administration Organi-
4 zation Act (47 U.S.C. 901 et seq.), as amended by this
5 Act, is amended—

6 (1) by striking the heading of paragraph (1) of
7 section 113(b) and inserting “INITIAL
8 REALLOCATION REPORT.—”;

9 (2) by inserting “in the first report required by
10 subsection (a)” after “recommend for reallocation”
11 in such paragraph;

12 (3) by inserting “or (3)” after “paragraph (1)”
13 each place it appears in paragraph (2) of section
14 113(b);

15 (4) by adding at the end of section 113(b) the
16 following:

17 “(3) SECOND REALLOCATION REPORT.—In ac-
18 cordance with the provisions of this section, the Sec-
19 retary shall recommend for reallocation for use other
20 than by Federal Government stations under section
21 305 of the 1934 Act (47 U.S.C. 305), a single fre-
22 quency band that spans not less than an additional
23 20 megahertz, that is located below 3 gigahertz, and
24 that meets the criteria specified in paragraphs (1)
25 through (5) of subsection (a).”;

1 (5) by striking “the report required by section
2 113(a)” in section 115(b) and inserting “the initial
3 reallocation report required by section 113(a)”; and

4 (6) by adding at the end of section 115 the fol-
5 lowing:

6 “(c) ALLOCATION AND ASSIGNMENT OF FRE-
7 QUENCIES IDENTIFIED IN THE SECOND REALLOCATION
8 REPORT.—With respect to the frequencies made available
9 for reallocation pursuant to section 113(b)(3), the Com-
10 mission shall, not later than 1 year after receipt of the
11 second reallocation report required by such section, pre-
12 pare, submit to the President and the Congress, and im-
13 plement, a plan for the allocation and assignment under
14 the 1934 Act of such frequencies. Such plan shall propose
15 the immediate allocation and assignment of all such fre-
16 quencies in accordance with section 309(j) of the 1934 Act
17 (47 U.S.C. 309(j)).”.

18 **SEC. 4002. ANNUAL REGULATORY FEES.**

19 (a) IN GENERAL.—The Schedule of Regulatory Fees
20 set forth in 1.1153 of title 47, CFR, authorized by section
21 9(g) of the Communications Act of 1934 (47 U.S.C. 9(g)),
22 is amended by—

23 (1) striking “\$22,420” in the Annual Regu-
24 latory Fee column for VHF Commercial Markets 1
25 thru 10 and inserting “\$32,000”;

1 (2) striking “\$19,925” in the Annual Regu-
2 latory Fee column for VHF Commercial Markets 11
3 thru 25 and inserting “\$26,000”;

4 (3) striking “\$14,950” in the Annual Regu-
5 latory Fee column for VHF Commercial Markets 26
6 thru 50 and inserting “\$17,000”;

7 (4) striking “\$9,975” in the Annual Regulatory
8 Fee column for VHF Commercial Markets 51 thru
9 100 and inserting “\$9,000”;

10 (5) striking “\$6,225” in the Annual Regulatory
11 Fee column for VHF Commercial Remaining Mar-
12 kets and inserting “\$2,500”;

13 (6) striking “\$17,925” in the Annual Regu-
14 latory Fee column for UHF Commercial Markets 1
15 thru 10 and inserting “\$25,000”;

16 (7) striking “\$15,950” in the Annual Regu-
17 latory Fee column for UHF Commercial Markets 11
18 thru 25 and inserting “\$20,000”;

19 (8) striking “\$11,950” in the Annual Regu-
20 latory Fee column for UHF Commercial Markets 26
21 thru 50 and inserting “\$13,000”;

22 (9) striking “\$7,975” in the Annual Regulatory
23 Fee column for UHF Commercial Markets 51 thru
24 100 and inserting “\$7,000”; and

1 (10) striking “\$4,975” in the Annual Regu-
2 latory Fee column for UHF Commercial Remaining
3 Markets and inserting “\$2,000”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 subsection (a) apply to fees assessed after the date of en-
6 actment of this Act.

7 **Subtitle B—Oceans and Fisheries**

8 **SEC. 4021. LIMITS ON COAST GUARD USER FEES.**

9 Section 10401(g) of the Omnibus Budget Reconcili-
10 ation Act of 1990 (46 U.S.C. 2110(a)(2)) is amended by
11 adding after “annually.” the following: “The Secretary
12 may not establish a fee or charge under paragraph (1)
13 for inspection or examination of a small passenger vessel
14 under this title that is more than \$300 annually for such
15 vessels under 65 feet in length, or more than \$600 annu-
16 ally for such vessels 65 feet in length and greater. The
17 Secretary may not establish a fee or charge under para-
18 graph (1) for inspection or examination under this title
19 for any publicly-owned ferry.”.

20 **SEC. 4022. OIL SPILL RECOVERY INSTITUTE.**

21 (a) FUNDING.—Section 5006 of the Oil Pollution Act
22 of 1990 (33 U.S.C. 2736) is amended by—

23 (1) striking subsection (a), redesignating sub-
24 section (b) as subsection “(a)”;

1 (2) striking “5003” in the caption of subsection
2 (a), as redesignated, and inserting “5001, 5003,”;

3 (3) inserting “to carry out section 5001 in the
4 amount as determined in section 5006(b), and” after
5 “limitation,” in the text of subsection (a), as reded-
6 ignated; and

7 (4) adding at the end thereof the following:

8 “(b) USE OF INTEREST ONLY.—The amount of fund-
9 ing to be made available annually to carry out section
10 5001 shall be the interest produced by the Fund’s invest-
11 ment of the \$22,500,000 remaining funding authorized for
12 the Prince William Sound Oil Spill Recovery Institute and
13 currently deposited in the Fund and invested by the Sec-
14 retary of the Treasury in income producing securities
15 along with other funds comprising the Fund.

16 “(c) USE FOR SECTION 1012.—Beginning with the
17 eleventh year following the date of enactment of the Coast
18 Guard Authorization Act of 1995, the funding authorized
19 for the Prince William Sound Oil Spill Recovery Institute
20 and deposited in the Fund shall thereafter be made avail-
21 able for purposes of section 1012 in Alaska.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 6002(b) of the Oil Pollution Act of
24 1990 (33 U.S.C. 2752(b)) is amended by striking
25 “5006(b)” and inserting “5006”.

1 (2) Section 7001(c)(9) the Oil Pollution Act of
2 1990 (33 U.S.C. 2761(c)(9)) is amended by striking
3 the period at the end thereof and inserting “until
4 the authorization for funding under section 5006(b)
5 expires”.

6 **Subtitle C—Rail Infrastructure**

7 **SEC. 4031. RAILROAD REHABILITATION AND IMPROVE-** 8 **MENT PROGRAM.**

9 (a) ISSUANCE OF OBLIGATIONS.—The Secretary of
10 Transportation shall issue to the Secretary of the Treas-
11 ury notes or other obligations pursuant to section 512 of
12 the Railroad Revitalization and Regulatory Reform Act of
13 1976 (45 U.S.C. 832) in such amounts and at such times
14 as may be necessary to pay any amounts required pursu-
15 ant to the guarantee of the principal amount of obligations
16 under sections 511 through 513 of that Act (45 U.S.C.
17 831 through 833) as long as any such guaranteed obliga-
18 tion is outstanding.

19 (b) LIMITATION.—Notwithstanding any other provi-
20 sion of law, the Secretary of Transportation may not make
21 loan guarantee commitments under section 511 of that
22 Act (45 U.S.C. 831) in excess of \$100,000,000 during
23 each fiscal year from 1996 through 2002, and
24 \$10,000,000 is hereby made available for loan guarantee
25 commitments made during each of those fiscal years.

1 **SEC. 4032. LOCAL RAIL FREIGHT ASSISTANCE.**

2 Section 22108(a) of title 49, United States Code, is
3 amended—

4 (1) by adding at the end of paragraph (1) the
5 following:

6 “(C) \$25,000,000 for each of the fiscal
7 years ending September 30, 1995, 1996, and
8 1997, which is authorized and hereby made
9 available.”; and

10 (2) by striking “1994,” in paragraph (3) and
11 inserting “1997,”.

12 **SEC. 4033. DISASTER FUNDING FOR RAILROADS.**

13 Section 22101 of title 49, United States Code, is
14 amended by redesignating subsection (d) as (e), and by
15 inserting after subsection (c) the following:

16 “(d) DISASTER FUNDING FOR RAILROADS.—

17 “(1) The Secretary may declare that a disaster
18 has occurred and that it is necessary to repair and
19 rebuild rail lines damaged as a result of such disas-
20 ter. If the Secretary makes a declaration under this
21 paragraph, the Secretary may—

22 “(A) waive the requirements of this sec-
23 tion;

24 “(B) consider the extent to which the
25 State has available unexpended local rail freight
26 assistance funds or available repaid loans; and

1 “(C) prescribe the form and time for appli-
2 cations for assistance made available herein.

3 “(2) The Secretary may not provide assistance
4 under this subsection unless emergency disaster re-
5 lief funds are appropriated for that purpose.

6 “(3) Funds provided under this subsection shall
7 remain available until expended.”.

8 **SEC. 4034. GRADE-CROSSING ELIGIBILITY.**

9 Section 22101(a) of title 49, United States Code, is
10 amended—

11 (1) by striking “and” after the semicolon in
12 paragraph (2);

13 (2) by striking the period at the end of para-
14 graph (3) and inserting a semicolon; and

15 (3) by adding at the end thereof the following
16 new paragraphs:

17 “(4) closing or improving a railroad grade
18 crossing or series of railroad grade crossings; and

19 “(5) creating a State supervised grain car
20 pool.”.

1 **TITLE V—COMMITTEE ON EN-**
2 **ERGY AND NATURAL RE-**
3 **SOURCES**

4 **Subtitle A—United States**
5 **Enrichment Corporation**

6 **SEC. 5001. SHORT TITLE.**

7 This subtitle may be cited as the “USEC Privatiza-
8 tion Act”.

9 **SEC. 5002. PURPOSE.**

10 The purpose of this subtitle is to transfer the interest
11 of the United States in the United States Enrichment Cor-
12 poration to the private sector in a manner that provides
13 for the long-term viability of the Corporation, provides for
14 the continuation by the Corporation of the operation of
15 the Department of Energy’s gaseous diffusion plants, pro-
16 vides for the protection of the public interest in maintain-
17 ing a reliable and economical domestic source of uranium
18 mining and enrichment services, and, to the extent not in-
19 consistent with such purposes, secures the maximum pro-
20 ceeds to the United States.

21 **SEC. 5003. DEFINITIONS.**

22 For purposes of this subtitle:

23 (1) The term “AVLIS” means atomic vapor
24 laser isotope separation technology.

1 (2) The term “Corporation” means the United
2 States Enrichment Corporation and, unless the con-
3 text otherwise requires, includes the private corpora-
4 tion and any successor thereto following privatiza-
5 tion.

6 (3) The term “gaseous diffusion plants” means
7 the Paducah Gaseous Diffusion Plant at Paducah,
8 Kentucky and the Portsmouth Gaseous Diffusion
9 Plant at Piketon, Ohio.

10 (4) The term “highly enriched uranium” means
11 uranium enriched to 20 percent or more of the ura-
12 nium-235 isotope.

13 (5) The term “low-enriched uranium” means
14 uranium enriched to less than 20 percent of the ura-
15 nium-235 isotope, including that which is derived
16 from highly enriched uranium.

17 (6) The term “low-level radioactive waste” has
18 the meaning given such term in section 2(9) of the
19 Low-Level Radioactive Waste Policy Act (42 U.S.C.
20 2021b(9)).

21 (7) The term “private corporation” means the
22 corporation established under section 5005.

23 (8) The term “privatization” means the trans-
24 fer of ownership of the Corporation to private inves-
25 tors.

1 (9) The term “privatization date” means the
2 date on which 100 percent of the ownership of the
3 Corporation has been transferred to private inves-
4 tors.

5 (10) The term “public offering” means an un-
6 derwritten offering to the public of the common
7 stock of the private corporation pursuant to section
8 5004.

9 (11) The “Russian HEU Agreement” means
10 the Agreement Between the Government of the
11 United States of America and the Government of
12 the Russian Federation Concerning the Disposition
13 of Highly Enriched Uranium Extracted from Nu-
14 clear Weapons, dated February 18, 1993.

15 (12) The term “Secretary” means the Secretary
16 of Energy.

17 (13) The “Suspension Agreement” means the
18 Agreement to Suspend the Antidumping Investiga-
19 tion on Uranium from the Russian Federation, as
20 amended.

21 (14) The term “uranium enrichment” means
22 the separation of uranium of a given isotopic content
23 into 2 components, 1 having a higher percentage of
24 a fissile isotope and 1 having a lower percentage.

1 **SEC. 5004. SALE OF THE CORPORATION.**

2 (a) AUTHORIZATION.—The Board of Directors of the
3 Corporation, with the approval of the Secretary of the
4 Treasury, shall transfer ownership of the assets and obli-
5 gations of the Corporation to the private corporation es-
6 tablished under section 5005 (which may be consummated
7 through a merger or consolidation effected in accordance
8 with, and having the effects provided under, the laws of
9 the state of incorporation of the private corporation, as
10 if the Corporation were incorporated thereunder).

11 (b) BOARD DETERMINATION.—The Board, with the
12 approval of the Secretary of the Treasury, shall select the
13 method of transfer and establish terms and conditions for
14 the transfer that will provide the maximum proceeds to
15 the Treasury of the United States and will provide for the
16 long-term viability of the private corporation, the contin-
17 ued operation of the gaseous diffusion plants, and the pub-
18 lic interest in maintaining a reliable and economical do-
19 mestic uranium mining and enrichment industries.

20 (c) APPLICATION OF SECURITIES LAWS.—Any offer-
21 ing or sale of securities by the private corporation shall
22 be subject to the Securities Act of 1933 (15 U.S.C. 77a
23 et seq.), the Securities Exchange Act of 1934 (15 U.S.C.
24 78a et seq.), and the provisions of the Constitution and
25 laws of any State, territory, or possession of the United
26 States relating to transactions in securities.

1 (d) PROCEEDS.—Proceeds from the sale of the
2 United States' interest in the Corporation shall be—

3 (1) deposited in the general fund of the Treas-
4 ury;

5 (2) included in the budget baseline required by
6 the Balanced Budget and Emergency Deficit Control
7 Act of 1985; and

8 (3) counted as an offset to direct spending for
9 purposes of section 252 of such Act, notwithstanding
10 section 257(e) of such Act.

11 (e) EXPENSES.—Expenses of privatization shall be
12 paid from Corporation revenue accounts in the United
13 States Treasury.

14 **SEC. 5005. ESTABLISHMENT OF PRIVATE CORPORATION.**

15 (a) INCORPORATION.—(1) The directors of the Cor-
16 poration shall establish a private for-profit corporation
17 under the laws of a State for the purpose of receiving the
18 assets and obligations of the Corporation at privatization
19 and continuing the business operations of the Corporation
20 following privatization.

21 (2) The directors of the Corporation may serve as
22 incorporators of the private corporation and shall take all
23 steps necessary to establish the private corporation, in-
24 cluding the filing of articles of incorporation consistent
25 with the provisions of this subtitle.

1 (3) Employees and officers of the Corporation (in-
2 cluding members of the Board of Directors) acting in ac-
3 cordance with this section on behalf of the private corpora-
4 tion shall be deemed to be acting in their official capacities
5 as employees or officers of the Corporation for purposes
6 of 18 U.S.C. 205.

7 (b) STATUS OF THE PRIVATE CORPORATION.—(1)
8 The private corporation shall not be an agency, instrumen-
9 tality, or establishment of the United States, a Govern-
10 ment corporation, or a Government-controlled corporation.

11 (2) Except as otherwise provided by this Subtitle, fi-
12 nancial obligations of the private corporation shall not be
13 obligations of, or guaranteed as to principal or interest
14 by, the Corporation or the United States, and the obliga-
15 tions shall so plainly state.

16 (3) No action under section 1491 of title 28, United
17 States Code, shall be allowable against the United States
18 based on actions of the private corporation.

19 (c) APPLICATION OF POST-GOVERNMENT EMPLOY-
20 MENT RESTRICTIONS.—Beginning on the privatization
21 date, the restrictions of 18 U.S.C. 207(a), (b), (c), and
22 (d) shall not apply to the acts of an individual done in
23 carrying out official duties as a director, officer, or em-
24 ployee of the private corporation, if the individual was an
25 officer or employee of the Corporation (including a direc-

1 tor) continuously during the 45 days prior to the privatiza-
2 tion date.

3 (d) DISSOLUTION.—In the event that the privatiza-
4 tion does not occur, the Corporation will provide for the
5 dissolution of the private corporation within 1 year of the
6 private corporation's incorporation unless the Secretary of
7 the Treasury or his delegate, upon the Corporation's re-
8 quest, agrees to delay any such dissolution for an addi-
9 tional year.

10 **SEC. 5006. TRANSFERS TO THE PRIVATE CORPORATION.**

11 Concurrent with privatization, the Corporation shall
12 transfer to the private corporation—

13 (1) the lease of the gaseous diffusion plants in
14 accordance with section 5007,

15 (2) all personal property and inventories of the
16 Corporation,

17 (3) all contracts, agreements, and leases under
18 section 5008(a),

19 (4) the Corporation's right to purchase power
20 from the Secretary under section 5008(b),

21 (5) such funds in accounts of the Corporation
22 held by the Treasury or on deposit with any bank
23 or other financial institution as approved by the Sec-
24 retary of the Treasury, and

1 (6) all of the Corporation's records, including
2 all of the papers and other documentary materials,
3 regardless of physical form or characteristics, made
4 or received by the Corporation.

5 **SEC. 5007. LEASING OF GASEOUS DIFFUSION FACILITIES.**

6 (a) **TRANSFER OF LEASE.**—Concurrent with privat-
7 ization, the Corporation shall transfer to the private cor-
8 poration the lease of the gaseous diffusion plants and re-
9 lated property for the remainder of the term of such lease
10 in accordance with the terms of such lease.

11 (b) **RENEWAL.**—The private corporation shall have
12 the exclusive option to lease the gaseous diffusion plants
13 and related property for additional periods following the
14 expiration of the initial term of the lease.

15 (c) **EXCLUSION OF FACILITIES FOR PRODUCTION OF**
16 **HIGHLY ENRICHED URANIUM.**—The Secretary shall not
17 lease to the private corporation any facilities necessary for
18 the production of highly enriched uranium but may, sub-
19 ject to the requirements of the Atomic Energy Act of 1954
20 (42 U.S.C. 2011 et seq.), grant the Corporation access
21 to such facilities for purposes other than the production
22 of highly enriched uranium.

23 (d) **DOE RESPONSIBILITY FOR PREEXISTING CONDI-**
24 **TIONS.**—The payment of any costs of decontamination
25 and decommissioning, response actions, or corrective ac-

1 tions with respect to conditions existing before July 1,
2 1993, at the gaseous diffusion plants shall remain the sole
3 responsibility of the Secretary.

4 (e) ENVIRONMENTAL AUDIT.—For purposes of sub-
5 section (d), the conditions existing before July 1, 1993,
6 at the gaseous diffusion plants shall be determined from
7 the environmental audit conducted pursuant to section
8 1403(e) of the Atomic Energy Act of 1954 (42 U.S.C.
9 2297c-2(e)).

10 (f) TREATMENT UNDER PRICE-ANDERSON PROVI-
11 SIONS.—Any lease executed between the Secretary and the
12 Corporation or the private corporation, and any extension
13 or renewal thereof, under this section shall be deemed to
14 be a contract for purposes of section 170d. of the Atomic
15 Energy Act of 1954 (42 U.S.C. 2210(d)).

16 (g) WAIVER OF EIS REQUIREMENT.—The execution
17 or transfer of the lease between the Secretary and the Cor-
18 poration or the private corporation, and any extension or
19 renewal thereof, shall not be considered a major Federal
20 action significantly affecting the quality of the human en-
21 vironment for purposes of section 102 of the National En-
22 vironmental Policy Act of 1969 (42 U.S.C. 4332).

23 **SEC. 5008. TRANSFER OF CONTRACTS.**

24 (a) TRANSFER OF CONTRACTS.—Concurrent with
25 privatization, the Corporation shall transfer to the private

1 corporation all contracts, agreements, and leases, includ-
2 ing all uranium enrichment contracts, that were—

3 (1) transferred by the Secretary to the Corpora-
4 tion pursuant to section 1401(b) of the Atomic En-
5 ergy Act of 1954 (42 U.S.C. 2297c(b)), or

6 (2) entered into by the Corporation before the
7 privatization date.

8 (b) NONTRANSFERABLE POWER CONTRACTS.—The
9 Corporation shall transfer to the private corporation the
10 right to purchase power from the Secretary under the
11 power purchase contracts for the gaseous diffusion plants
12 executed by the Secretary before July 1, 1993. The Sec-
13 retary shall continue to receive power for the gaseous dif-
14 fusion plants under such contracts and shall continue to
15 resell such power to the private corporation at cost during
16 the term of such contracts.

17 (c) EFFECT OF TRANSFER.—(1) Notwithstanding
18 subsection (a), the United States shall remain obligated
19 to the parties to the contracts, agreements, and leases
20 transferred under subsection (a) for the performance of
21 its obligations under such contracts, agreements, or leases
22 during their terms. Performance of such obligations by the
23 private corporation shall be considered performance by the
24 United States.

1 (2) If a contract, agreement, or lease transferred
2 under subsection (a) is terminated, extended, or materially
3 amended after the privatization date—

4 (A) the private corporation shall be responsible
5 for any obligation arising under such contract,
6 agreement, or lease after any extension or material
7 amendment, and

8 (B) the United States shall be responsible for
9 any obligation arising under the contract, agree-
10 ment, or lease before the termination, extension, or
11 material amendment.

12 (3) The private corporation shall reimburse the
13 United States for any amount paid by the United States
14 under a settlement agreement entered into with the con-
15 sent of the private corporation or under a judgment, if
16 the settlement or judgment—

17 (A) arises out of an obligation under a contract,
18 agreement, or lease transferred under subsection (a),
19 and

20 (B) arises out of actions of the private corpora-
21 tion between the privatization date and the date of
22 a termination, extension, or material amendment of
23 such contract, agreement, or lease.

24 (d) PRICING.—The Corporation may establish prices
25 for its products, materials, and services provided to cus-

1 tomers on a basis that will allow it to attain the normal
2 business objectives of a profit making corporation.

3 **SEC. 5009. LIABILITIES.**

4 (a) LIABILITY OF THE UNITED STATES.—(1) Except
5 as otherwise provided in this Subtitle, all liabilities arising
6 out of the operation of the uranium enrichment enterprise
7 before July 1, 1993, shall remain the direct liabilities of
8 the Secretary.

9 (2) Except as provided in subsection (a)(3) or other-
10 wise provided in a memorandum of agreement entered into
11 by the Corporation and the Office of Management and
12 Budget prior to the privatization date, all liabilities arising
13 out of the operation of the Corporation between July 1,
14 1993, and the privatization date shall remain the direct
15 liabilities of the United States.

16 (3) All liabilities arising out of the disposal of de-
17 pleted uranium generated by the Corporation between
18 July 1, 1993, and the privatization date shall become the
19 direct liabilities of the Secretary.

20 (4) Any stated or implied consent for the United
21 States, or any agent or officer of the United States, to
22 be sued by any person for any legal, equitable, or other
23 relief with respect to any claim arising out of, or resulting
24 from, the privatization of the Corporation is hereby with-
25 drawn.

1 (5) To the extent that any claim against the United
2 States under this section is of the type otherwise required
3 by Federal statute or regulation to be presented to a Fed-
4 eral agency or official for adjudication or review, such
5 claim shall be presented to the Department of Energy in
6 accordance with procedures to be established by the Sec-
7 retary. Nothing in this paragraph shall be construed to
8 impose on the Department of Energy liability to pay any
9 claim presented pursuant to this paragraph.

10 (6) The Attorney General shall represent the United
11 States in any action seeking to impose liability under this
12 subsection.

13 (b) LIABILITY OF THE CORPORATION.—Notwith-
14 standing any provision of any agreement to which the Cor-
15 poration is a party, the Corporation shall not be consid-
16 ered in breach, default, or violation of any agreement be-
17 cause of the transfer of such agreement to the private cor-
18 poration under section 5008 or any other action the Cor-
19 poration is required to take under this subtitle.

20 (c) LIABILITY OF THE PRIVATE CORPORATION.—Ex-
21 cept as provided in this subtitle, the private corporation
22 shall be liable for any liabilities arising out of its oper-
23 ations after the privatization date.

24 (d) LIABILITY OF OFFICERS AND DIRECTORS.—(1)
25 No officer, director, employee, or agent of the Corporation

1 shall be liable in any civil proceeding to any party in con-
2 nection with any action taken in connection with the pri-
3 vatization if, with respect to the subject matter of the ac-
4 tion, suit, or proceeding, such person was acting within
5 the scope of his employment.

6 (2) This subsection shall not apply to claims arising
7 under the Securities Act of 1933 (15 U.S.C. 77a. et seq.),
8 the Securities Exchange Act of 1934 (15 U.S.C. 78a. et
9 seq.), or under the Constitution or laws of any State, terri-
10 tory, or possession of the United States relating to trans-
11 actions in securities.

12 **SEC. 5010. EMPLOYEE PROTECTIONS.**

13 (a) CONTRACTOR EMPLOYEES.—(1) Privatization
14 shall not diminish the accrued, vested pension benefits of
15 employees of the Corporation's operating contractor at the
16 two gaseous diffusion plants.

17 (2) In the event that the private corporation termi-
18 nates or changes the contractor at either or both of the
19 gaseous diffusion plants, the plan sponsor or other appro-
20 priate fiduciary of the pension plan covering employees of
21 the prior operating contractor shall arrange for the trans-
22 fer of all plan assets and liabilities relating to accrued pen-
23 sion benefits of such plans participants and beneficiaries
24 from such plant to a pension plan sponsored by the new

1 contractor or the private corporation or a joint labor-man-
2 agement plan, as the case may be.

3 (3) In addition to any obligations arising under the
4 National Labor Relations Act, any employer (including the
5 private corporation if it operates a gaseous diffusion plant
6 without a contractor or any contractor of the private cor-
7 poration) at a gaseous diffusion plant shall—

8 (A) abide by the terms of any unexpired collec-
9 tive bargaining agreement covering employees in
10 bargaining units at the plant and in effect on the
11 privatization date until the stated expiration or ter-
12 mination date of the agreement; or

13 (B) in the event a collective bargaining agree-
14 ment is not in effect upon the privatization date,
15 have the same bargaining obligations under section
16 8(d) of the National Labor Relations Act (29 U.S.C.
17 158(d)) as it had immediately before the privatiza-
18 tion date.

19 (4) If the private corporation replaces its operating
20 contractor at a gaseous diffusion plant, the new employer
21 (including the new contractor or the private corporation
22 if it operates a gaseous diffusion plant without a contrac-
23 tor) shall—

24 (A) offer employment to non-management em-
25 ployees of the predecessor contractor to the extent

1 that their jobs still exist or they are qualified for
2 new jobs, and

3 (B) abide by the terms of the predecessor con-
4 tractor's collective bargaining agreement until the
5 agreement expires or a new agreement is signed.

6 (5) In the event of a plant closing or mass layoff (as
7 such terms are defined in section 2101(a) (2) and (3) of
8 title 29, United States Code) at either of the gaseous dif-
9 fusion plants, the Secretary of Energy shall treat any ad-
10 versely affected employee of an operating contractor at ei-
11 ther plant who was an employee at such plant on July
12 1, 1993, as a Department of Energy employee for pur-
13 poses of sections 3161 and 3162 of the National Defense
14 Authorization Act for Fiscal Year 1993 (42 U.S.C.
15 7274h-7274i).

16 (6)(A) The Secretary and the private corporation
17 shall cause the post-retirement health benefits plan pro-
18 vider (or its successor) to continue to provide benefits for
19 persons employed by an operating contractor at either of
20 the gaseous diffusion plants in an economically efficient
21 manner and at substantially the same level of coverage
22 as eligible retirees are entitled to receive on the privatiza-
23 tion date.

24 (B) Persons eligible for coverage under subparagraph
25 (A) shall be limited to:

1 (i) Persons who retired from active employment
2 at one of the gaseous diffusion plants on or before
3 the privatization date as vested participants in a
4 pension plan maintained either by the Corporation's
5 operating contractor or by a contractor employed
6 prior to July 1, 1993, by the Department of Energy
7 to operate a gaseous diffusion plant.

8 (ii) Persons who are employed by the Corpora-
9 tion's operating contractor on or before the privat-
10 ization date and are vested participants in a pension
11 plan maintained either by the Corporation's operat-
12 ing contractor or by a contractor employed prior to
13 July 1, 1993, by the Department of Energy to oper-
14 ate a gaseous diffusion plant.

15 (C) The Secretary shall fund the entire cost of post-
16 retirement health benefits for persons who retired from
17 employment with an operating contractor prior to July 1,
18 1993.

19 (D) The Secretary and the Corporation shall fund the
20 cost of post-retirement health benefits for persons who re-
21 tire from employment with an operating contractor after
22 July 1, 1993, in proportion to the retired person's years
23 and months of service at a gaseous diffusion plant under
24 their respective management.

1 (7)(A) Any suit under this subsection alleging a viola-
2 tion of an agreement between an employer and a labor
3 organization shall be brought in accordance with section
4 301 of the Labor Management Relations Act (29 U.S.C.
5 185).

6 (B) Any charge under this subsection alleging an un-
7 fair labor practice violative of section 8 of the National
8 Labor Relations Act (29 U.S.C. 158) shall be pursued in
9 accordance with section 10 of the National Labor Rela-
10 tions Act (29 U.S.C. 160).

11 (C) Any suit alleging a violation of any provision of
12 this subsection, to the extent it does not allege a violation
13 of the National Labor Relations Act, may be brought in
14 any district court of the United States having jurisdiction
15 of the parties, without regard to the amount in con-
16 troversy or the citizenship of the parties.

17 (b) FORMER FEDERAL EMPLOYEES.—(1)(A) Em-
18 ployees of the Corporation who were subject to either the
19 Civil Service Retirement System (CSRS) or the Federal
20 Employees' Retirement System (FERS) on the day imme-
21 diately preceding the privatization date shall elect—

22 (i) to retain their coverage under either CSRS
23 or FERS, as applicable, in lieu of coverage by the
24 Corporation's retirement system, or

1 (ii) to receive a deferred annuity or lump-sum
2 benefit payable to a terminated employee under
3 CSRS or FERS, as applicable.

4 (B) Those employees electing subparagraph (A)(ii)
5 shall have the option to transfer the balance in their Thrift
6 Savings Plan account to a defined contribution plan under
7 the Corporation's retirement system, consistent with appli-
8 cable law and the terms of the Corporation's defined con-
9 tribution plan.

10 (2) The Corporation shall pay to the Civil Service Re-
11 tirement and Disability Fund—

12 (A) such employee deductions and agency con-
13 tributions as are required by sections 8334, 8422,
14 and 8423 of title 5, United States Code, for those
15 employees who elect to retain their coverage under
16 either CSRS or FERS pursuant to paragraph (1);

17 (B) such additional agency contributions as are
18 determined necessary by the Office of Personnel
19 Management to pay, in combination with the sums
20 under subparagraph (A), the “normal cost” (deter-
21 mined using dynamic assumptions) of retirement
22 benefits for those employees who elect to retain their
23 coverage under CSRS pursuant to paragraph (1),
24 with the concept of “normal cost” being used con-

1 sistent with generally accepted actuarial standards
2 and principles; and

3 (C) such additional amounts, not to exceed two
4 percent of the amounts under subparagraphs (A)
5 and (B), as are determined necessary by the Office
6 of Personnel Management to pay the cost of admin-
7 istering retirement benefits for employees who retire
8 from the Corporation after the privatization date
9 under either CSRS or FERS, for their survivors,
10 and for survivors of employees of the Corporation
11 who die after the privatization date (which amounts
12 shall be available to the Office of Personnel Manage-
13 ment as provided in section 8348(a)(1)(B) of title 5,
14 United States Code).

15 (3) The Corporation shall pay to the Thrift Savings
16 Fund such employee and agency contributions as are re-
17 quired by section 8432 of title 5, United States Code, for
18 those employees who elect to retain their coverage under
19 FERS pursuant to paragraph (1).

20 (4) Any employee of the Corporation who was subject
21 to the Federal Employee Health Benefits Program
22 (FEHBP) on the day immediately preceding the privatiza-
23 tion date and who elects to retain coverage under either
24 CSRS or FERS pursuant to paragraph (1) shall have the
25 option to receive health benefits from a health benefit plan

1 established by the Corporation or to continue without
2 interruption coverage under the FEHBP, in lieu of cov-
3 erage by the Corporation's health benefit system.

4 (5) The Corporation shall pay to the Employees
5 Health Benefits Fund—

6 (A) such employee deductions and agency con-
7 tributions as are required by section 8906(a)–(f) of
8 title 5, United States Code, for those employees who
9 elect to retain their coverage under FEHBP pursu-
10 ant to paragraph (4); and

11 (B) such amounts as are determined necessary
12 by the Office of Personnel Management under para-
13 graph (6) to reimburse the Office of Personnel Man-
14 agement for contributions under section 8906(g)(1)
15 of title 5, United States Code, for those employees
16 who elect to retain their coverage under FEHBP
17 pursuant to paragraph (4).

18 (6) The amounts required under paragraph (5)(B)
19 shall pay the Government contributions for retired employ-
20 ees who retire from the Corporation after the privatization
21 date under either CSRS or FERS, for survivors of such
22 retired employees, and for survivors of employees of the
23 Corporation who die after the privatization date, with said
24 amounts prorated to reflect only that portion of the total

1 service of such employees and retired persons that was
2 performed for the Corporation after the privatization date.

3 **SEC. 5011. OWNERSHIP LIMITATIONS.**

4 No director, officer, or employee of the Corporation
5 may acquire any securities, or any rights to acquire any
6 securities of the private corporation on terms more favor-
7 able than those offered to the general public—

8 (1) in a public offering designed to transfer
9 ownership of the Corporation to private investors,

10 (2) pursuant to any agreement, arrangement,
11 or understanding entered into before the privatiza-
12 tion date, or

13 (3) before the election of the directors of the
14 private corporation.

15 **SEC. 5012. URANIUM TRANSFERS AND SALES.**

16 (a) TRANSFERS AND SALES BY THE SECRETARY.—

17 The Secretary shall not provide enrichment services or
18 transfer or sell any uranium (including natural uranium
19 concentrates, natural uranium hexafluoride, or enriched
20 uranium in any form) to any person except as consistent
21 with this section.

22 (b) RUSSIAN HEU.—(1) On or before December 31,
23 1996, the United States Executive Agent under the Rus-
24 sian HEU Agreement shall transfer to the Secretary with-
25 out charge title to an amount of uranium hexafluoride

1 equivalent to the natural uranium component of low-en-
2 riched uranium derived from at least 18 metric tons of
3 highly enriched uranium purchased from the Russian Ex-
4 ecutive Agent under the Russian HEU Agreement. The
5 quantity of such uranium hexafluoride delivered to the
6 Secretary shall be based on a tails assay of 0.30 U235.
7 Uranium hexafluoride transferred to the Secretary pursu-
8 ant to this paragraph shall be deemed under U.S. law for
9 all purposes to be of Russian origin.

10 (2) Within 7 years of the date of enactment of this
11 subtitle, the Secretary shall sell, and receive payment for,
12 the uranium hexafluoride transferred to the Secretary pur-
13 suant to paragraph (1). Such uranium hexafluoride shall
14 be sold—

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

17 (B) at any time for end use outside the United
18 States; or

19 (C) in calendar year 2001 for consumption by
20 end users in the United States not prior to January
21 1, 2002, in volumes not to exceed 3 million pounds
22 U3O8 equivalent per year.

23 (3) With respect to all enriched uranium delivered to
24 the United States Executive Agent under the Russian
25 HEU Agreement on or after January 1, 1997, the United

1 States Executive Agent shall, upon request of the Russian
2 Executive Agent, enter into an agreement to deliver con-
3 currently to the Russian Executive Agent an amount of
4 uranium hexafluoride equivalent to the natural uranium
5 component of such uranium. An agreement executed pur-
6 suant to a request of the Russian Executive Agent, as con-
7 templated in this paragraph, may pertain to any deliveries
8 due during any period remaining under the Russian HEU
9 Agreement. The quantity of such uranium hexafluoride de-
10 livered to the Russian Executive Agent shall be based on
11 a tails assay of 0.30 U235. Title to uranium hexafluoride
12 delivered to the Russian Executive Agent pursuant to this
13 paragraph shall transfer to the Russian Executive Agent
14 upon delivery of such material to the Russian Executive
15 Agent, with such delivery to take place at a North Amer-
16 ican facility designated by the Russian Executive Agent.
17 Uranium hexafluoride delivered to the Russian Executive
18 Agent pursuant to this paragraph shall be deemed under
19 U.S. law for all purposes to be of Russian origin. Such
20 uranium hexafluoride may be sold to any person or entity
21 for delivery and use in the United States only as permitted
22 in subsections (b)(5), (b)(6), and (b)(7) of this section.

23 (4) In the event that the Russian Executive Agent
24 does not exercise its right to enter into an agreement to
25 take delivery of the natural uranium component of any

1 low-enriched uranium, as contemplated in paragraph (3),
2 within 90 days of the date such low-enriched uranium is
3 delivered to the United States Executive Agent, then the
4 United States Executive Agent shall engage an independ-
5 ent entity through a competitive selection process to auc-
6 tion an amount of uranium hexafluoride or U3O8 (in the
7 event that the conversion component of such hexafluoride
8 has previously been sold) equivalent to the natural ura-
9 nium component of such low-enriched uranium. Such inde-
10 pendent entity shall sell such uranium hexafluoride in one
11 or more lots to any person or entity to maximize the pro-
12 ceeds from such sales, for disposition consistent with the
13 limitations set forth in this subsection. The independent
14 entity shall pay to the Russian Executive Agent the pro-
15 ceeds of any such auction less all reasonable transaction
16 and other administrative costs. The quantity of such ura-
17 nium hexafluoride auctioned shall be based on a tails assay
18 of 0.30 U235. Title to uranium hexafluoride auctioned
19 pursuant to this paragraph shall transfer to the buyer of
20 such material upon delivery of such material to the buyer.
21 Uranium hexafluoride auctioned pursuant to this para-
22 graph shall be deemed under U.S. law for all purposes
23 to be of Russian origin.

24 (5) Except as provided in paragraphs (6) and (7),
25 uranium hexafluoride delivered to the Russian Executive

1 Agent under paragraph (3) or auctioned pursuant to para-
 2 graph (4), may not be delivered for consumption by end
 3 users in the United States either directly or indirectly
 4 prior to January 1, 1998, and thereafter only in accord-
 5 ance 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 (6) Uranium hexafluoride delivered to the Russian
 7 Executive Agent under paragraph (3) or auctioned pursu-
 8 ant to paragraph (4) may be sold at any time as Russian-
 9 origin natural uranium in a matched sale pursuant to the
 10 Suspension Agreement, and in such case shall not be
 11 counted against the annual maximum deliveries set forth
 12 in paragraph (5).

13 (7) Uranium hexafluoride delivered to the Russian
 14 Executive Agent under paragraph (3) or auctioned pursu-
 15 ant to paragraph (4) may be sold at any time for use in
 16 the United States for the purpose of overfeeding in the
 17 operations of enrichment facilities.

1 (8) Nothing in this subsection (b) shall restrict the
2 sale of the conversion component of such uranium
3 hexafluoride. Material sold pursuant to paragraph 5 shall
4 not be swapped, exchanged or loaned.

5 (9) The Secretary of Commerce shall have respon-
6 sibility for the administration and enforcement of the limi-
7 tations set forth in this subsection. The Secretary of Com-
8 merce may require any person to provide any certifi-
9 cations, information, or take any action that may be nec-
10 essary to enforce these limitations. The U.S. Customs
11 Service shall maintain and provide any information re-
12 quired by the Secretary of Commerce and shall take any
13 action requested by the Secretary of Commerce which is
14 necessary for the administration and enforcement of the
15 uranium delivery limitations set forth in this section.

16 (10) The President shall monitor the actions of the
17 United States Executive Agent under the Russian HEU
18 Agreement and shall report to the Congress not later than
19 December 31 of each year on the effect the low-enriched
20 uranium delivered under the Russian HEU Agreement is
21 having on the domestic uranium mining, conversion, and
22 enrichment industries, and the operation of the gaseous
23 diffusion plants. Such report shall include a description
24 of actions taken or proposed to be taken by the President
25 to prevent or mitigate any material adverse impact on

1 such industries or any loss of employment at the gaseous
2 diffusion plants as a result of the Russian HEU Agree-
3 ment.

4 (c) TRANSFERS TO THE CORPORATION.—(1) The
5 Secretary shall transfer to the Corporation without charge
6 up to 50 metric tons of enriched uranium and up to 7,000
7 metric tons of natural uranium from the Department of
8 Energy's stockpile, subject to the restrictions in subsection
9 (c)(2).

10 (2) The Corporation shall not deliver for commercial
11 end use in the United States—

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

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

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

22 (d) INVENTORY SALES.—(1) In addition to the trans-
23 fers authorized under subsections (c) and (e), the Sec-
24 retary may, from time to time, sell natural and low-en-
25 riched uranium (including low-enriched uranium derived

1 from highly enriched uranium) from the Department of
2 Energy's stockpile.

3 (2) Except as provided in subsections (b), (c), and
4 (e) no sale or transfer of natural or low-enriched uranium
5 shall be made unless—

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

8 (B) the Secretary determines that the sale of
9 the material will not have an adverse material im-
10 pact on the domestic uranium mining, conversion, or
11 enrichment industry, taking into account the sales of
12 uranium under the Russian HEU Agreement and
13 the Suspension Agreement, and

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

16 (e) GOVERNMENT TRANSFERS.—Notwithstanding
17 subsection (d)(2), the Secretary may transfer or sell en-
18 riched uranium—

19 (1) to a Federal agency if the material is trans-
20 ferred for the use of the receiving agency without
21 any resale or transfer to another entity and the ma-
22 terial does not meet commercial specifications;

23 (2) to any person for national security pur-
24 poses, as determined by the Secretary; or

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

4 (f) SAVINGS PROVISION.—Nothing in this subtitle
5 shall be read to modify the terms of the Russian HEU
6 Agreement.

7 **SEC. 5013. LOW-LEVEL WASTE.**

8 (a) RESPONSIBILITY OF DOE.—(1) The Secretary,
9 at the request of the generator, shall accept for disposal
10 low-level radioactive waste, including depleted uranium if
11 it were ultimately determined to be low-level radioactive
12 waste, generated by—

13 (A) the Corporation as a result of the oper-
14 ations of the gaseous diffusion plants or as a result
15 of the treatment of such wastes at a location other
16 than the gaseous diffusion plants, or

17 (B) any person licensed by the Nuclear Regu-
18 latory Commission to operate a uranium enrichment
19 facility under sections 53, 63, and 193 of the Atomic
20 Energy Act of 1954 (42 U.S.C. 2073, 2093, and
21 2243).

22 (2) Except as provided in paragraph (3), the genera-
23 tor shall reimburse the Secretary for the disposal of low-
24 level radioactive waste pursuant to paragraph (1) in an
25 amount equal to the Secretary's costs, including a pro rata

1 share of any capital costs, but in no event more than an
2 amount equal to that which would be charged by commer-
3 cial, State, regional, or interstate compact entities for dis-
4 posal of such waste.

5 (3) In the event depleted uranium were ultimately de-
6 termined to be low-level radioactive waste, the generator
7 shall reimburse the Secretary for the disposal of depleted
8 uranium pursuant to paragraph (1) in an amount equal
9 to the Secretary's costs, including a pro rata share of any
10 capital costs.

11 (b) AGREEMENTS WITH OTHER PERSONS.—The
12 generator may also enter into agreements for the disposal
13 of low-level radioactive waste subject to subsection (a)
14 with any person other than the Secretary that is author-
15 ized by applicable laws and regulations to dispose of such
16 wastes.

17 (c) STATE OR INTERSTATE COMPACTS.—Notwith-
18 standing any other provision of law, no State or interstate
19 compact shall be liable for the treatment, storage, or dis-
20 posal of any low-level radioactive waste (including mixed
21 waste) attributable to the operation, decontamination, and
22 decommissioning of any uranium enrichment facility.

23 **SEC. 5014. AVLIS.**

24 (a) EXCLUSIVE RIGHT TO COMMERCIALIZE.—The
25 Corporation shall have the exclusive commercial right to

1 deploy and use any AVLIS patents, processes, and tech-
2 nical information owned or controlled by the Government,
3 upon completion of a royalty agreement with the Sec-
4 retary.

5 (b) TRANSFER OF RELATED PROPERTY TO COR-
6 PORATION.—

7 (1) IN GENERAL.—To the extent requested by
8 the Corporation and subject to the requirements of
9 the Atomic Energy Act of 1954, the President shall
10 transfer without charge to the Corporation all of the
11 right, title, or interest in and to property owned by
12 the United States under control or custody of the
13 Secretary that is directly related to and materially
14 useful in the performance of the Corporation's pur-
15 poses regarding AVLIS and alternative technologies
16 for uranium enrichment, including—

17 (A) facilities, equipment, and materials for
18 research, development, and demonstration ac-
19 tivities; and

20 (B) all other facilities, equipment, mate-
21 rials, processes, patents, technical information
22 of any kind, contracts, agreements, and leases.

23 (2) EXCEPTION.—Facilities, real estate, im-
24 provements, and equipment related to the gaseous
25 diffusion, and gas centrifuge, uranium enrichment

1 programs of the Secretary shall not transfer under
2 paragraph (1)(B).

3 (3) EXPIRATION OF TRANSFER AUTHORITY.—

4 The President's authority to transfer property under
5 this subsection shall expire upon the privatization
6 date.

7 (c) LIABILITY FOR PATENT AND RELATED
8 CLAIMS.—With respect to any right, title, or interest pro-
9 vided to the Corporation under subsection (a) or (b), the
10 Corporation shall have sole liability for any payments
11 made or awards under section 157 b. (3) of the Atomic
12 Energy Act of 1954 (42 U.S.C. 2187(b)(3)), or any settle-
13 ments or judgments involving claims for alleged patent in-
14 fringement. Any royalty agreement under subsection (a)
15 of this section shall provide for a reduction of royalty pay-
16 ments to the Secretary to offset any payments, awards,
17 settlements, or judgments under this subsection.

18 **SEC. 5015. GASEOUS DIFFUSION TECHNOLOGY.**

19 (a) TRANSFER OF RIGHTS.—The Corporation shall
20 have the exclusive commercial rights for both uranium en-
21 richment and non-uranium enrichment uses of any pat-
22 ents, patent applications, trade secrets, and other tech-
23 nical information related to the gaseous diffusion tech-
24 nology owned or controlled by the Department of Energy,
25 or by the United States but under control or custody of

1 the Department of Energy. The Corporation shall enter
2 into an exclusive licensing agreement with the Department
3 of Energy providing for—

4 (1) the payment of royalties of 3 percent of the
5 gross, pre-tax revenues realized by the Corporation
6 from its non-uranium enrichment commercial uses of
7 such patents, patent applications, trade secrets, and
8 other technical information,

9 (2) the reduction of such royalties to offset any
10 payments, awards, settlements, or judgments ren-
11 dered against the Corporation in its deployment or
12 licensing of the exclusive commercial rights under
13 this section, and

14 (3) the reservation of a non-exclusive, royalty-
15 free right to the United States Government to use
16 such patents, patent applications, trade secrets, and
17 other technical information solely for Governmental
18 purposes.

19 (b) IMPROVEMENTS.—New patents, trade secrets,
20 and other technical information developed for commercial
21 applications that derive from the gaseous diffusion tech-
22 nology initially licensed by the Corporation shall be at the
23 Corporation's expense and shall be free from royalties to
24 the Department of Energy.

1 **SEC. 5016. APPLICATION OF CERTAIN LAWS.**

2 (a) OSHA.—(1) As of the privatization date, the pri-
3 vate corporation shall be subject to and comply with the
4 Occupational Safety and Health Act of 1970 (29 U.S.C.
5 651 et seq.).

6 (2) The Nuclear Regulatory Commission and the Oc-
7 cupational Safety and Health Administration shall, within
8 90 days after the enactment of this subtitle, enter into
9 a memorandum of agreement to govern the exercise of
10 their authority over occupational safety and health haz-
11 ards at the gaseous diffusion plants, including inspection,
12 investigation, enforcement, and rulemaking relating to
13 such hazards.

14 (b) ANTITRUST LAWS.—For purposes of the anti-
15 trust laws, the performance by the private corporation of
16 a “matched import” contract under the Suspension Agree-
17 ment shall be considered to have occurred prior to the pri-
18 vatization date, if at the time of privatization, such con-
19 tract had been agreed to by the parties in all material
20 terms and confirmed by the Secretary of Commerce under
21 the Suspension Agreement.

22 (c) ENERGY REORGANIZATION ACT REQUIRE-
23 MENTS.—(1) The private corporation and its contractors
24 shall be subject to the provisions of section 211 of the
25 Energy Reorganization Act of 1974 (42 U.S.C. 5851) to
26 the same extent as an employer subject to such section.

1 (2) With respect to the operation of the facilities leased
2 by the private corporation, section 206 of the Energy Re-
3 organization Act of 1974 (42 U.S.C. 5846) shall apply to
4 the directors and officers of the private corporation.

5 **SEC. 5017. AMENDMENTS TO THE ATOMIC ENERGY ACT.**

6 (a) REPEAL.—(1) Chapters 22 through 26 of the
7 Atomic Energy Act of 1954 (42 U.S.C. 1201–1608) are
8 repealed as of the privatization date.

9 (2) The table of contents of such Act is amended as
10 of the privatization date by striking the items referring
11 to sections repealed by paragraph (1).

12 (b) NRC LICENSING.—(1) Section 11v. of the Atomic
13 Energy Act of 1954 (42 U.S.C. 2014v.) is amended by
14 striking “or the construction and operation of a uranium
15 enrichment facility using Atomic Vapor Laser Isotope
16 Separation technology”.

17 (2) Section 193 of the Atomic Energy Act of 1954
18 (42 U.S.C. 2243) is amended by adding at the end the
19 following:

20 “(f) LIMITATION.—No license or certificate of com-
21 pliance may be issued to the United States Enrichment
22 Corporation or its successor under section 53, 63, 193,
23 or 1701, if in the opinion of the Commission, the issuance
24 of such a license or certificate of compliance—

1 “(1) would be inimical to the common defense
2 and security of the United States; or

3 “(2) would be inimical to the maintenance of a
4 reliable and economical domestic source of enrich-
5 ment services because of the nature and extent of
6 the ownership, control, or domination of the Cor-
7 poration by a foreign corporation or a foreign gov-
8 ernment or any other relevant factors or cir-
9 cumstances.”.

10 (3) Section 1701(c)(2) of the Atomic Energy Act of
11 1954 (42 U.S.C. 2297f(c)(2)) is amended to read as fol-
12 lows:

13 “(2) PERIODIC APPLICATION FOR CERTIFICATE
14 OF COMPLIANCE.—The Corporation shall apply to
15 the Nuclear Regulatory Commission for a certificate
16 of compliance under paragraph (1) periodically, as
17 determined by the Commission, but not less than
18 every 5 years. The Commission shall review any such
19 application and any determination made under sub-
20 section (b)(2) shall be based on the results of any
21 such review.”.

22 (4) Section 1702(a) of the Atomic Energy Act of
23 1954 (42 U.S.C. 2297f–1(a)) is amended—

24 (1) by striking “other than” and inserting “in-
25 cluding”, and

1 (2) by striking “sections 53 and 63” and insert-
2 ing “sections 53, 63, and 193”.

3 (c) JUDICIAL REVIEW OF NRC ACTIONS.—Section
4 189b. of the Atomic Energy Act of 1954 (42 U.S.C.
5 2239(b)) is amended to read as follows:

6 “b. The following Commission actions shall be subject
7 to judicial review in the manner prescribed in chapter 158
8 of title 28, United States Code and chapter 7 of title 5,
9 United States Code:

10 “(1) Any final order entered in any proceeding
11 of the kind specified in subsection (a).

12 “(2) Any final order allowing or prohibiting a
13 facility to begin operating under a combined con-
14 struction and operating license.

15 “(3) Any final order establishing by regulation
16 standards to govern the Department of Energy’s
17 gaseous diffusion uranium enrichment plants, in-
18 cluding any such facilities leased to a corporation es-
19 tablished under the USEC Privatization Act.

20 “(4) Any final determination relating to wheth-
21 er the gaseous diffusion plants, including any such
22 facilities leased to a corporation established under
23 the USEC Privatization Act, are in compliance with
24 the Commission’s standards governing the gaseous
25 diffusion plants and all applicable laws.”.

1 (d) CIVIL PENALTIES.—Section 234 a. of the Atomic
2 Energy Act of 1954 (42 U.S.C. 2282(a)) is amended by—

3 (1) striking “any licensing provision of section
4 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109”
5 and inserting: “any licensing or certification provi-
6 sion of section 53, 57, 62, 63, 81, 82, 101, 103,
7 104, 107, 109, or 1701”; and

8 (2) by striking “any license issued thereunder”
9 and inserting: “any license or certification issued
10 thereunder”.

11 (e) REFERENCES TO THE CORPORATION.—Following
12 the privatization date, all references in the Atomic Energy
13 Act of 1954 to the United States Enrichment Corporation
14 shall be deemed to be references to the private corpora-
15 tion.

16 **SEC. 5018. AMENDMENTS TO OTHER LAWS.**

17 (a) DEFINITION OF GOVERNMENT CORPORATION.—
18 As of the privatization date, section 9101(3) of title 31,
19 United States Code, is amended by striking subparagraph
20 (N).

21 (b) DEFINITION OF THE CORPORATION.—Section
22 1018 (1) of the Energy Policy Act of 1992 (42 U.S.C.
23 2296b–7(1)) is amended by adding at the end “or its suc-
24 cessor.”.

1 **Subtitle B—Department of the**
2 **Interior Conveyances**

3 **PART I—CALIFORNIA LAND DIRECTED SALE**

4 **SEC. 5100. DIRECTED LAND SALE.**

5 (a) CONVEYANCE.—All right, title and interest of the
6 United States in and to the lands described in subsection
7 (b), any improvements thereon, all necessary easements
8 for utilities and ingress and egress through the right of
9 way described in subsection (c), and the right to improve
10 those easements, are hereby conveyed to the Department
11 of Health Services of the State of California upon payment
12 of \$500,100 by the State of California and the release of
13 the United States by the State of California from any li-
14 ability for claims related to the property.

15 (b) LEGAL DESCRIPTION.—The lands conveyed are:

16 San Bernardino Meridian, Township 9 North,
17 Range 19 East

18 Section 26, the southwest quarter of the
19 southwest quarter;

20 Section 27, the south half of the south
21 half;

22 Section 34, all;

23 Section 35, the west half of the west half.

24 (c) EASEMENT AND RIGHT-OF-WAY DESCRIPTION.—

25 The easement conveyed by subsection (a) shall be along

1 the right-of-way for a power transmission line and road
2 previously granted to the Metropolitan Water District of
3 Southern California between Interstate 40 and the lands
4 described in subsection (b).

5 (d) OBLIGATION OF THE SECRETARY.—The Sec-
6 retary of the Interior shall issue evidence of title pursuant
7 to this subtitle notwithstanding any other provision of law.

8 (e) DEPOSIT OF FUNDS.—Sums received pursuant to
9 subsection (a) shall be deposited as miscellaneous receipts
10 in the Treasury of the United States.

11 (f) REVERSION.—The lands conveyed pursuant to
12 this section shall revert to the United States if the prop-
13 erty is not used as a low-level radioactive waste disposal
14 facility before October 1, 2010.

15 **PART II—HELIUM RESERVES**

16 **SEC. 5110. SHORT TITLE.**

17 This part may be cited as the “Helium Act of 1995”.

18 **SEC. 5111. AMENDMENT OF HELIUM ACT.**

19 Except as otherwise expressly provided, whenever in
20 this part an amendment or repeal is expressed in terms
21 of an amendment to, or repeal of, a section or other provi-
22 sion, the reference shall be considered to be made to a
23 section or other provision of the Helium Act (50 U.S.C.
24 167 to 167n).

1 **SEC. 5112. AUTHORITY OF SECRETARY.**

2 Sections 3, 4, and 5 are amended to read as follows:

3 **“SEC. 3. AUTHORITY OF SECRETARY.**

4 “(a) **EXTRACTION AND DISPOSAL OF HELIUM ON**
5 **FEDERAL LANDS.—**

6 “(1) **IN GENERAL.—**The Secretary may enter
7 into agreements with private parties for the recovery
8 and disposal of helium on Federal lands upon such
9 terms and conditions as the Secretary deems fair,
10 reasonable, and necessary.

11 “(2) **LEASEHOLD RIGHTS.—**The Secretary may
12 grant leasehold rights to any such helium.

13 “(3) **LIMITATION.—**The Secretary may not
14 enter into any agreement by which the Secretary
15 sells such helium other than to a private party with
16 whom the Secretary has an agreement for recovery
17 and disposal of helium.

18 “(4) **REGULATIONS.—**Agreements under para-
19 graph (1) may be subject to such regulations as may
20 be prescribed by the Secretary.

21 “(5) **EXISTING RIGHTS.—**An agreement under
22 paragraph (1) shall be subject to any rights of any
23 affected Federal oil and gas lessee that may be in
24 existence prior to the date of the agreement.

25 “(6) **TERMS AND CONDITIONS.—**An agreement
26 under paragraph (1) (and any extension or renewal

1 of an agreement) shall contain such terms and con-
2 ditions as the Secretary may consider appropriate.

3 “(7) PRIOR AGREEMENTS.—This subsection
4 shall not in any manner affect or diminish the rights
5 and obligations of the Secretary and private parties
6 under agreements to dispose of helium produced
7 from Federal lands in existence on the date of enact-
8 ment of the Helium Act of 1995 except to the extent
9 that such agreements are renewed or extended after
10 that date.

11 “(b) STORAGE, TRANSPORTATION AND SALE.—The
12 Secretary may store, transport, and sell helium only in ac-
13 cordance with this Act.

14 **“SEC. 4. STORAGE, TRANSPORTATION, AND WITHDRAWAL**
15 **OF CRUDE HELIUM.**

16 “(a) STORAGE, TRANSPORTATION AND WITH-
17 DRAWAL.—The Secretary may store, transport and with-
18 draw crude helium and maintain and operate crude helium
19 storage facilities, in existence on the date of enactment
20 of the Helium Act of 1995 at the Bureau of Mines Cliff-
21 side Field, and related helium transportation and with-
22 drawal facilities.

23 “(b) CESSATION OF PRODUCTION, REFINING, AND
24 MARKETING.—Not later than 18 months after the date
25 of enactment of the Helium Act of 1995, the Secretary

1 shall cease producing, refining, and marketing refined he-
2 lium and shall cease carrying out all other activities relat-
3 ing to helium which the Secretary was authorized to carry
4 out under this Act before the date of enactment of the
5 Helium Act of 1995, except activities described in sub-
6 section (a).

7 “(c) DISPOSAL OF FACILITIES.—

8 “(1) IN GENERAL.—Subject to paragraph (5),
9 not later than 18 months after the cessation of ac-
10 tivities referred to in section (b) of this section, the
11 Secretary shall designate as excess property and dis-
12 pose of all facilities, equipment, and other real and
13 personal property, and all interests therein, held by
14 the United States for the purpose of producing, re-
15 fining and marketing refined helium.

16 “(2) APPLICABLE LAW.—The disposal of such
17 property shall be in accordance with the Federal
18 Property and Administrative Services Act of 1949.

19 “(3) PROCEEDS.—All proceeds accruing to the
20 United States by reason of the sale or other disposal
21 of such property shall be treated as moneys received
22 under this chapter for purposes of section 6(f).

23 “(4) COSTS.—All costs associated with such
24 sale and disposal (including costs associated with
25 termination of personnel) and with the cessation of

1 activities under subsection (b) shall be paid from
2 amounts available in the helium production fund es-
3 tablished under section 6(f).

4 “(5) EXCEPTION.—Paragraph (1) shall not
5 apply to any facilities, equipment, or other real or
6 personal property, or any interest therein, necessary
7 for the storage, transportation and withdrawal of
8 crude helium or any equipment, facilities, or other
9 real or personal property, required to maintain the
10 purity, quality control, and quality assurance of
11 crude helium in the Bureau of Mines Cliffside Field.

12 “(d) EXISTING CONTRACTS.—

13 “(1) IN GENERAL.—All contracts that were en-
14 tered into by any person with the Secretary for the
15 purchase by the person from the Secretary of refined
16 helium and that are in effect on the date of the en-
17 actment of the Helium Act of 1995 shall remain in
18 force and effect until the date on which the refining
19 operations cease, as described in subsection (b).

20 “(2) COSTS.—Any costs associated with the ter-
21 mination of contracts described in paragraph (1)
22 shall be paid from the helium production fund estab-
23 lished under section 6(f).

1 **“SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITH-**
2 **DRAWAL.**

3 “(a) IN GENERAL.—Whenever the Secretary provides
4 helium storage withdrawal or transportation services to
5 any person, the Secretary shall impose a fee on the person
6 to reimburse the Secretary for the full costs of providing
7 such storage, transportation, and withdrawal.

8 “(b) TREATMENT.—All fees received by the Secretary
9 under subsection (a) shall be treated as moneys received
10 under this Act for purposes of section 6(f).”.

11 **SEC. 5113. SALE OF CRUDE HELIUM.**

12 (a) Subsection 6(a) is amended by striking “from the
13 Secretary” and inserting “from persons who have entered
14 into enforceable contracts to purchase an equivalent
15 amount of crude helium from the Secretary”.

16 (b) Subsection 6(b) is amended—

17 (1) by inserting “crude” before “helium”; and

18 (2) by adding the following at the end: “Except
19 as may be required by reason of subsection (a), sales
20 of crude helium under this section shall be in
21 amounts as the Secretary determines, in consulta-
22 tion with the helium industry, necessary to carry out
23 this subsection with minimum market disruption.”.

24 (c) Subsection 6(c) is amended—

25 (1) by inserting “crude” after “Sales of”; and

1 (2) by striking “together with interest as pro-
2 vided in this subsection” and all that follows
3 through the end of the subsection and inserting “all
4 funds required to be repaid to the United States as
5 of October 1, 1994 under this section (referred to in
6 this subsection as ‘repayable amounts’). The price at
7 which crude helium is sold by the Secretary shall not
8 be less than the amount determined by the Secretary
9 by—

10 “(i) dividing the outstanding amount of
11 such repayable amounts by the volume (in mil-
12 lion cubic feet) of crude helium owned by the
13 United States and stored in the Bureau of
14 Mines Cliffside Field at the time of the sale
15 concerned, and

16 “(ii) adjusting the amount determined
17 under paragraph (1) by the Consumer Price
18 Index for years beginning after December 31,
19 1994.”.

20 (d) Subsection 6(d) is amended to read as follows:

21 “(d) EXTRACTION OF HELIUM FROM DEPOSITS ON
22 FEDERAL LANDS.—All moneys received by the Secretary
23 from the sale or disposition of helium on Federal lands
24 shall be paid to the Treasury and credited against the

1 amounts required to be repaid to the Treasury under sub-
2 section (c).”.

3 (e) Subsection 6(e) is repealed.

4 (f) Subsection (f) is amended—

5 (A) by striking “(f)” and inserting
6 “(e)(1)”; and

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

8 “(2)(A) Within 7 days after the commencement of
9 each fiscal year after the disposal of the facilities referred
10 to in section 4(c), all amounts in such fund in excess of
11 \$2,000,000 (or such lesser sum as the Secretary deems
12 necessary to carry out this Act during such fiscal year)
13 shall be paid to the Treasury and credited as provided in
14 paragraph (1).

15 “(B) On repayment of all amounts referred to in sub-
16 section (c), the fund established under this section shall
17 be terminated and all moneys received under this Act shall
18 be deposited in the general fund of the Treasury.”.

19 **SEC. 5114. ELIMINATION OF STOCKPILE.**

20 Section 8 is amended to read as follows:

21 **“SEC. 8. ELIMINATION OF STOCKPILE.**

22 “(a) STOCKPILE SALES.—

23 “(1) COMMENCEMENT.—Not later than Janu-
24 ary 1, 2005, the Secretary shall commence offering
25 for sale crude helium from helium reserves owned by

1 the United States in such amounts as may be nec-
2 essary to dispose of all such helium reserves in ex-
3 cess of 600,000,000 cubic feet by January 1, 2015.

4 “(2) **TIMES OF SALE.**—The sales shall be at
5 such times during each year and in such lots as the
6 Secretary determines, in consultation with the he-
7 lium industry, to be necessary to carry out this sub-
8 section with minimum market disruption.

9 “(3) **PRICE.**—The price for all sales under
10 paragraph (1), as determined by the Secretary in
11 consultation with the helium industry, shall be such
12 price as will ensure repayment of the amounts re-
13 quired to be repaid to the Treasury under section
14 6(c).

15 “(b) **DISCOVERY OF ADDITIONAL RESERVES.**—The
16 discovery of additional helium reserves shall not affect the
17 duty of the Secretary to make sales of helium under sub-
18 section (a).”.

19 **SEC. 5115. REPEAL OF AUTHORITY TO BORROW.**

20 Sections 12 and 15 are repealed.

21 **Subtitle C—Arctic Coastal Plain**
22 **Leasing and Revenue Act**

23 **SEC. 5201. SHORT TITLE.**

24 This subtitle may be cited as the “Arctic Coastal
25 Plain Leasing and Revenue Act of 1995”.

1 **SEC. 5202. PURPOSE AND POLICY.**

2 The Congress hereby declares that it is the purpose
3 and policy of this subtitle to authorize competitive oil and
4 gas leasing and development to proceed on the Coastal
5 Plain in a manner consistent with protection of the envi-
6 ronment, maintenance of fish and wildlife and their habi-
7 tat, and the interests of the area's subsistence users, and
8 in a manner that will reduce the Federal deficit by an esti-
9 mated \$1.3 billion over the next seven years.

10 **SEC. 5203. DEFINITIONS.**

11 When used in this subtitle the term—

12 (1) “Coastal Plain” means that area identified
13 as such in the map entitled “Arctic National Wildlife
14 Refuge”, dated August 1980, as referenced in sec-
15 tion 1002(b) of the Alaska National Interest Lands
16 Conservation Act of 1980 (16 U.S.C. 3142(b)(1))
17 comprising approximately 1,549,000 ACRES acres;
18 and

19 (2) “Secretary” means the Secretary of the In-
20 terior or the Secretary's designee.

21 **SEC. 5204. LEASING PROGRAM FOR LANDS WITHIN THE**
22 **COASTAL PLAIN.**

23 (a) AUTHORIZATION.—The Congress hereby author-
24 izes and directs the Secretary and other appropriate Fed-
25 eral officers and agencies to take such actions as are nec-
26 essary to establish and implement a competitive oil and

1 gas leasing program that will result in an environmentally
2 sound program for the exploration, development, and pro-
3 duction of the oil and gas resources of the Coastal Plain,
4 and no further findings or decisions shall be required to
5 implement this authorization. The Secretary shall admin-
6 ister the provisions of this subtitle through regulations,
7 lease terms, conditions, restrictions, prohibitions, stipula-
8 tions and other provisions that ensure the oil and gas ex-
9 ploration, development, and production activities on the
10 Coastal Plain will result in no significant adverse effect
11 on fish and wildlife, their habitat, and the environment,
12 and shall require the application of the best commercially
13 available technology for oil and gas exploration, develop-
14 ment, and production, on all new exploration, develop-
15 ment, and production operations, and whenever prac-
16 ticable, on existing operations, and in a manner to ensure
17 the receipt of fair market value by the public for the min-
18 eral resources to be leased.

19 (b) REPEAL.—The prohibitions and limitations con-
20 tained in section 1003 of the Alaska National Interest
21 Lands Conservation Act of 1980 (16 U.S.C. 3143) are
22 hereby repealed.

23 (c) SOLE AUTHORITY.—This subtitle shall be the sole
24 authority for leasing on the Coastal Plain.

1 (d) FEDERAL LAND.—The Coastal Plain shall be
2 considered “Federal land” for the purposes of the Federal
3 Oil and Gas Royalty Management Act of 1982.

4 **SEC. 5205. RULES AND REGULATIONS.**

5 (a) PROMULGATION.—The Secretary shall prescribe
6 such rules and regulations as may be necessary to carry
7 out the purposes and provisions of this subtitle, including
8 rules and regulations relating to protection of the fish and
9 wildlife, their habitat, and the environment of the Coastal
10 Plain. Such rules and regulations shall be promulgated
11 within eighteen months after the date of enactment of this
12 subtitle and shall, as of their effective date, apply to all
13 operations conducted under a lease issued or maintained
14 under the provisions of this subtitle and all operations on
15 the Coastal Plain related to the leasing, exploration, devel-
16 opment and production of oil and gas.

17 (b) REVISION OF REGULATIONS.—The Secretary
18 shall periodically review and, if appropriate, revise the
19 rules and regulations issued under subsection (a) of this
20 section to reflect any significant biological, environmental,
21 or engineering data which come to the Secretary’s atten-
22 tion.

1 **SEC. 5206. ADEQUACY OF THE DEPARTMENT OF THE INTE-**
2 **RIOR'S LEGISLATIVE ENVIRONMENTAL IM-**
3 **PACT STATEMENT.**

4 The "Final Legislative Environmental Impact State-
5 ment" (April 1987) on the Coastal Plain prepared pursu-
6 ant to section 1002 of the Alaska National Interest Lands
7 Conservation Act of 1980 (16 U.S.C. 3142) and section
8 102(2)(C) of the National Environmental Policy Act of
9 1969 (42 U.S.C. 4332(2)(C)) is hereby found by the Con-
10 gress to be adequate to satisfy the legal requirements
11 under the National Environmental Policy Act of 1969 with
12 respect to actions authorized to be taken by the Secretary
13 to develop and promulgate the regulations for the estab-
14 lishment of a leasing program authorized by this subtitle
15 and to conduct the first lease sale authorized by this sub-
16 title.

17 **SEC. 5207. LEASE SALES.**

18 (a) LEASE SALES.—Lands may be leased pursuant
19 to the provisions of this subtitle to any person qualified
20 to obtain a lease for deposits of oil and gas under the Min-
21 eral Leasing Act, as amended (30 U.S.C. 181).

22 (b) PROCEDURES.—The Secretary shall, by regula-
23 tion, establish procedures for—

24 (1) receipt and consideration of sealed nomina-
25 tions for any area in the Coastal Plain for inclusion

1 in, or exclusion (as provided in subsection (d)) from,
2 a lease sale; and

3 (2) public notice of and comment on designa-
4 tion of areas to be included in, or excluded per sub-
5 section (d) from, a lease sale.

6 (c) LEASE SALES ON COASTAL PLAIN.—The Sec-
7 retary shall, by regulation, provide for lease sales of lands
8 on the Coastal Plain. When lease sales are to be held, they
9 shall occur after the nomination process provided for in
10 subsection (b) of this section. For the first lease sale, the
11 Secretary shall offer for lease those acres receiving the
12 greatest number of nominations, but not to exceed a total
13 of three hundred thousand acres. If the total acreage nom-
14 inated is less than three hundred thousand acres, the Sec-
15 retary shall include in such sale any other acreage which
16 he believes has the highest resource potential, but in no
17 event shall more than three hundred thousand acres of
18 the Coastal Plain be offered in such sale. Thereafter, no
19 more than three hundred thousand acres of the Coastal
20 Plain may be leased in any one lease sale. The initial lease
21 sale shall be held within twenty-four months of the date
22 of enactment of this subtitle. The second lease sale shall
23 be held twenty-four months after the initial sale, with ad-
24 ditional sales conducted every twenty-four months there-
25 after so long as sufficient interest in development exists

1 to warrant, in the Secretary's judgment, the conduct of
2 such sales.

3 (d) SPECIAL AREAS.—The Secretary, after consulta-
4 tion with the State of Alaska, City of Kaktovik, and the
5 North Slope Borough, is authorized to designate up to a
6 total of 60,000 acres of the Coastal Plain as Special Areas
7 and close it to leasing if the Secretary determines that
8 these lands are of such unique character and interest so
9 as to require special management and regulatory protec-
10 tion. The Secretary shall notify the Committee on Energy
11 and Natural Resources of the Senate and the Committee
12 on Resources of the House of Representatives ninety days
13 in advance of making such designations. The Secretary
14 may permit leasing of all or portions of any lands within
15 the Coastal Plain designated as Special Areas by setting
16 lease terms that limit or condition surface use and occu-
17 pancy by lessees of such lands but permit the use of hori-
18 zontal drilling technology from sites on leases located out-
19 side the designated Special Areas.

20 **SEC. 5208. GRANT OF LEASES BY THE SECRETARY.**

21 (a) IN GENERAL.—The Secretary is authorized to
22 grant to the highest responsible qualified bidder by sealed
23 competitive cash bonus bid any lands to be leased on the
24 Coastal Plain upon payment by the lessee of such bonus
25 as may be accepted by the Secretary and of such royalty

1 as may be fixed in the lease, which shall be not less than
2 12½ per centum in amount or value of the production
3 removed or sold from the lease.

4 (b) ANTITRUST REVIEW.—Following each notice of
5 a proposed lease sale and before the acceptance of bids
6 and the issuance of leases based on such bids, the Sec-
7 retary shall allow the Attorney General, in consultation
8 with the Federal Trade Commission, thirty days to per-
9 form an antitrust review of the results of such lease sale
10 on the likely effects the issuance of such leases would have
11 on competition and shall advise the Secretary with respect
12 to such review, including any recommendation for the
13 nonacceptance of any bid or the imposition of terms or
14 conditions on any lease, as may be appropriate to prevent
15 any situation inconsistent with the antitrust laws.

16 (c) SUBSEQUENT TRANSFERS.—No lease issued
17 under this subtitle may be sold, exchanged, assigned, or
18 otherwise transferred except with the approval of the Sec-
19 retary. Prior to any such approval the Secretary shall con-
20 sult with, and give due consideration to the views of, the
21 Attorney General.

22 (d) IMMUNITY.—Nothing in this subtitle shall be
23 deemed to convey to any person, association, corporation,
24 or other business organization immunity from civil or

1 criminal liability, or to create defenses to actions, under
2 any antitrust law.

3 (e) DEFINITIONS.—As used in this section, the
4 term—

5 (1) “antitrust review” shall be deemed an
6 “antitrust investigation” for the purposes of the
7 Antitrust Civil Process Act (15 U.S.C. 1311); and

8 (2) “antitrust laws” means those Acts set forth
9 in section 1 of the Clayton Act (15 U.S.C. 12) as
10 amended.

11 **SEC. 5209. LEASE TERMS AND CONDITIONS.**

12 An oil or gas lease issued pursuant to this subtitle
13 shall—

14 (1) be for a tract consisting of a compact area
15 not to exceed five thousand seven hundred sixty
16 acres, or nine surveyed or protracted sections which
17 shall be as compact in form as possible;

18 (2) be for an initial period of ten years and
19 shall be extended for so long thereafter as oil or gas
20 is produced in paying quantities from the lease or
21 unit area to which the lease is committed or for so
22 long as drilling or reworking operations, as approved
23 by the Secretary, are conducted on the lease or unit
24 area;

1 (3) require the payment of royalty as provided
2 for in section 5208 of this subtitle;

3 (4) require that exploration activities pursuant
4 to any lease issued or maintained under this subtitle
5 shall be conducted in accordance with an exploration
6 plan or a revision of such plan approved by the Sec-
7 retary;

8 (5) require that all development and production
9 pursuant to a lease issued or maintained pursuant
10 to this subtitle shall be conducted in accordance with
11 a development and production plan approved by the
12 Secretary;

13 (6) require posting of bond as required by sec-
14 tion 5210 of this subtitle;

15 (7) forbid the flaring of natural gas from any
16 well unless the Secretary finds that such flaring is
17 necessary to alleviate a temporary emergency situa-
18 tion or to conduct testing or work-over operations;

19 (8) contain such rental and other provisions as
20 the Secretary may prescribe at the time of offering
21 the area for lease;

22 (9) provide that the Secretary may direct or as-
23 sent to the suspension of operations and production
24 under any lease granted under the terms of this sub-
25 title in the interest of conservation of the resource

1 or where there is no available system to transport
2 the resource. If such a suspension is directed or as-
3 sented to by the Secretary, any payment of rental
4 prescribed by such lease shall be suspended during
5 such period of suspension of operations and produc-
6 tion, and the term of the lease shall be extended by
7 adding any such suspension period thereto;

8 (10) provide that whenever the owner of a
9 nonproducing lease fails to comply with any of the
10 provisions of this subtitle, or of any applicable provi-
11 sion of Federal or State environmental law, or of the
12 lease, or of any regulation issued under this subtitle,
13 such lease may be canceled by the Secretary if such
14 default continues for more than thirty days after
15 mailing of notice by registered letter to the lease
16 owner at the lease owner's record post office address
17 of record;

18 (11) provide that whenever the owner of any
19 producing lease fails to comply with any of the pro-
20 visions of this subtitle, or of any applicable provision
21 of Federal or State environmental law, or of the
22 lease, or of any regulation issued under this subtitle,
23 such lease may be forfeited and canceled by any ap-
24 propriate proceeding brought by the Secretary in

1 any United States district court having jurisdiction
2 under the provisions of this subtitle;

3 (12) provide that cancellation of a lease under
4 this subtitle shall in no way release the owner of the
5 lease from the obligation to provide for reclamation
6 of the lease site;

7 (13) require that no lease issued under the au-
8 thority of this subtitle shall be assigned or sublet,
9 except with the consent of the Secretary;

10 (14) allow the lessee, at the discretion of the
11 Secretary, to make written relinquishment of all
12 rights under any lease issued pursuant to this sub-
13 title, and the Secretary shall accept the relinquis-
14 hment by the lessee of any lease issued under this
15 subtitle where there has not been surface disturb-
16 ance on the lands covered by the lease;

17 (15) provide that for the purpose of conserving
18 the natural resources of any oil or gas pool, field, or
19 like area, or any part thereof, and in order to avoid
20 the unnecessary duplication of facilities, to protect
21 the environment of the Coastal Plain, and to protect
22 correlative rights, the Secretary shall require that, to
23 the greatest extent practicable, lessees unite with
24 each other in collectively adopting and operating
25 under a cooperative or unit plan of development for

1 operation of such pool, field, or like area, or any
2 part thereof, and the Secretary is also authorized
3 and directed to enter into such agreements as are
4 necessary or appropriate for the protection of the
5 United States against drainage;

6 (16) require that the holder of a lease or leases
7 on lands within the Coastal Plain shall be fully re-
8 sponsible and liable for the reclamation of lands
9 within the Coastal Plain and any other Federal
10 lands adversely affected in connection with explo-
11 ration, development, production or transportation
12 activities on a lease within the Coastal Plain by the
13 holder of a lease or as a result of activities con-
14 ducted on the lease by any of the leaseholder's sub-
15 contractors or agents;

16 (17) provide that the holder of a lease may not
17 delegate or convey, by contract or otherwise, the rec-
18 lamation responsibility and liability to another party
19 without the express written approval of the Sec-
20 retary;

21 (18) provide that the standard of reclamation
22 for lands required to be reclaimed under this subtitle
23 be, as nearly as practicable, a condition capable of
24 supporting the uses which the lands were capable of
25 supporting prior to any exploration, development, or

1 production activities, or upon application by the les-
2 see, to a higher or better use as approved by the
3 Secretary;

4 (19) contain the terms and conditions relating
5 to protection of fish and wildlife, their habitat, and
6 the environment, as required by section 5204 (a) of
7 this subtitle; and

8 (20) contain such other provisions as the Sec-
9 retary determines necessary to ensure compliance
10 with the provisions of this subtitle and the regula-
11 tions issued thereunder.

12 **SEC. 5210. BONDING REQUIREMENTS TO ENSURE FINAN-**
13 **CIAL RESPONSIBILITY OF LESSEE AND AVOID**
14 **FEDERAL LIABILITY.**

15 (a) REQUIREMENT.—The Secretary shall, by rule or
16 regulation, establish such standards as may be necessary
17 to ensure that an adequate bond, surety, or other financial
18 arrangement will be established prior to the commence-
19 ment of surface disturbing activities on any lease, to en-
20 sure the complete and timely reclamation of the lease
21 tract, and the restoration of any lands or surface waters
22 adversely affected by lease operations after the abandon-
23 ment or cessation of oil and gas operations on the lease.
24 Such bond, surety, or financial arrangement is in addition
25 to, and not in lieu, of any bond, surety, or financial ar-

1 rangement required by any other regulatory authority or
2 required by any other provision of law.

3 (b) AMOUNT.—The bond, surety, or financial ar-
4 rangement shall be in an amount—

5 (1) to be determined by the Secretary to pro-
6 vide for reclamation of the lease site in accordance
7 with an approved or revised exploration or develop-
8 ment and production plan; plus

9 (2) an amount set by the Secretary consistent
10 with the type of operations proposed, to provide the
11 means for rapid and effective cleanup, and to mini-
12 mize damages resulting from an oil spill, the escape
13 of gas, refuse, domestic wastewater, hazardous or
14 toxic substances, or fire caused by oil and gas activi-
15 ties.

16 (c) ADJUSTMENT.—In the event that an approved ex-
17 ploration or development and production plan is revised,
18 the Secretary may adjust the amount of the bond, surety,
19 or other financial arrangement to conform to such modi-
20 fied plan.

21 (d) DURATION.—The responsibility and liability of
22 the lessee and its surety under the bond, surety, or other
23 financial arrangement shall continue until such time as
24 the Secretary determines that there has been compliance

1 with the terms and conditions of the lease and all applica-
2 ble law.

3 (e) **TERMINATION.**—Within sixty days after deter-
4 mining that there has been compliance with the terms and
5 conditions of the lease and all applicable laws, the Sec-
6 retary, after consultation with affected Federal and State
7 agencies, shall notify the lessee that the period of liability
8 under the bond, surety, or other financial arrangement has
9 been terminated.

10 **SEC. 5211. OIL AND GAS INFORMATION.**

11 (a) **IN GENERAL.**—(1) Any lessee or permittee con-
12 ducting any exploration for, or development or production
13 of, oil or gas pursuant to this subtitle shall provide the
14 Secretary access to all data and information from any
15 lease granted pursuant to this subtitle (including proc-
16 essed and analyzed) obtained from such activity and shall
17 provide copies of such data and information as the Sec-
18 retary may request. Such data and information shall be
19 provided in accordance with regulations which the Sec-
20 retary shall prescribe.

21 (2) If processed and analyzed information provided
22 pursuant to paragraph (1) of this subsection is provided
23 in good faith by the lessee or permittee, such lessee or
24 permittee shall not be responsible for any consequence of

1 the use or of reliance upon such processed and analyzed
2 information.

3 (3) Whenever any data or information is provided to
4 the Secretary, pursuant to paragraph (1) of this sub-
5 section—

6 (A) by a lessee or permittee, in the form and
7 manner of processing which is utilized by such lessee
8 or permittee in the normal conduct of business, the
9 Secretary shall pay the reasonable cost of reproduc-
10 ing such data and information; or

11 (B) by a lessee or permittee, in such other form
12 and manner of processing as the Secretary may re-
13 quest, the Secretary shall pay the reasonable cost of
14 processing and reproducing such data and informa-
15 tion.

16 (b) REGULATIONS.—The Secretary shall prescribe
17 regulations to:

18 (1) assure that the confidentiality of privileged
19 or proprietary information received by the Secretary
20 under this section will be maintained; and

21 (2) set forth the time periods and conditions
22 which shall be applicable to the release of such infor-
23 mation.

1 **SEC. 5212. EXPEDITED JUDICIAL REVIEW.**

2 Any complaint seeking judicial review of an action of
3 the Secretary in promulgating any regulation under this
4 subtitle may be filed only in the United States Court of
5 Appeals for the District of Columbia, and such complaint
6 shall be filed within ninety days from the date of such
7 promulgation, or after such date if such complaint is based
8 solely on grounds arising after such ninetieth day, in
9 which case the complaint must be filed within ninety days
10 after the complainant knew or reasonably should have
11 known of the grounds for the complaint. Any complaint
12 seeking judicial review of any other actions of the Sec-
13 retary under this subtitle may be filed in any appropriate
14 district court of the United States, and such complaint
15 must be filed within ninety days from the date of the ac-
16 tion being challenged, or after such date if such complaint
17 is based solely on grounds arising after such ninetieth day,
18 in which case the complaint must be filed within ninety
19 days after the complainant knew or reasonably should
20 have known of the grounds for the complaint. Actions of
21 the Secretary with respect to which review could have been
22 obtained under this section shall not be subject to judicial
23 review in any civil or criminal proceeding for enforcement.

24 **SEC. 5213. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

25 Notwithstanding title XI of the Alaska National In-
26 terest Lands Conservation Act of 1980 (16 U.S.C. 3161

1 et seq.), the Secretary is authorized and directed to grant,
2 in accordance with the provisions of section 28 (c) through
3 (t) and (v) through (y) of the Mineral Leasing Act of 1920
4 (30 U.S.C. 185), rights-of-way and easements across the
5 Coastal Plain for the transportation of oil and gas under
6 such terms and conditions as may be necessary so as not
7 to result in a significant adverse effect on the fish and
8 wildlife, their habitat, and the environment of the Coastal
9 Plain. Such terms and conditions shall include require-
10 ments that facilities be sited or modified so as to avoid
11 unnecessary duplication of roads and pipelines. The regu-
12 lations issued pursuant to this subtitle shall include provi-
13 sions granting of rights-of-way across the Coastal Plain.

14 **SEC. 5214. ENFORCEMENT OF SAFETY AND ENVIRON-**
15 **MENTAL REGULATIONS TO ENSURE COMPLI-**
16 **ANCE WITH TERMS AND CONDITIONS OF**
17 **LEASE.**

18 (a) **RESPONSIBILITY OF THE SECRETARY.**—The Sec-
19 retary shall diligently enforce all regulations, lease terms,
20 conditions, restrictions, prohibitions, and stipulations pro-
21 mulgated pursuant to this subtitle.

22 (b) **RESPONSIBILITY OF HOLDERS OF LEASE.**—It
23 shall be the responsibility of any holder of a lease under
24 this subtitle to—

1 (1) maintain all operations within such lease
2 area in compliance with regulations intended to pro-
3 tect persons and property on, and fish and wildlife,
4 their habitat, and the environment of, the Coastal
5 Plain; and

6 (2) allow prompt access at the site of any oper-
7 ations subject to regulation under this subtitle to
8 any appropriate Federal or State inspector, and to
9 provide such documents and records which are perti-
10 nent to occupational or public health, safety, or envi-
11 ronmental protection, as may be requested.

12 (c) ON-SITE INSPECTION.—The Secretary shall pro-
13 mulgate regulations to provide for—

14 (1) scheduled onsite inspection by the Sec-
15 retary, at least twice a year, of each facility on the
16 Coastal Plain which is subject to any environmental
17 or safety regulation promulgated pursuant to this
18 subtitle or conditions contained in any lease issued
19 pursuant to this subtitle to assure compliance with
20 such environmental or safety regulations or condi-
21 tions; and

22 (2) periodic onsite inspection by the Secretary
23 at least once a year without advance notice to the
24 operator of such facility to assure compliance with
25 all environmental or safety regulations.

1 **SEC. 5215. NEW REVENUES.**

2 (a) DISTRIBUTION OF REVENUES.—Notwithstanding
3 any other provision of law, all revenues received by the
4 Federal Government from competitive bids, sales, bonuses,
5 royalties, rents, fees, interest or other income derived from
6 the leasing of oil and gas resources within the Coastal
7 Plain shall be deposited into the Treasury of the United
8 States: *Provided*, That 50 per centum of all such revenues
9 shall be paid by the Secretary of the Treasury semiannu-
10 ally, on March 30th and on September 30th of each year,
11 to the State of Alaska: *Provided further*, That the Sec-
12 retary of the Treasury shall monitor the total amount of
13 bonus bid revenue deposited into the Treasury from oil
14 and gas leases issued under the authority of this subtitle.
15 All bonus bid revenue deposited in the Treasury in excess
16 of \$2,600,000,000 shall be distributed as follows: 50 per
17 centum to the State of Alaska in the manner provided in
18 this subsection and 50 per centum into a special fund es-
19 tablished in the Treasury of the United States known as
20 the “National Park and Wildlife Refuge Renewal Fund”
21 (Renewal Fund).

22 (b) USE OF RENEWAL FUND.—Funds from the Re-
23 newal Fund shall be made available to the Secretary of
24 the Interior, without further appropriation, at the begin-
25 ning of each fiscal year in which funds are available, and
26 may be expended by the Secretary for infrastructure needs

1 at units of the National Park and Wildlife Refuge Sys-
2 tems, including but not limited to facility refurbishment,
3 repair and replacement, interpretive media and exhibit re-
4 pair and replacement and infrastructure projects associ-
5 ated with park and wildlife refuge resource protection:
6 *Provided*, That such amounts shall remain available until
7 expended, and that the Secretary shall develop procedures
8 for the use of the Renewal Fund that ensure accountabil-
9 ity and demonstrated results. Such procedures shall not
10 take effect until 90 days after transmittal to the Commit-
11 tees on Energy and Natural Resources and Environment
12 and Public Works of the Senate and the appropriate Com-
13 mittees of the House of Representatives: *Provided further*,
14 That beginning the first full fiscal year after funds are
15 deposited in the Renewal Fund, the Secretary shall submit
16 an annual report to the Congress, on a unit-by-unit basis,
17 detailing the expenditures of such receipts, and that any
18 revenues made available pursuant to this section shall be
19 in addition to funds appropriated in the preceding fiscal
20 year for the Park Service and Fish and Wildlife Service
21 and shall not result in a reduction or offset of such appro-
22 priated funds.

1 **Subtitle D—Park Entrance Fees**

2 **SEC. 5300. FEES.**

3 (a) **ADMISSION FEES.**—Section 4(a) of the Land and
4 Water Conservation Fund Act of 1965 (16 U.S.C. 460l–
5 6a(a)) is amended:

6 (1) By deleting “fee-free travel areas” and
7 “lifetime admission permit” from the subsection.

8 (2) By striking “\$25” in the first sentence of
9 paragraph (1)(a)(i), and inserting “\$50”.

10 (3) By adding at the end of clause (ii) of para-
11 graph (1)(A) the following: “Such receipts shall be
12 made available, subject to appropriation, for author-
13 ized resource protection, rehabilitation and conserva-
14 tion projects as provided for by subsection (I), in-
15 cluding projects to be carried out by the Public
16 Land Corps or any other conservation corps pursu-
17 ant to the Youth Conservation Corps Act of 1970
18 (16 U.S.C. 1701 and following), or other related
19 programs or authorities, on lands administered by
20 the Secretary of the Interior and the Secretary of
21 Agriculture.”.

22 (4) By striking “\$15” in paragraph (a)(1)(B),
23 and inserting “\$25”.

24 (5) By striking the fifth and sixth sentences in
25 paragraph (a)(2), and by amending the fourth sen-

1 tence to read as follows: “The fee for a single-visit
2 permit at any designated area shall be collected on
3 a per person basis, not to exceed \$6 per person, in-
4 cluding for those entering by private, noncommercial
5 vehicle.”.

6 (6) By inserting the word “Great” before
7 “Smoky” in the third sentence of paragraph (a)(3),
8 and by striking the last sentence.

9 (7) By striking the second sentence in para-
10 graph (a)(4), in its entirety and inserting: “Such
11 permit shall be nontransferable, shall be issued for
12 a one-time charge of \$10, and shall entitle the per-
13 mittee to free admission into any area designated
14 pursuant to this subsection.”.

15 (8) By amending the third sentence in para-
16 graph (a)(4), to read as follows: “No fees of any
17 kind shall be collected from any persons who have a
18 right of access for hunting or fishing privileges
19 under a specific provision of law or treaty or who
20 are engaged in the conduct of official Federal, State,
21 or local government business.”.

22 (9) By striking paragraph (a)(5), in its entirety
23 and inserting: “The Secretary of the Interior and
24 the Secretary of Agriculture shall establish proce-
25 dures providing for the issuance of a lifetime admis-

1 sion permit to any citizen of, or person legally domi-
2 ciled in, the United States, if such citizen or person
3 applies for such permit and is permanently disabled.
4 Such procedures shall assure that such permit shall
5 be issued only to persons who have been medically
6 determined to be permanently disabled. Such permit
7 shall be nontransferable, shall be issued without
8 charge, and shall entitle the permittee and one ac-
9 companying individual to general admission into any
10 area designated pursuant to this subsection, not-
11 withstanding the method of travel.”.

12 (10) By striking subparagraph (a)(6)(A), in its
13 entirety and inserting: “No later than 30 days after
14 the enactment date of this sentence, the Secretary of
15 the Interior shall submit to the Committee on En-
16 ergy and Natural Resources of the United States
17 Senate and the Committee on Resources of the
18 House of Representatives a report on the admission
19 fees proposed to be charged at units of the National
20 Park System. The report shall include a list of units
21 of the National Park System and the admission fee
22 proposed to be charged at each unit. The Secretary
23 of the Interior shall also identify areas where such
24 fees are authorized but not collected, including an

1 explanation of the reasons that such fees are not col-
2 lected.”.

3 (11) By striking paragraph (a)(9) in its en-
4 tirety and by renumbering current paragraph (10)
5 as “(9)”.

6 (12) By striking all but the last sentence in
7 paragraph (a)(11), and renumbering the remaining
8 sentence as “(a)(10)”.

9 (13) By renumbering paragraph (a)(12) as
10 “(a)(11)”.

11 (b) RECREATION FEES.—Section 4(b) of the Land
12 and Water Conservation Fund Act of 1965; 16 U.S.C.
13 460l–6a(b)), is amended:

14 (1) By striking “fees for Golden Age Passport
15 permittees” from the heading.

16 (2) By striking “personal collection of the fee
17 by an employee or agent of the Federal agency oper-
18 ating the facility,”.

19 (3) By striking “Any Golden Age Passport per-
20 mittee, or” and inserting “Any”.

21 (c) CRITERIA, POSTING AND UNIFORMITY OF
22 FEES.—Section 4(d) of the Land and Water Conservation
23 Fund Act of 1965 (16 U.S.C. 460l–6a(d)) is amended by
24 striking from the first sentence, “recreation fees charged

1 by non-Federal public agencies,” and inserting: “fees
2 charged by other public and private entities,”.

3 (d) PENALTY.—Section 4(e) of the Land and Water
4 Conservation Fund Act of 1965 (16 U.S.C. 4601–6a(e))
5 is amended by deleting “of not more than \$100.” and in-
6 serting: “as provided by law.”.

7 (e) TECHNICAL AMENDMENTS.—Section 4(h) of the
8 Land and Water Conservation Fund Act of 1965 (16
9 U.S.C. 4601–6a(h)), is amended—

10 (1) by striking “Bureau of Outdoor Recreation”
11 and inserting: “National Park Service”;

12 (2) by striking “Natural” in the phrase “Com-
13 mittee on Natural Resources of the House of Rep-
14 resentatives”; and

15 (3) by striking “Bureau” and inserting: “Na-
16 tional Park Service”;

17 (f) USE OF FEES.—Section 4(i) of the Land and
18 Water Conservation Fund Act of 1965 (16 U.S.C. 4601–
19 6a(i)) is amended:

20 (1) By amending the subsection heading to read
21 as follows: “USE OF FEES.—”.

22 (2) By striking “fee collection costs for that fis-
23 cal year” in the first sentence of subparagraph (B)
24 and inserting: “fee collection costs for the imme-
25 diately preceding fiscal year” and by striking “sec-

1 tion in that fiscal year” and inserting in lieu thereof,
2 “section in such immediately preceding fiscal year.”.

3 (3) By striking “in that fiscal year” in the sec-
4 ond sentence of subparagraph (B).

5 (4) By striking paragraph (4), and subpara-
6 graphs (A) and (B) in their entirety and inserting:
7 “Amounts covered into the special account for the
8 National Park Service shall be allocated among park
9 system units in accordance with subsection (j) of
10 this section for obligation or expenditure by the Di-
11 rector of the National Park Service for park oper-
12 ations.”.

13 (g) TIME OF REIMBURSEMENT.—Section 4(k) of the
14 Land and Water Conservation Fund Act of 1965 (16
15 U.S.C. 460l–6a(k)) is amended by striking the last sen-
16 tence in its entirety.

17 (h) CHARGES FOR TRANSPORTATION PROVIDED BY
18 THE NATIONAL PARK SERVICE.—Section 4(l)(1) of the
19 Land and Water Conservation Fund Act of 1965 (16
20 U.S.C. 460l–6a(1)) is amended—

21 (1) by striking the word “viewing” from the
22 section heading and inserting “visiting”, and

23 (2) by striking the word “view” from the first
24 sentence of subparagraph (1) and inserting “visit”.

1 (i) COMMERCIAL TOUR USE FEES.—Section 4(n) of
2 the Land and Water Conservation Fund Act of 1965 (16
3 U.S.C. 4601–6a(n)) is further amended—

4 (1) By striking the first sentence of subsection
5 (n)(1) and inserting: “In the case of each unit of the
6 National Park System for which an admission fee is
7 charged under this section, the Secretary of the In-
8 terior shall establish, by October 1, 1995, a commer-
9 cial tour use fee in lieu of a per person admission
10 fee to be imposed on each vehicle entering the unit
11 for the purpose of providing commercial tour serv-
12 ices within the unit.”.

13 (2) By striking the period at the end of sub-
14 section (n)(3) and inserting: “with written notifica-
15 tion of such adjustments provided to commercial
16 tour operators twelve months in advance of imple-
17 mentation.”.

18 (j) FEES FOR SPECIAL USES.—Section 4 of the Land
19 and Water Conservation Fund Act of 1965 (16 U.S.C.
20 4601–6a)), is further amended by adding at the end the
21 following:

22 “(o) FEES FOR COMMERCIAL/NON-RECREATIONAL
23 USES.—The Secretary of the Interior shall establish rea-
24 sonable fees for uses of National Park System units that
25 require special arrangements, including permits. Such fees

1 shall be set at a level as the Secretary deems necessary
2 to ensure that the United States will receive fair market
3 value for such use, and shall, at a minimum, cover all costs
4 of providing necessary services associated with such use,
5 except that at the Secretary's discretion, the Secretary
6 may waive or reduce such fees in the case of any nonprofit
7 organization or any organization using an area within the
8 National Park System for educational purposes. That por-
9 tion of such fee which exceeds the cost of providing nec-
10 essary services associated with such use shall be deposited
11 into the Park Renewal Fund.”.

12 (k) CONFORMING AMENDMENTS.—

13 (1) Section 3 of Public Law 70–805 (45 Stat.
14 1300), is amended by striking the last sentence.

15 (2) Section 5(e) of Public Law 87–657 (76
16 Stat. 540; 16 U.S.C. 459c–5), is repealed.

17 (3) Section 3(b) of Public Law 87–750 (76
18 Stat. 747; 16 U.S.C. 398e(b)) is repealed.

19 (4) Section 4(e) of Public Law 92–589 (86
20 Stat. 1299; 16 U.S.C. 460bb–3), is amended by
21 striking the first sentence.

22 (5) Section 6(j) of Public Law 95–348 (92
23 Stat. 487; 16 U.S.C. 410dd(j)) is repealed.

24 (6) Section 207 of Public Law 96–199 (94
25 Stat. 77; 16 U.S.C. 410ff–6) is repealed.

1 (7) Section 106 of Public Law 96–287 (94
2 Stat. 600; 16 U.S.C. 410gg–5) is amended by strik-
3 ing the last sentence.

4 (8) Section 204 of Public Law 96–287 (94
5 Stat. 601) is amended by striking the last sentence.

6 (9) Section 5 of Public Law 96–428 (94 Stat.
7 1843; 16 U.S.C. 461 note) is repealed.

8 (10) Public Law 100–55 (101 Stat. 371; U.S.C.
9 460l–6a note) is repealed.

10 **SEC. 5301. CHALLENGE COST-SHARE AGREEMENTS.**

11 The Secretary of the Interior is authorized to nego-
12 tiate and enter into challenge cost-share agreements with
13 any State or local government, public or private agency,
14 organization, institution, corporation, individual, or other
15 entity for the purpose of sharing costs or services in carry-
16 ing out any authorized functions and responsibilities of the
17 Secretary with respect to any unit of the National Park
18 System (as defined in section 2(a) of the Act of August
19 8, 1953 (16 U.S.C. 1c(a)), any affiliated area, or des-
20 ignated National Scenic or Historic Trail.

21 **SEC. 5302. COST RECOVERY FOR DAMAGE TO NATIONAL**
22 **PARK RESOURCES.**

23 (a) DEFINITION OF PARK SYSTEM RESOURCE.—Sec-
24 tion 1 (d) of the National Park System Visitor Facilities

1 Fund Act (16 U.S.C. 19jj(d)) is amended to read as fol-
2 lows:

3 “(d) ‘Park system resource’ means any living or
4 nonliving resource that is located within the boundaries
5 of a unit of the National Park System, except for re-
6 sources owned by a non-Federal entity.”.

7 (b) DEFINITION OF MARINE OR AQUATIC PARK SYS-
8 TEM RESOURCE.—Section 1 of the National Park System
9 Visitor Facilities Fund Act (16 U.S.C. 19jj) is amended
10 by adding at the end the following:

11 “(g) ‘Marine or aquatic park system resource’ means
12 any living or non-living resource that is located within or
13 is a living part of a marine or aquatic regimen within the
14 boundaries of a unit of the National Park System, except
15 for resources owned by a non-Federal entity.”.

16 (c) LIABILITY IN REM.—Section 2(b) of the Na-
17 tional Park System Visitor Facilities Fund Act (16 U.S.C.
18 19jj–1(b)) is amended by striking “any park” and insert-
19 ing “any marine or aquatic park”.

20 **SEC. 5303. SPECIAL ACCOUNT.**

21 A special account is hereby established in the Treas-
22 ury of the United States that shall be called the Park Re-
23 newal Fund (hereinafter referred to in this subtitle as “the
24 fund”).

1 **SEC. 5304. COVERING OF FEES INTO PARK RENEWAL FUND.**

2 Notwithstanding section 4(i) of the Land and Water
3 Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)),
4 beginning in fiscal year 1996, there shall be deposited into
5 the fund eighty percent of all revenues received from ad-
6 mission, recreation use, commercial tour use, and commer-
7 cial/non-recreational use fees collected by units of the Na-
8 tional Park System in excess of:

- 9 (1) \$82,000,000 for fiscal year 1996;
10 (2) \$85,000,000 for fiscal year 1997;
11 (3) \$88,000,000 for fiscal year 1998;
12 (4) \$91,000,000 for fiscal year 1999;
13 (5) \$94,000,000 for fiscal year 2000;
14 (6) \$97,000,000 for fiscal year 2001; and
15 (7) \$100,000,000 for fiscal year 2002.

16 **SEC. 5305. ALLOCATION AND USE OF FEES.**

17 (a) ALLOCATION.—Beginning in fiscal year 1997, re-
18 ceipts in the fund from the previous fiscal year shall be
19 available to the Secretary without further appropriation
20 and shall be allocated as follows:

- 21 (1) Seventy-five percent shall be allocated
22 among the units of the National Park System in the
23 same proportion as admission, recreation use, com-
24 mercial tour use and commercial/non-recreational
25 use fees collected from a specific unit bears to the

1 total amount of such fees collected from all units
2 of the National Park System for each fiscal year.

3 (2) Twenty-five percent shall be allocated
4 among the units of the National Park System on the
5 basis of need, as determined by the Secretary.

6 (b) USE.—Expenditures from the fund shall be used
7 solely for infrastructure and operational needs by units of
8 the National Park System. By January 1 of each year,
9 the Secretary shall provide to the Committee on Energy
10 and Natural Resources of the United States Senate and
11 the Committee on Resources of the House of Representa-
12 tives a list of proposed expenditures from the fund for
13 each unit for that fiscal year and a report detailing ex-
14 penditures, by unit, for the previous fiscal year.

15 **Subtitle E—Water Projects**

16 **SEC. 5400. AUTHORIZATION FOR PREPAYMENT OF CON-** 17 **STRUCTION CHARGES.**

18 Subsection 213(a) of the Reclamation Reform Act of
19 1982 (96 Stat.1269, 43 U.S.C. 390mm(a)) is amended:

20 (a) By adding at the beginning:

21 “Notwithstanding any provision of Reclamation law or
22 limitation contained in any repayment or water service
23 contract, any person or district holding such a contract
24 or receiving water under such a contract with the United
25 States may prepay the construction costs referred to in

1 this section either through accelerated or lump sum pay-
2 ments. For the purposes of such prepayment only, the
3 project to which such contract applies is declared to be
4 complete and the Secretary shall determine the repayment
5 obligations associated with the construction costs of the
6 project facilities so that accelerated payments or a lump
7 sum payment may be made. The amount of any prepay-
8 ment shall be calculated by discounting the remaining pay-
9 ments due under a contract in accordance with the guide-
10 lines set forth in Circular A-129 issued by the Office of
11 Management and Budget: *Provided*, That the discount
12 shall be adjusted by any amounts necessary to compensate
13 the Federal Government for the direct or indirect loss of
14 future tax revenues if the individual or district plans to
15 use federally tax-exempt financing for such prepayment.”.

16 (b) By deleting “lands in a district” and inserting:
17 “lands in a district, or lands owned or leased by a person”.

18 (c) By deleting “obligation of a district” and insert-
19 ing: “obligation of a district or a person”.

20 (d) By deleting “enactment of this Act.” and insert-
21 ing: “enactment of this Act or as otherwise provided for
22 in this section. Any additional capital costs incurred after
23 the date of such prepayment shall be recoverable as a sep-
24 arate obligation and shall not be considered to be a new
25 or supplemental benefit for the purposes of this act nor

1 cause the full cost pricing limitation of this act or the own-
2 ership limitations contained in any provision of Federal
3 reclamation law to apply to the lands to which such capital
4 costs apply.”.

5 **SEC. 5401. CONFORMING AMENDMENT.**

6 Subsection 213(c) of the Reclamation Reform Act of
7 1982 (43 U.S.C. 390mm(c)) is repealed.

8 **SEC. 5410. HETCH HETCHY DAM.**

9 Section 7 of the Act of December 13, 1913 (38 Stat.
10 242), is amended—

11 (1) By striking “pay the sum of \$30,000” and
12 all that follows in the first sentence and inserting
13 “pay an amount determined annually by the Sec-
14 retary in accordance with the formula used by the
15 Federal Energy Regulatory Commission for applica-
16 tion to licenses of hydroelectric projects under the
17 Federal Power Act (16 U.S.C. 791 et seq.), provided
18 that, in no event shall such amount be less than
19 \$597,000.00. Said amount to be paid on the first
20 day of July of each year.”.

21 (2) By amending the second and third sen-
22 tences to read as follows: “These funds shall be
23 placed in a separate fund by the United States and,
24 notwithstanding any other provision of law, shall not
25 be available for obligation or expenditure until ap-

1 appropriated by Congress. The highest priority use of
2 the funds shall be for annual operation of Yosemite
3 National Park, with the remainder of any funds to
4 be used to fund operations of other national parks
5 in the State of California.”.

6 **SEC. 5420. COLLBRAN PROJECT.**

7 (a) **SHORT TITLE.**—This section may be cited as the
8 “Collbran Project Unit Conveyance Act”.

9 (b) **DEFINITIONS.**—For purposes of this section:

10 (1) **DISTRICTS.**—The term “Districts” means
11 the Ute Water Conservancy District and the
12 Collbran Conservancy District (including their suc-
13 cessors and assigns).

14 (2) **FEDERAL RECLAMATION LAWS.**—The term
15 “Federal reclamation laws” means the Act of June
16 17, 1902, and Acts amendatory thereof or supple-
17 mentary thereto (32 Stat. 388, chapter 1093; 43
18 U.S.C. 371 et seq.) (including regulations adopted
19 pursuant to those Acts).

20 (3) **PROJECT.**—The term “Project” means the
21 Collbran Reclamation Project, as constructed and
22 operated under the Act of July 3, 1952 (66 Stat.
23 325, chapter 565), including all property, equip-
24 ment, and assets of or relating to the Project that
25 are owned by the United States, including—

- 1 (A) Vega Dam and Reservoir (but not in-
2 cluding recreation facilities owned by the
3 United States or the State of Colorado);
- 4 (B) Leon-Park Dams and Feeder Canal;
- 5 (C) Southside Canal;
- 6 (D) East Fork Diversion Dam and Feeder
7 Canal;
- 8 (E) Bonham-Cottonwood Pipeline;
- 9 (F) Snowcat Shed and Diesel Storage;
- 10 (G) Upper Molina Penstock and Power
11 Plant;
- 12 (H) Lower Molina Penstock and Power
13 Plant;
- 14 (I) the diversion structure in the tailrace of
15 the Lower Molina Power Plant;
- 16 (J) all substations and switchyards;
- 17 (K) a perpetual, non-exclusive easement
18 for the use of easements or rights-of-way owned
19 by the United States on or across non-Federal
20 lands which are necessary for access to Project
21 facilities;
- 22 (L) a perpetual, non-exclusive easement on
23 and across National Forest lands for access to
24 existing Project facilities and access to and the
25 operation, use repair, and replacement of the

1 existing storage reservoirs on the Grand Mesa
2 which are operated as a part of the Project;

3 (M) title to lands reasonably necessary for
4 all Project facilities except for those described
5 in subparagraphs (3)(K) and (3)(L);

6 (N) all permits and contract rights;

7 (O) all equipment, parts inventories, and
8 tools;

9 (P) all additions, replacements, better-
10 ments, and appurtenances to any of the above;
11 and

12 (Q) a copy of all data, plans designs, re-
13 ports, records, or other materials, whether in
14 writing or in any form of electronic storage re-
15 lating specifically to the Project.

16 (4) SECRETARY.—The term “Secretary” means
17 the Secretary of the Interior.

18 (c) CONVEYANCE OF THE COLLBRAN PROJECT.—

19 (1) IN GENERAL.—The Secretary shall convey
20 to the Districts all right, title, and interest of the
21 United States in and to the Project, as described in
22 this section, by quitclaim deed and bill of sale, with-
23 out warranties, during the last quarter of fiscal year
24 2000, subject only to the requirements of this sec-
25 tion: *Provided*, That such conveyance shall reserve to

1 the United States all minerals, including hydro-
2 carbons, and a perpetual right of public access over,
3 across, under, and to the portions of the Project
4 which on the date of enactment of this Act were
5 open to public use for purposes such as grazing,
6 mineral development and logging: *And provided fur-*
7 *ther,* That the United States may allow for the con-
8 tinued public use and enjoyment of such portions of
9 the Project for recreational activities and other pub-
10 lic uses conducted as of the date of enactment of
11 this Act.

12 (2) PAYMENT.—

13 (A) IN GENERAL.—At the time of transfer,
14 the Districts shall pay to the United States
15 \$12,900,000 (\$12,300,000 of which represents
16 the net present value of the outstanding repay-
17 ment obligations of the Districts), of which—

18 (i) \$12,300,000 shall be deposited in
19 the general fund of the United States
20 Treasury; and

21 (ii) \$600,000 shall be deposited in a
22 special account in the United States Treas-
23 ury and shall be available to the United
24 States Fish and Wildlife Service, region 6,
25 without further appropriation, for use in

1 funding Colorado operations and capital
2 expenditures associated with the Recovery
3 Implementation Program for Endangered
4 Fish Species in the Upper Colorado River
5 Basin.

6 (B) SOURCE OF FUNDS.—Funds for the
7 payment to the extent of the amount specified
8 in the paragraph (1)(A) shall not be derived
9 from the issuance or sale, prior to the convey-
10 ance, of State or local bonds the interest on
11 which is exempt from taxation under section
12 103 of the Internal Revenue Code of 1986 (26
13 U.S.C. 103).

14 (3) OPERATION OF PROJECT.—

15 (A) IN GENERAL.—The Project shall be
16 operated and used by the Districts for a period
17 of 40 years after the date of enactment of this
18 section for the purposes for which the Project
19 was authorized under the Act of July 3, 1952
20 (66 Stat. 325, chapter 565).

21 (B) REQUIREMENTS.—During the 40-year
22 period described in paragraph (1)—

23 (i) the Districts shall annually submit
24 to the Secretary a plan for operation of the
25 Project, which plan shall—

1 (I) report on Project operations
2 for the previous year;

3 (II) provide a description of the
4 manner of Project operations antici-
5 pated for the forthcoming year; and

6 (III) certify that the Districts
7 have operated and will operate and
8 maintain the Project facilities in ac-
9 cordance with sound engineering prac-
10 tices; and

11 (ii) provide that, subject to subsection
12 (d), all electric power generated by oper-
13 ation of the Project shall be made available
14 to and be marketed by the Western Area
15 Power Administration (including its suc-
16 cessors and assigns).

17 (4) AGREEMENTS.—Conveyance of the Project
18 shall be subject to the agreements between the
19 United States and the State of Colorado dated Au-
20 gust 22, 1994, and September 23, 1994, relating to
21 the construction and operation of recreational facili-
22 ties at Vega Reservoir, which agreements shall con-
23 tinue to be performed by the parties thereto accord-
24 ing to the terms of the agreements.

25 (d) OPERATION.—

1 (1) CONFORMITY TO HISTORIC OPERATIONS.—

2 The power component and facilities of the Project
3 shall be operated in substantial conformity with the
4 historic operations of the power component and fa-
5 cilities (including recent operations in a peaking
6 mode).

7 (2) POWER MARKETING.—

8 (A) UNDER EXISTING AGREEMENTS.—The
9 Districts shall be bound by the agreements be-
10 tween the Bureau of Reclamation and the
11 Western Area Power Administration in exist-
12 ence on the date of enactment of this section,
13 which provide for the marketing of power gen-
14 erated by the power component of the Project
15 as part of the output of the Salt Lake City
16 Area Integrated Projects under the Post 1989
17 Operating Criteria, until those agreements ex-
18 pire or are terminated.

19 (B) AFTER EXPIRATION OF EXISTING
20 AGREEMENT.—

21 (i) After the agreements described in
22 paragraph (1) expire or are terminated,
23 the Districts shall offer all power produced
24 by the power component of the Project to
25 the Western Area Power Administration or

1 its successors or assigns (“Western”),
2 which, in consultation with its affected
3 preference customers, shall have the first
4 right to purchase such power at the rates
5 established in accordance with Subpara-
6 graph (ii) of this paragraph. If Western
7 declines to purchase the power after con-
8 sultation with its affected preference cus-
9 tomers, such power shall then be offered at
10 the same rates first to Western’s pref-
11 erence customers located in the Salt Lake
12 City Area Integrated Projects marketing
13 area (“SLCAIP preference customers”).
14 Thereafter, such power may be sold to any
15 other party: *Provided, however,* That no
16 such sale may occur at rates less than es-
17 tablished in accordance with subparagraph
18 (ii) of this paragraph unless such power is
19 first offered at such lesser rate first to
20 Western and then to its SLCAIP pref-
21 erence customers.

22 (ii) The rate for power initially offered
23 to Western and its SLCAIP preference
24 customers under this paragraph shall not

1 exceed that required to produce revenues
2 sufficient to provide for

3 (I) annual debt service and/or
4 recoupment of the cost of capital for
5 the amount specified in subsection
6 (c)(2) of this section, less the sum of
7 \$220,000 (which is the net present
8 value of the outstanding repayment
9 obligation of the Collbran Conser-
10 vancy District), and

11 (II) the cost of operation, main-
12 tenance and replacement of the power
13 component of the Project.

14 (iii) Such costs and rate shall be de-
15 termined in a manner consistent with the
16 current principles followed by the Sec-
17 retary of the Interior and by Western in its
18 annual power and repayment study.

19 (3) LICENSE.—The Districts are by this section
20 granted a license under the Federal Power Act (16
21 U.S.C. 791a et seq.) for the operation of the Project
22 in accordance with the requirement of subsection
23 (c)(3) of this section, for a period of 40 years after
24 the date of conveyance of the Project, after which

1 period the license may be renewed in accordance
2 with applicable law.

3 (e) INAPPLICABILITY OF NEPA.—The conveyance of
4 the Project does not constitute a major Federal action
5 within the meaning of the National Environmental Policy
6 Act of 1969 (42 U.S.C. 4321 et seq.), including any regu-
7 lations issued under such Act.

8 (f) INAPPLICABILITY OF PRIOR AGREEMENTS AND
9 OF FEDERAL RECLAMATION LAWS.—On conveyance of
10 the Project to the Districts—

11 (1) the Repayment Contract dated May 27,
12 1957, as amended April 12, 1962, between the
13 Collbran Conservancy District and the United
14 States, and the Contract for use of Project facilities
15 for Diversion of Water dated January 11, 1962, as
16 amended November 10, 1977, between the Ute
17 Water Conservancy District and the United States,
18 shall be terminated and of no further force or effect;
19 and

20 (2) the Project shall no longer be subject to or
21 governed by the Federal reclamation laws.

22 (g) DISTRICTS' LIABILITY.—The Districts shall be
23 liable for all acts or omissions relating to the operation
24 and use of the Project that occur subsequent to the con-
25 veyance.

1 **Subtitle F—Federal Oil and Gas**
2 **Royalties**

3 **SEC. 5500. SHORT TITLE.**

4 This subtitle may be cited as the “Federal Oil and
5 Gas Royalty Simplification and Fairness Act of 1995”.

6 **SEC. 5501. DEFINITIONS.**

7 Section 3 of the Federal Oil and Gas Royalty Man-
8 agement Act of 1982 (30 U.S.C. 1701 et seq.) is amended
9 by striking “and” at the end of paragraph (15), by strik-
10 ing the period at the end of paragraph (16) and inserting
11 a semicolon, and by adding at the end the following:

12 “(17) ‘adjustment’ means an amendment to a
13 previously filed report on an obligation, and any ad-
14 ditional payment or credit, if any, applicable thereto,
15 to rectify an underpayment or overpayment on a
16 lease;

17 “(18) ‘administrative proceeding’ means any
18 agency process in which a demand, decision or order
19 issued by the Secretary is subject to appeal or has
20 been appealed;

21 “(19) ‘assessment’ means any fee or charge lev-
22 ied or imposed by the Secretary or the United States
23 other than—

1 “(A) the principal amount of any royalty,
2 minimum royalty, rental, bonus, Net profit
3 share or proceed of sale;

4 “(B) any interest; or

5 “(C) any civil or criminal penalty;

6 “(20) ‘commence’ means—

7 “(A) with respect to a judicial proceeding,
8 the service of a complaint, petition, counter-
9 claim, crossclaim, or other pleading seeking af-
10 firmative relief or seeking credit or recoupment;
11 or

12 “(B) with respect to a demand, the receipt
13 by the Secretary or a lessee of the demand;

14 “(21) ‘credit’ means the application of an over-
15 payment (in whole or in part) against an obligation
16 which has become due to discharge, cancel or reduce
17 the obligation;

18 “(22) ‘demand’ means—

19 “(A) an order to pay issued by the Sec-
20 retary; or

21 “(B) a separate written request by a lessee
22 which asserts an obligation due the lessee, but
23 does not mean any royalty or production report,
24 or any information contained therein, required
25 by the Secretary;

1 “(23) ‘obligation’ means—

2 “(A) any duty of the Secretary or the
3 United States—

4 “(i) to take oil or gas royalty in kind;
5 or

6 “(ii) to pay, refund, offset, or credit
7 monies including but not limited to—

8 “(I) the principal amount of any
9 royalty, minimum royalty, rental,
10 bonus, net profit share or proceed of
11 sale; or

12 “(II) any interest;

13 “(B) any duty of a lessee—

14 “(i) to deliver oil or gas royalty in
15 kind; or

16 “(ii) to pay, offset or credit monies in-
17 cluding but not limited to—

18 “(I) the principal amount of any
19 royalty, minimum royalty, rental,
20 bonus, net profit share or proceed of
21 sale;

22 “(II) any interest;

23 “(III) any penalty; or

24 “(IV) any assessment,

1 which arises from or relates to any lease adminis-
2 tered by the Secretary for, or any mineral leasing
3 law related to, the exploration, production and devel-
4 opment of oil or gas on Federal lands or the Outer
5 Continental Shelf;

6 “(24) ‘order to pay’ means a written order is-
7 sued by the Secretary or the United States which—

8 “(A) asserts a definite and quantified obli-
9 gation due the Secretary or the United States;

10 and

11 “(B) specifically identifies the obligation by
12 lease, production month and amount of such
13 obligation ordered to be paid, as well as the rea-
14 son or reasons such obligation is claimed to be
15 due, but such term does not include any other
16 communication or action by or on behalf of the
17 Secretary or the United States;

18 “(25) ‘order to perform a restructured account-
19 ing’ means a written order issued by the Secretary
20 during a full and complete audit of a lessee to recal-
21 culate royalty due on an obligation based upon the
22 Secretary’s finding that the lessee has made identi-
23 fied underpayments or overpayments which are dem-
24 onstrated by the Secretary to be based upon re-
25 peated, systemic reporting errors for a significant

1 number of leases for a significant number of report-
2 ing months with the same type of error which con-
3 stitutes a pattern of violations and which are likely
4 to result in either a significant underpayment or
5 overpayment. The term ‘order to perform a restruc-
6 tured accounting’ shall not include any other com-
7 munication or action by or on behalf of the Sec-
8 retary or the United States;

9 “(26) ‘overpayment’ means any payment by a
10 lessee in excess of an amount legally required to be
11 paid on an obligation and includes the portion of any
12 estimated payment for a production month that is in
13 excess of the royalties due for that month;

14 “(27) ‘payment’ means satisfaction, in whole or
15 in part, of an obligation due the Secretary or the
16 United States;

17 “(28) ‘penalty’ means a statutorily authorized
18 civil fine levied or imposed by the Secretary or the
19 United States for a violation of this Act, any mineral
20 leasing law, or a term or provision of a lease admin-
21 istered by the Secretary;

22 “(29) ‘refund’ means the return of an overpay-
23 ment by the Secretary or the United States by the
24 drawing of funds from the United States Treasury;

1 “(30) ‘State concerned’ means, with respect to
2 a lease, a State which receives a portion of royalties
3 under this Act from such lease;

4 “(31) ‘underpayment’ means any payment or
5 nonpayment by a lessee that is less than the amount
6 legally required to be paid on an obligation; and

7 “(32) ‘United States’ means the United States
8 Government and any department, agency, or instru-
9 mentality thereof, and the several States, the Dis-
10 trict of Columbia, Puerto Rico, and the territories
11 and possessions of the United States.”.

12 **SEC. 5502. LIMITATION PERIODS.**

13 (a) IN GENERAL.—The Federal Oil and Gas Royalty
14 Management Act of 1982 (30 U.S.C. 1701 et seq.) is
15 amended by adding after section 114 the following new
16 section:

17 **“SEC. 115. LIMITATION PERIODS AND AGENCY ACTIONS.**

18 “(a) IN GENERAL.—A judicial proceeding or demand
19 which arises from, or relates to an obligation, shall be
20 commenced within six years from the date on which the
21 obligation becomes due and if not so commenced shall be
22 barred, except as otherwise provided by this section.

23 “(b) OBLIGATION BECOMES DUE.—

1 “(1) IN GENERAL.—For purposes of this Act,
2 an obligation becomes due when the right to enforce
3 the obligation is fixed.

4 “(2) ROYALTY OBLIGATIONS.—The right to en-
5 force the royalty obligation for a production month
6 for a lease is fixed for purposes of this Act on the
7 last day of the calendar month following the month
8 in which oil or gas is produced.

9 “(c) TOLLING LIMITATIONS PERIOD.—The running
10 of the limitation period under subsection (a) shall not be
11 suspended, tolled, extended, or enlarged for any obligation
12 for any reason by any action, including an action by the
13 Secretary or the United States, other than the following:

14 “(1) TOLLING AGREEMENT.—A written agree-
15 ment executed during the limitation period between
16 the Secretary and a lessee which tolls the limitation
17 period for the amount of time during which the
18 agreement is in effect.

19 “(2) SUBPOENA.—(A) The issuance of a sub-
20 poena in accordance with the provisions of section
21 107(c) shall toll the limitation period with respect to
22 the obligation which is the subject of a subpoena
23 only for the period beginning on the date the lessee
24 receives the subpoena and ending on the date on
25 which—

1 “(i) the lessee has produced such subpoe-
2 naed records for the subject obligation,

3 “(ii) the Secretary receives written notice
4 that the subpoenaed records for the subject ob-
5 ligation are not in existence or are not in the
6 lessee’s possession or control, or

7 “(iii) a court has determined in a final de-
8 cision that such records are not required to be
9 produced, whichever occurs first.

10 “(B) If a State has been delegated authority
11 pursuant to section 205 and pursuant to said dele-
12 gation executes a cooperative agreement under sec-
13 tion 202, the Secretary shall issue a subpoena here-
14 under upon the request of the highest ranking State
15 official having ultimate authority over the collection
16 of royalties on State owned lands.

17 “(3) FRAUD OR CONCEALMENT.—Any fraud or
18 concealment by a lessee in an attempt to defeat or
19 evade an obligation in which case the limitation pe-
20 riod shall be tolled for the period of such fraud or
21 such concealment.

22 “(4) TOLLING REQUEST.—A written tolling re-
23 quest from a lessee based upon the lessee’s represen-
24 tation that the lessee’s entitlement to an overpay-
25 ment has not been finally determined. The limitation

1 period shall be tolled pursuant to this paragraph
2 from the date the Secretary receives the tolling re-
3 quest until the earlier of the end of the requested
4 period or 12 months after the date the Secretary re-
5 ceives the tolling request, but is subject to successive
6 12-month renewals by the lessee made prior to the
7 expiration of the then applicable 12-month period.
8 The tolling request shall be sufficient if it identi-
9 fies—

10 “(A) the person who made the potential
11 overpayment;

12 “(B) the leases and production months in-
13 volved in the potential overpayment; and

14 “(C) the reasons the lessee believes that it
15 may later be entitled to a refund of the over-
16 payment.

17 “(5) ORDER TO PERFORM A RESTRUCTURED
18 ACCOUNTING.—

19 “(A) The issuance of an order to perform
20 a restructured accounting by the Secretary nec-
21 essary for an audit. The limitation period under
22 subsection (a) shall be tolled for the obligation
23 which is the subject of the order only for the
24 time period commencing on the date the lessee
25 receives such order until—

1 “(i) 120 days after the Secretary has
2 received written notice that the accounting
3 (or other requirement) has been performed,
4 or

5 “(ii) the issuance of a final decision
6 that the lessee is not required to perform
7 the accounting, whichever is earlier.

8 “(B) The Secretary is not precluded dur-
9 ing a full and complete audit from issuing an
10 order to perform a restructured accounting by
11 the Secretary for a single lease upon a finding
12 that the lessee has made identified underpay-
13 ments or overpayments which are demonstrated
14 to be based upon repeated, systemic reporting
15 errors on that lease for a significant number of
16 reporting months with the same type of error
17 which constitutes a pattern of violations and
18 which are likely to result in either a significant
19 underpayment or overpayment. The power of
20 the Secretary to issue an order to perform a re-
21 structured accounting may not be delegated
22 below the most senior career professional posi-
23 tion having responsibility for the royalty man-
24 agement program, which position is currently
25 designated as the ‘Associate Director for Roy-

1 alty Management'. An order to perform a re-
2 structured accounting shall—

3 “(i) be issued within a reasonable pe-
4 riod of time from when the audit identifies
5 the systemic, reporting errors;

6 “(ii) specify the reasons and factual
7 bases for such order; and

8 “(iii) be specifically identified as an
9 ‘order to perform a restructured account-
10 ing’.

11 “(d) TERMINATION OF LIMITATIONS PERIOD.—The
12 limitations period shall be terminated in the event—

13 “(1) the Secretary has notified the lessee in
14 writing that a time period is closed to further audit;
15 or

16 “(2) the Secretary and a lessee have so agreed
17 in writing.

18 “(e) FINAL AGENCY ACTION.—

19 “(1) 3-YEAR PERIOD.—The Secretary shall
20 issue a final decision in any administrative proceed-
21 ing, including any administrative proceedings pend-
22 ing on the date of enactment of the Federal Oil and
23 Gas Royalty Simplification and Fairness Act of
24 1995, within three years from the date such pro-
25 ceeding was initiated or three years from the date of

1 such enactment, whichever is later. The three-year
2 period may be extended by any period of time agreed
3 upon in writing by the Secretary and the lessee.

4 “(2) EFFECT OF FAILURE TO ISSUE DECI-
5 SION.—

6 “(A) IN GENERAL.—If no such decision
7 has been issued by the Secretary within the
8 three-year period referred to in paragraph (1)—

9 “(i) the Secretary shall be deemed to
10 have issued and granted a decision in favor
11 of the lessee or lessees as to any
12 nonmonetary obligation and any monetary
13 obligation the principal amount of which is
14 less than \$2,500; and

15 “(ii) the Secretary shall be deemed to
16 have issued a final decision in favor of the
17 Secretary, which decision shall be deemed
18 to affirm those issues for which the agency
19 rendered a decision prior to the end of
20 such period, as to any monetary obligation
21 the principal amount of which is \$2,500 or
22 more, and the lessee shall have a right to
23 a de novo judicial review of such deemed
24 final decision.

1 “(B) NO PRECEDENTIAL EFFECT ON
2 OTHER PROCEEDINGS.—Deemed decisions
3 under subparagraph (A) shall have no
4 precedential effect in any judicial or administra-
5 tive proceeding or for any other purpose.

6 “(f) ADMINISTRATIVE SETTLEMENT.—During the
7 pendency of any administrative proceeding, the parties
8 shall hold at least one settlement consultation for the pur-
9 pose of discussing disputed matters between the parties.
10 For purposes of settlement, the Secretary may waive inter-
11 est required and may allow offsetting of obligations among
12 leases. The Secretary and the State concerned shall seek
13 to resolve disputes with a lessee in as expeditious a man-
14 ner as possible, through settlement negotiations and other
15 alternative dispute resolution processes methods. If any
16 dispute involving an obligation due is not resolved by the
17 end of the six-year period beginning on the date the obliga-
18 tion became due, the amount of interest otherwise payable
19 with respect to the obligation shall accrue after such six-
20 year period at the rate—

21 “(1) for purposes of section 111(h), reduced
22 each year thereafter by two additional percentage
23 points from the rate in effect under this subsection
24 for the previous year (but not less than zero); and

1 “(2) for purposes of section 111(a), reduced
2 each year thereafter by one additional percentage
3 point from the rate in effect under this subsection
4 for the previous year (but not less than zero).

5 “(g) LIMITATION ON CERTAIN ACTIONS BY THE
6 UNITED STATES.—When an action on or enforcement of
7 an obligation under the mineral leasing laws is barred
8 under this section the United States or an officer or agen-
9 cy thereof may not take any other or further action re-
10 garding that obligation, including (but not limited to) the
11 issuance of any order, request, demand or other commu-
12 nication seeking any document, accounting, determination,
13 calculation, recalculation, payment, principal, interest, as-
14 sessment, or penalty or the initiation, pursuit or comple-
15 tion of an audit with respect to that obligation.

16 “(h) JUDICIAL REVIEW.—In the event a demand sub-
17 ject to this section is timely commenced, a judicial pro-
18 ceeding challenging the final agency action with respect
19 to such demand shall be deemed timely so long as such
20 judicial proceeding is commenced within 180 days from
21 receipt of notice by the lessee of the final agency action.

22 “(i) IMPLEMENTATION OF FINAL DECISION.—In the
23 event a judicial proceeding or demand subject to this sec-
24 tion is timely commenced and thereafter the limitation pe-
25 riod in this section lapses during the pendency of such

1 proceeding, any party to such proceeding shall not be
2 barred from taking such action as is required or necessary
3 to implement a final unappealable judicial or administra-
4 tive decision, including any action required or necessary
5 to implement such decision by the recovery or recoupment
6 of an underpayment or overpayment by means of refund
7 or credit.

8 “(j) STAY OF PAYMENT OBLIGATION PENDING RE-
9 VIEW.—Any party ordered by the Secretary or the United
10 States to pay any obligation (other than an assessment)
11 shall be entitled to a stay of such payment without bond
12 or other surety instrument pending an administrative or
13 judicial proceeding if the party periodically demonstrates
14 to the satisfaction of the Secretary that such party is fi-
15 nancially solvent or otherwise able to pay the obligation.
16 In the event the party is not able to so demonstrate, the
17 Secretary may require a bond or other surety instrument
18 satisfactory to cover the obligation. Any party ordered by
19 the Secretary to pay an assessment shall be entitled to
20 a stay without bond or other surety instrument.

21 “(k) INAPPLICABILITY OF THE OTHER STATUTES OF
22 LIMITATION.—The limitations set forth in sections 2401,
23 2415, 2416, and 2462 of title 28, United States Code,
24 and section 42 of the Mineral Leasing Act (30 U.S.C.

1 226–2) shall not apply to any obligation to which this Act
2 applies.”.

3 (b) SUBPOENA.—Section 107 of the Federal Oil and
4 Gas Royalty Management Act of 1982 (30 U.S.C. 1717)
5 is amended by adding at the end the following:

6 “(c) RULES REGARDING ISSUANCE OF SUBPOENA
7 RELATING TO REPORTING AND PAYMENT OF AN OBLIGA-
8 TION DUE.—

9 “(1) IN GENERAL.—A subpoena which requires
10 a lessee to produce records necessary to determine
11 the proper reporting and payment of an obligation
12 due the Secretary may be issued under this section
13 only by the Solicitor, an Assistant Secretary of the
14 Interior, or an acting Assistant Secretary of the In-
15 terior who is a schedule C employee (as defined by
16 section 213.3301 of title 5, Code of Federal Regula-
17 tions) and may not be delegated.

18 “(2) PRIOR WRITTEN REQUEST REQUIRED.—A
19 subpoena described in paragraph (1) may only be is-
20 sued against a lessee during the limitation period
21 provided in section 115 and only after the Secretary
22 has in writing requested the records from the lessee
23 related to the obligation which is the subject of the
24 subpoena and has determined that—

1 “(A) the lessee has failed to respond within
2 a reasonable period of time to the Secretary’s
3 written request for such records necessary for
4 an audit, investigation or other inquiry made in
5 accordance with the Secretary’s responsibilities
6 under this Act;

7 “(B) the lessee has in writing denied the
8 Secretary’s written request to produce such
9 records in the lessee’s possession or control nec-
10 essary for an audit, investigation or other in-
11 quiry made in accordance with the Secretary’s
12 responsibilities under this Act; or

13 “(C) the lessee has unreasonably delayed
14 in producing records necessary for an audit, in-
15 vestigation or other inquiry made in accordance
16 with the Secretary’s responsibilities under this
17 Act after the Secretary’s written request.

18 “(3) REASONABLE PERIOD FOR COMPLIANCE
19 WITH WRITTEN REQUEST.—In seeking records, the
20 Secretary shall afford the lessee a reasonable period
21 of time after a written request by the Secretary in
22 which to provide such records prior to the issuance
23 of any subpoena.”.

24 (c) CLERICAL AMENDMENT.—The table of contents
25 in section 1 of such Act (30 U.S.C. 1701) is amended by

1 adding after the item relating to section 114 the following
2 new item:

“Sec. 115. Limitation periods and agency actions.”.

3 **SEC. 5503. ADJUSTMENT AND REFUNDS.**

4 (a) IN GENERAL.—The Federal Oil and Gas Royalty
5 Management Act of 1982 (30 U.S.C. 1701 et seq.) is
6 amended by adding after section 111 the following new
7 section:

8 **“SEC. 111A. ADJUSTMENTS AND REFUNDS.**

9 “(a) ADJUSTMENTS.—

10 “(1) If, during the adjustment period, a lessee
11 determines that an adjustment or refund request is
12 necessary to correct an underpayment or overpay-
13 ment of an obligation, the lessee shall make such ad-
14 justment or request a refund within a reasonable pe-
15 riod of time and only during the adjustment period.
16 Any such adjustment shall not require prior notice
17 to or approval of the Secretary.

18 “(2)(A) For any adjustment, the lessee shall
19 calculate and report the interest due attributable to
20 such adjustment at the same time the lessee adjusts
21 the principal amount of the subject obligation, ex-
22 cept as provided by subparagraph (B).

23 “(B) In the case of a lessee on whom the Sec-
24 retary determines that subparagraph (A) would im-
25 pose a hardship, the Secretary shall calculate the in-

1 terest due and notify the lessee within a reasonable
2 time of the amount of interest due, unless such les-
3 see elects to calculate and report interest in accord-
4 ance with subparagraph (A).

5 “(3) An adjustment or a request for a refund
6 for an obligation may be made after the adjustment
7 period only upon written notice to and approval by
8 the Secretary during an audit of the period which
9 includes the production month for which the adjust-
10 ment is being made. If an overpayment is identified
11 during an audit, then the Secretary shall allow a
12 credit or refund in the amount of the overpayment.

13 “(4) For purposes of this section, the adjust-
14 ment period for any obligation shall be the five-year
15 period following the date on which an obligation be-
16 came due. The adjustment period shall be sus-
17 pended, tolled, extended, enlarged, or terminated by
18 the same actions as the limitation period in section
19 115.

20 “(b) REFUNDS.—

21 “(1) IN GENERAL.—A request for refund is suf-
22 ficient if it—

23 “(A) is made in writing to the Secretary
24 and, for purposes of section 115, is specifically
25 identified as a demand;

1 “(B) identifies the person entitled to such
2 refund;

3 “(C) provides the Secretary information
4 that reasonably enables the Secretary to iden-
5 tify the overpayment for which such refund is
6 sought; and

7 “(D) provides the reasons why the pay-
8 ment was an overpayment.

9 “(2) PAYMENT BY SECRETARY OF THE TREAS-
10 URY.—The Secretary shall certify the amount of the
11 refund to be paid under paragraph (1) to the Sec-
12 retary of the Treasury who shall make such refund.
13 Such refund shall be paid from amounts received as
14 current receipts from sales, bonuses, royalties (in-
15 cluding interest charges collected under this section)
16 and rentals of the public lands and the Outer Con-
17 tinental Shelf under the provisions of the Mineral
18 Leasing Act and the Outer Continental Shelf Lands
19 Act, which are not payable to a State or the Rec-
20 lamation Fund. The portion of any such refund at-
21 tributable to any amounts previously disbursed to a
22 State, the Reclamation Fund, or any recipient pre-
23 scribed by law shall be deducted from the next dis-
24 bursements to that recipient made under the appli-
25 cable law. Such amounts deducted from subsequent

1 disbursements shall be credited to miscellaneous re-
2 ceipts in the Treasury.

3 “(3) PAYMENT PERIOD.—A refund under this
4 subsection shall be paid or denied (with an expla-
5 nation of the reasons for the denial) within 120 days
6 of the date on which the request for refund is re-
7 ceived by the Secretary. Such refund shall be subject
8 to later audit by the Secretary and subject to the
9 provisions of this Act.

10 “(4) PROHIBITION AGAINST REDUCTION OF RE-
11 FUNDS OR CREDITS.—In no event shall the Sec-
12 retary directly or indirectly claim any amount or
13 amounts against, or reduce any refund or credit (or
14 interest accrued thereon) by the amount of any obli-
15 gation the enforcement of which is barred by section
16 115.”.

17 (b) CLERICAL AMENDMENT.—The table of contents
18 in section 1 of Act (30 U.S.C. 1701) is amended by adding
19 after the item relating to section 111 the following new
20 item:

“Sec. 111A. Adjustments and refunds.”.

21 **SEC. 5504. REQUIRED RECORDKEEPING.**

22 Section 103 of the Federal Oil and Gas Royalty Man-
23 agement Act of 1982 (30 U.S.C. 1713(b)) is amended by
24 adding at the end the following:

1 “(c) records required by the Secretary for the purpose
2 of determining compliance with any applicable mineral
3 leasing law, lease provision, regulation or order with re-
4 spect to oil and gas leases from Federal lands or the Outer
5 Continental Shelf shall be maintained for the same period
6 of time during which a judicial proceeding or demand may
7 be commenced under section 115(a). If a judicial proceed-
8 ing or demand is timely commenced, the record holder
9 shall maintain such records until the final nonappealable
10 decision in such judicial proceeding is made, or with re-
11 spect to that demand is rendered, unless the Secretary au-
12 thorizes in writing an earlier release of the requirement
13 to maintain such records. Notwithstanding anything here-
14 in to the contrary, under no circumstance shall a record
15 holder be required to maintain or produce any record re-
16 lating to an obligation for any time period which is barred
17 by the applicable limitation in section 115.”.

18 **SEC. 5505. ROYALTY INTEREST, PENALTIES, AND PAY-**
19 **MENTS.**

20 (a) PERIOD.—Section 111(f) of the Federal Oil and
21 Gas Royalty Management Act of 1982 (30 U.S.C.
22 1721(f)) is amended to read as follows:

23 “(f) The Secretary may waive or forego such interest
24 in whole or in part. Interest shall be charged under this
25 section only for the number of days a payment is late.”.

1 (b) LESSEE INTEREST.—Section 111 of the Federal
2 Oil and Gas Royalty Management Act of 1982 (30 U.S.C.
3 1721) is amended by adding after subsection (g) the fol-
4 lowing:

5 “(h) Interest shall be allowed and the Secretary shall
6 pay or credit such interest on any overpayment, with such
7 interest to accrue from the date such overpayment was
8 made, at the rate applicable under section 6621(a)(2) of
9 the Internal Revenue Code of 1986. Interest which has
10 accrued on any overpayment may be applied to reduce an
11 underpayment. This subsection applies to overpayments
12 made later than six months after the date of enactment
13 of this subsection or September 1, 1996, whichever is
14 later. Such interest shall be paid from amounts received
15 as current receipts from sales, bonuses, royalties (includ-
16 ing interest charges collected under this section) and rent-
17 als of the public lands and the Outer Continental Shelf
18 under the provisions of the Mineral Leasing Act, and the
19 Outer Continental Shelf Lands Act, which are not payable
20 to a State or the Reclamation Fund. The portion of any
21 such interest payment attributable to any amounts pre-
22 viously disbursed to a State, the Reclamation Fund, or
23 any other recipient designated by law shall be deducted
24 from the next disbursements to that recipient made under
25 the applicable law. Such amounts deducted from subse-

1 quent disbursements shall be credited to miscellaneous re-
2 ceipts in the Treasury.”.

3 (c) LIMITATION ON INTEREST.—Section 111 of the
4 Federal Oil and Gas Royalty Management Act, as amend-
5 ed by subsection (b) of this Act, is further amended by
6 adding at the end the following:

7 “(i) Upon a determination by the Secretary that an
8 excessive overpayment (based upon all obligations of a les-
9 see for a given reporting month) was made for the sole
10 purpose of receiving interest, interest shall not be paid on
11 the excessive amount of such overpayment. For purposes
12 of this Act, an ‘excessive overpayment’ shall be the amount
13 that any overpayment a lessee pays for a given reporting
14 month (excluding payments for demands for obligations
15 as a result of judicial or administrative proceedings for
16 settlement agreements and for other similar payments) for
17 the aggregate of all of its Federal leases exceeds 25 per-
18 cent of the total royalties paid that month for those
19 leases.”.

20 (d) ESTIMATED PAYMENT.—Section 111 of the Fed-
21 eral Oil and Gas Royalty Management Act, as amended
22 by subsections (b) and (c) of this Act, is further amended
23 by adding at the end the following:

24 “(j) A lessee may make a payment for the approxi-
25 mate amount of royalties (hereinafter in this subsection

1 “estimated payment’) that would otherwise be due to the
2 Secretary for such lease to avoid underpayment or
3 nonpayment interest charges. When an estimated payment
4 is made, actual royalties become due at the end of the
5 month following the period covered by the estimated pay-
6 ment. If the lessee makes a payment for such actual royal-
7 ties, the lessee may apply the estimated payment to future
8 royalties. Any estimated payment may be adjusted, re-
9 coupled, or reinstated at any time by the lessee.”.

10 (e) VOLUME ALLOCATION OF OIL AND GAS PRODUC-
11 TION.—Section 111 of the Federal Oil and Gas Royalty
12 Management Act (30 U.S.C. 1721), as amended by sub-
13 sections (b) through (d) of this Act, is amended by adding
14 at the end the following:

15 “(k)(1) Except as otherwise provided by this sub-
16 section—

17 “(A) a lessee of a lease in a unit or
18 communitization agreement which contains only
19 Federal leases with the same royalty rate and funds
20 distribution must report and pay royalties on oil and
21 gas production for each production month based on
22 the actual volume of production sold by or on behalf
23 of that lessee;

24 “(B) a lessee of a lease in any other unit or
25 communitization agreement must report and pay

1 royalties on oil and gas production for each produc-
2 tion month based on the volume of oil and gas pro-
3 duced from such agreement and allocated to the
4 lease in accordance with the terms of the agreement;
5 and

6 “(C) a lessee of a lease that is not contained in
7 a unit or communitization agreement must report
8 and pay royalties on oil and gas production for each
9 production month based on the actual volume of pro-
10 duction sold by or on behalf of that lessee.

11 “(2) This subsection applies only to requirements for
12 reporting and paying royalties. Nothing in this subsection
13 is intended to alter a lessee’s liability for royalties on oil
14 or gas production based on the share of production allo-
15 cated to the lease in accordance with the terms of the
16 lease, a unit or communitization agreement, or any other
17 agreement.

18 “(3) For any unit or communitization agreement, if
19 all lessees contractually agree to an alternative method of
20 royalty reporting and payment, the lessees may submit
21 such alternative method to the Secretary for approval and
22 make payments in accordance with such approved alter-
23 native method so long as such alternative method does not
24 reduce the amount of the royalty obligation.

1 “(4) The Secretary shall grant an exception from the
2 reporting and payment requirements for marginal prop-
3 erties by allowing for any calendar year or portion thereof
4 royalties to be paid each month based on the volume of
5 production sold. Interest shall not accrue on the difference
6 for the entire calendar year or portion thereof between the
7 amount of oil and gas actually sold and the share of pro-
8 duction allocated to the lease until the beginning of the
9 month following calendar year or portion thereof. Any ad-
10 ditional royalties due or overpaid royalties and associated
11 interest shall be paid, refunded, or credited within six
12 months after the end of each calendar year in which royal-
13 ties are paid based on volumes of production sold. For
14 the purpose of this subsection, the term “marginal prop-
15 erty’ means a lease that produces on average the combined
16 equivalent of less than 15 barrels of oil per day or 90 thou-
17 sand cubic feet of gas per day, or a combination thereof,
18 determined by dividing the average daily production of do-
19 mestic crude oil and domestic natural gas from producing
20 wells on such lease by the number of such wells, unless
21 the Secretary, together with the State concerned, deter-
22 mines that an amount which is a nonsubstantive variation
23 thereof is more appropriate.

24 “(5) Not later than two years after the date of the
25 enactment of this subsection, the Secretary shall issue any

1 appropriate demand for all outstanding royalty payment
2 disputes regarding who is required to report and pay roy-
3 alties on production from units and communitization
4 agreements outstanding on the date of the enactment of
5 this subsection, and collect royalty amounts owed on such
6 production.”.

7 (f) PRODUCTION ALLOCATION.—Section 111 of the
8 Federal Oil and Gas Royalty Management Act (30 U.S.C.
9 1721), as amended by subsections (b) through (e) of this
10 Act, is further amended by adding at the end the follow-
11 ing:

12 “(1) The Secretary shall issue all determinations of
13 allocations of production for units and communitization
14 agreements within 120 days of a request for determina-
15 tion. If the Secretary fails to issue a determination within
16 such 120-day period, the Secretary shall waive interest
17 due on obligations subject to the determination until the
18 end of the month following the month in which the deter-
19 mination is made.”.

20 **SEC. 5506. LIMITATION ON ASSESSMENTS.**

21 Section 111 of the Federal Oil and Gas Royalty Man-
22 agement Act of 1982 (30 U.S.C. 1721), as amended by
23 section 5505 of this Act, is further amended by adding
24 at the end the following:

1 “(1)(1) After the date of enactment of this subsection,
2 the Secretary shall not impose any assessment for any late
3 payment or underpayment. After the date of enactment
4 of this subsection, the Secretary may impose an assess-
5 ment only for erroneous reports submitted by lessees sub-
6 ject to the limitations of paragraph (2). Nothing in this
7 section shall prohibit the Secretary from imposing pen-
8 alties or interest under other sections of this Act for late
9 payments or underpayments.

10 “(2) No assessment for erroneous reports shall be im-
11 posed for 18 months following the date of enactment of
12 this subsection, or until the Secretary issues a final rule
13 which provides for imposition of an assessment only on
14 a lessee who chronically submits erroneous reports and
15 which establishes what constitutes chronic errors for a les-
16 see, whichever is later. However, if the Secretary deter-
17 mines during that 18-month period that the reporting
18 error rate for all reporters for all Federal leases has in-
19 creased by one-third for three consecutive report months
20 for either production reporting or royalty reporting over
21 the 12 months preceding the date of enactment of this
22 subsection, the Secretary may impose an assessment for
23 erroneous reports only for the increased category of report
24 under regulations in effect on the date of enactment of
25 this subsection.”.

1 **SEC. 5507. ALTERNATIVES FOR MARGINAL PROPERTIES.**

2 (a) IN GENERAL.—The Federal Oil and Gas Royalty
3 Management Act of 1982 (30 U.S.C. 1701 et seq.), as
4 amended by section 5502 of this Act, is further amended
5 by adding at the end the following:

6 **“SEC. 116. ALTERNATIVES FOR MARGINAL PROPERTIES.**

7 “(a) SELLING REVENUE STREAM.—

8 “(1) IN GENERAL.—Notwithstanding the provi-
9 sions of any lease to the contrary, upon request of
10 the lessee and a State under section 205(g), the Sec-
11 retary shall authorize a lessee for a marginal prop-
12 erty and for a lease, the administration of which is
13 not cost-effective for the Secretary to administer, to
14 make a prepayment in lieu of royalty payments
15 under the lease for the remainder of the lease term.
16 For the purposes of this section, the term ‘marginal
17 property’ has the same meaning given such term in
18 section 111(k)(4), unless the Secretary, together
19 with each State in which such marginal production
20 occurs, determines otherwise to better achieve the
21 purpose of this section.

22 “(2) MARGINAL PROPERTIES.—For marginal
23 properties, prepayments under paragraph (1) shall
24 begin—

25 “(A) in the case of those properties pro-
26 ducing on average \$500 or less per month in

1 total royalties to the United States, two years
2 after the date of the enactment of this section;

3 “(B) in the case of those properties pro-
4 ducing on average more than \$500 but \$1,000
5 or less per month in total royalties to the Unit-
6 ed States, three years after the date of the en-
7 actment of this section;

8 “(C) in the case of those properties pro-
9 ducing on average more than \$1,000 but
10 \$1,500 or less per month in total royalties to
11 the United States, four years after the date of
12 the enactment of this section; and

13 “(D) in the case of those properties not de-
14 scribed in subparagraphs (A) through (C), five
15 years after the date of the enactment of this
16 section.

17 “(3) ADMINISTRATION NOT COST-EFFECTIVE.—
18 For a lease, the administration of which is not cost-
19 effective for the Secretary to administer, prepay-
20 ments under paragraph (1) shall begin on the date
21 of the enactment of this section.

22 “(4) SATISFACTION OF ROYALTY OBLIGA-
23 TION.—A lessee who makes a prepayment under this
24 section shall have satisfied in full its obligation to
25 pay royalty on production from the lease or a por-

1 tion of a lease and shall not be required to submit
2 any royalty reports to the Secretary. The prepay-
3 ment shall be shared by the Secretary with any
4 State or other recipient to the same extent as any
5 royalty payment for such lease.

6 “(5) VALUATION.—The prepayment authorized
7 under this section shall only occur if the Secretary,
8 the State concerned, and the lessee determine that
9 such prepayment is based on the present value of
10 the projected remaining royalties from the produc-
11 tion from the lease, based on appropriate nominal
12 discount rate for a comparable term, as provided in
13 Office of Management and Budget Circular A-94.

14 “(b) ALTERNATIVE ACCOUNTING AND ALTERNATIVE
15 ACCOUNTING AND AUDITING REQUIREMENTS.—

16 “(1) IN GENERAL.—Within one year after the
17 date of the enactment of this section, for the mar-
18 ginal properties referenced in subsection (a)(1), the
19 Secretary shall provide accounting, reporting, and
20 auditing relief that will encourage lessees to continue
21 to produce and develop such properties: *Provided*,
22 That such relief will only be available to lessees in
23 a State that concurs.

1 “(2) PAYMENT DATE.—For leases subject to
2 this section, the Secretary may allow royalties to be
3 paid later than the time specified in the lease.”.

4 (b) CLERICAL AMENDMENT.—The table of contents
5 in section 1 of the Federal Oil and Gas Royalty Manage-
6 ment Act (30 U.S.C. 1701) is amended by adding after
7 the item relating to section 115 the following new item:
 “Sec. 116. Alternatives for marginal properties.”.

8 **SEC. 5508. NOTICE REQUIREMENT.**

9 Section 23(a)(2) of the Outer Continental Shelf
10 Lands Act (43 U.S.C. 1349(a)(2)) is amended to read as
11 follows:

12 “(2) Except as provided in paragraph (3) of
13 this subsection, no action may be commenced under
14 subsection (a)(1) of this section if the Attorney Gen-
15 eral has commenced and is diligently prosecuting a
16 civil action in a court of the United States with re-
17 spect to such matter, but in any such action in a
18 court of the United States any person having a legal
19 interest which is or may be adversely affected may
20 intervene as a matter of right.”.

21 **SEC. 5509. ROYALTY IN KIND.**

22 (a) IN GENERAL.—

23 (1) OCS.—Section 27(a)(1) of the Outer Con-
24 tinental Shelf Lands Act (43 U.S.C. 1353(a)(1)) is
25 amended by adding at the end the following:

1 “Any royalty or net profit share of oil or gas accruing
2 to the United States under any such lease, at the Sec-
3 retary’s option, may be taken in kind at or near the lease
4 (unless the lease expressly provides for delivery at a dif-
5 ferent location) upon prior written notice given reasonably
6 in advance by the Secretary to the lessee. Once the United
7 States has commenced taking royalty in kind, it shall con-
8 tinue to do so until a reasonable time after the Secretary
9 has provided written notice reasonably in advance to the
10 lessee that it will resume taking royalty in value. Delivery
11 of royalty in kind by the lessee shall satisfy in full the
12 lessee’s royalty obligation. Once the oil or gas is delivered,
13 the lessee shall not be subject to the reporting and record-
14 keeping requirements under section 103 for its share of
15 oil and gas production other than records necessary to ver-
16 ify the quantity of oil or gas delivered.”.

17 (2) ONSHORE.—Section 36 of the Mineral
18 Leasing Act (30 U.S.C. 192) is amended by adding
19 at the end the following paragraph:

20 “Notwithstanding the provisions of the previous
21 paragraph, any royalty or net profit share of oil or
22 gas accruing to the United States under any lease
23 issued or maintained by the Secretary for the explo-
24 ration, production and development of oil and gas on
25 Federal lands, at the Secretary’s option, may be

1 taken in kind at or near the lease (unless the lease
2 expressly provides for delivery at a different loca-
3 tion) after prior written notice given reasonably in
4 advance by the Secretary to the lessee. Once the
5 United States has commenced taking royalty in
6 kind, it shall continue to do so until a reasonable
7 time after the Secretary has provided written notice
8 reasonably in advance to the lessee that it will re-
9 sume taking royalty in value. Delivery of royalty in
10 kind by the lessee shall satisfy in full the lessee's
11 royalty obligation. Once the oil or gas is delivered,
12 the lessee shall not be subject to the reporting and
13 recordkeeping requirements under section 103 for its
14 share of oil and gas production other than records
15 necessary to verify the quantity of oil or gas deliv-
16 ered.”.

17 (b) SALE.—Sections 27 (b)(1) and (c)(1) of the
18 Outer Continental Shelf Lands Act (43 U.S.C.
19 1353(c)(1)) are each amended by striking “competitive
20 bidding for not more than its regulated price, or if no reg-
21 ulated price applies, not less than its fair market value”
22 and inserting “competitive bidding or private sale”.

1 **SEC. 5510. ROYALTY SIMPLIFICATION AND COST-EFFEC-**
2 **TIVE AUDIT AND COLLECTION REQUIRE-**
3 **MENTS.**

4 Section 101 of the Federal Oil and Gas Royalty Man-
5 agement Act of 1982 (30 U.S.C. 1711) is amended by
6 adding at the end the following:

7 “(d)(1) For the purpose of reducing costs and in-
8 creasing net royalties to the United States and the States,
9 the Secretary, in consultation with States concerned, shall,
10 within one year after the date of the enactment of this
11 subsection, streamline and simplify current royalty man-
12 agement requirements and practices, including royalty re-
13 porting, instructions, audits and collections. This stream-
14 lining and simplification shall specifically include—

15 “(A) elimination of all unnecessary royalty and
16 production reports;

17 “(B) modification and simplification of remain-
18 ing reports and associated instructions to eliminate
19 redundant or unnecessary reports and information
20 that are provided or can be obtained from other re-
21 quired reports, forms, computer databases or gov-
22 ernment agencies;

23 “(C) elimination or modifications of accounting,
24 reporting, audit and collection requirements that are
25 not cost-effective, particularly those associated with
26 de minimis monetary amounts;

1 “(D) implementation of specific recommenda-
2 tions and comments contained in Secretarial spon-
3 sored teams, rulemakings, and studies or those par-
4 ticipated in by the Secretary to the extent these rec-
5 ommendations simplify and streamline royalty man-
6 agement requirements without adversely affecting
7 the Secretary’s ability to meet obligations under this
8 Act or other mineral leasing statutes; and

9 “(E) recommendations and comments submit-
10 ted by interested parties to the extent these rec-
11 ommendations and comments simplify and stream-
12 line royalty management requirements without ad-
13 versely affecting the Secretary’s ability to meet obli-
14 gations under this Act or other mineral leasing stat-
15 utes.

16 “(2) The Secretary shall submit to the Congress a
17 progress report on the implementation of this section with-
18 in six months from date of enactment of this Act, and
19 a final report within 12 months from date of enactment
20 of this Act. These reports shall include—

21 “(A) a description of the extent to which the
22 Secretary has implemented the requirements in
23 paragraph (1), including a list of specific initiatives
24 implemented;

1 “(B) a list and description of additional initia-
2 tives identified by the Secretary to simplify and
3 streamline royalty management requirements and
4 practices; and

5 “(C) cost savings of implemented initiatives in-
6 cluding impact on net-receipts sharing for States.

7 “(3) If the Secretary and the State concerned deter-
8 mines that the cost of accounting and auditing for and
9 collecting of any obligation due for any oil and gas produc-
10 tion exceeds the amount of the obligation to be collected,
11 the Secretary shall waive such obligation.

12 “(4) The Secretary and the State concerned shall not
13 perform accounting, reporting, or audit activities if the
14 Secretary and the State concerned determines that the
15 cost of conducting the activity exceeds the expected
16 amount to be collected by the activity.

17 “(5) The Secretary and the State concerned shall de-
18 velop a lease level reporting and audit strategy which
19 eliminates multiple or redundant reporting of informa-
20 tion.”.

21 **SEC. 5511. REPEALS.**

22 (a) FOGRMA.—Section 307 of the Federal Oil and
23 Gas Royalty Management Act of 1982 (30 U.S.C. 1755),
24 is repealed. Section 1 of such Act (relating to the table

1 of contents) is amended by striking out the item relating
2 to section 307.

3 (b) OCSLA.—Effective on the date of the enactment
4 of this Act, section 10 of the Outer Continental Shelf
5 Lands Act (43 U.S.C. 1339) is repealed.

6 **SEC. 5512. DELEGATION TO STATES.**

7 (a) GENERAL AUTHORITY.—Section 205(a) of the
8 Federal Oil and Gas Royalty Management Act (30 U.S.C.
9 1735(a)) is amended to read as follows:

10 “(a) Upon written request of any State, the Secretary
11 is authorized to delegate, in accordance with the provisions
12 of this section, all or part of the authorities and respon-
13 sibilities of the Secretary under this Act to conduct inspec-
14 tions, such production and royalty accounting duties and
15 responsibilities as the Secretary determines are legally del-
16 egable, all audit coverage, and investigations to any State
17 with respect to all Federal lands within the State.”.

18 (b) STANDARDIZED REPORTING.—Section 205(b) of
19 the Federal Oil and Gas Royalty Management Act (30
20 U.S.C. 1735(b)) is amended—

21 (1) by striking “and” at the end of paragraph

22 (2);

23 (2) by striking the comma at the end of para-
24 graph (3) and inserting “; and”; and

1 (3) by inserting after paragraph (3) the follow-
2 ing:

3 “(4) the State agrees to adopt Federal stand-
4 ardized reporting for Federal royalty accounting and
5 collection purposes.”.

6 (c) **COST-EFFECTIVE COLLECTION OF DE MINIMUS**
7 **ROYALTY AMOUNTS.**—Section 205 of the Federal Oil and
8 Gas Royalty Management Act (30 U.S.C. 1735) is amend-
9 ed by adding at the end the following:

10 “(g) Upon written request of any State, the Secretary
11 is authorized to delegate for any year the responsibility
12 to collect royalties from all Federal leases within the State
13 if the average amount per year of mineral revenues re-
14 ceived by the State on all such leases under all Federal
15 mineral leasing laws for the previous five years is less than
16 \$100,000. The State may also request that the Secretary
17 sell the revenue stream from all or part of the Federal
18 leases within the State in accordance with section 116 of
19 the Federal Oil and Gas Royalty Management Act of
20 1982, as added by section 5507 of the Federal Oil and
21 Gas Royalty Simplification and Fairness Act of 1995.”.

22 **SEC. 5513. PERFORMANCE STANDARD.**

23 Section 109 of the Federal Oil and Gas Royalty Man-
24 agement Act of 1982 (30 U.S.C. 1719) is amended in sub-
25 sections (c) and (d), by striking “knowingly or willfully”

1 and inserting “by willful misconduct or gross negligence”
2 each place it appears.

3 **SEC. 5514. INDIAN LANDS.**

4 The amendments made by this subtitle shall not
5 apply with respect to Indian lands, and the provisions of
6 the Federal Oil and Gas Royalty Management Act of 1982
7 as in effect on the day before the date of enactment of
8 this Act shall continue to apply after such date with re-
9 spect to Indian lands. The provisions of the Federal Oil
10 and Gas Royalty Management Act of 1982, as amended
11 by this subtitle, shall apply as of the date of enactment
12 with respect to Federal lands and the Outer Continental
13 Shelf.

14 **SEC. 5515. PRIVATE LANDS.**

15 This subtitle shall not apply to any privately owned
16 minerals.

17 **SEC. 5516. EFFECTIVE DATE.**

18 Except as provided by section 115(e), section 111(h),
19 section 111(k)(5), and section 116 of the Federal Oil and
20 Gas Royalty Management Act of 1982 (as added by this
21 subtitle), this subtitle, and the amendments made by this
22 subtitle, shall apply with respect to the production of oil
23 and gas after the first day of the month following the date
24 of the enactment of this Act.

1 **Subtitle G—Department of Energy**

2 **SEC. 5600. SALE OF DOE ASSETS.**

3 (a) IN GENERAL.—

4 (1) In order to maximize the use of Department
5 of Energy assets and to reduce overhead and other
6 costs related to asset management at the Depart-
7 ment's facilities and laboratories, the Secretary of
8 Energy shall conduct an asset management and dis-
9 position program that will result in no less than
10 \$225 million in receipts and savings by October 1,
11 2000.

12 (2) The program shall include an inventory of
13 assets in the care of the Department and its con-
14 tractors; the recovery, reuse, and stewardship of as-
15 sets; and disposition of a minimum of 1,139,000,000
16 pounds of fuel, 136,000 tons of chemicals and indus-
17 trial gases, 557,000 tons of scrap metal, 14,000 ra-
18 diation sources, 17,000 pieces of major equipment,
19 11,000 pounds of precious metals (not including the
20 Research Materials Collection), and 91,000,000
21 pounds of base metals.

22 (b) EXEMPTIONS.—The disposition of assets under
23 this section is not subject to sections 202 and 203 of the
24 Federal Property and Administrative Services Act of 1949
25 (40 U.S.C. secs. 483 and 484) or section 13 of the Surplus

1 Property Act of 1944 (50 U.S.C. App. sec. 1622). In order
2 to avoid market disruptions, the Secretary shall consult
3 with appropriate executive agencies with respect to dis-
4 positions under this section.

5 (c) DISPOSITION OF PROCEEDS.—After deduction of
6 administrative costs of disposition under this section not
7 to exceed \$7 million per year, the remainder of the pro-
8 ceeds from dispositions under this section shall be re-
9 turned to the Treasury as miscellaneous receipts. There
10 shall be established a new receipt account in the Treasury
11 for proceeds of asset sales under this section.

12 **SEC. 5651. WEEKS ISLAND.**

13 Notwithstanding section 161 of the Energy Policy
14 and Conservation Act, the Secretary of Energy shall draw
15 down and sell 32 million barrels of oil contained in the
16 Weeks Island Strategic Petroleum Reserve Facility.

17 **SEC. 5652. LEASE OF EXCESS SPRO CAPACITY.**

18 The Energy Policy and Conservation Act (42 U.S.C.
19 6201 to 6422) is amended by adding the following new
20 section after section 167:

21 **“SEC. 168. USE OF UNDERUTILIZED FACILITIES.**

22 “(a) Notwithstanding any other provision of this title,
23 the Secretary, by lease or otherwise, for any term and
24 under such other conditions as the Secretary considers
25 necessary or appropriate, may store in underutilized Stra-

1 tegic Petroleum Reserve facilities petroleum product
2 owned by a foreign government or its representative.

3 “(b) Petroleum product stored under this section is
4 not part of the Reserve and may be exported from the
5 United States.”.

6 “(c) Beginning in fiscal year 2001 and in each fiscal
7 year thereafter, 50 percent of the funds resulting from the
8 leasing of Strategic Petroleum Reserve facilities author-
9 ized by subsection (a) shall be available to the Secretary
10 of Energy without further appropriation for the purchase
11 of oil for the Strategic Petroleum Reserve.”.

12 **Subtitle H—Mining**

13 **SEC. 5700. SHORT TITLE.**

14 This subtitle may be cited as “The Mining Law Reve-
15 nue Act of 1995”.

16 **SEC. 5701. DEFINITIONS.**

17 When used in this subtitle:

18 (1) “Assessment year” means the annual period
19 commencing at 12 o’clock noon on the 1st day of
20 September and ending at 12 o’clock noon on the 1st
21 day of September of the following year.

22 (2) “Federal lands” means lands and interests
23 in lands owned by the United States that are open
24 to mineral location, or that were open to mineral lo-
25 cation when a mining claim or site was located and

1 which have not been patented under the general
2 mining laws.

3 (3) “General mining laws” means those Acts
4 which generally comprise chapters 2, 11, 12, 12A,
5 15, and 16, and sections 161 and 162, of Title 30
6 of the United States Code, all Acts heretofore en-
7 acted which are amendatory of or supplementary to
8 any of the foregoing Acts, and the judicial and ad-
9 ministrative decisions interpreting such Acts.

10 (4) “Locatable minerals” means those minerals
11 owned by the United States and subject to location
12 and disposition under the general mining laws on or
13 after the effective date of this Subtitle, but not in-
14 cluding any mineral held in trust by the United
15 States for any Indian or Indian tribe, as defined in
16 section 2 of the Indian Mineral Development Act of
17 1982 (25 U.S.C. 2101), or any mineral owned by
18 any Indian or Indian tribe, as defined in that sec-
19 tion, that is subject to a restriction against alien-
20 ation imposed by the United States, or any mineral
21 owned by any incorporated Native group, village cor-
22 poration, or regional corporation and acquired by
23 the group or corporation under the provisions of the
24 Alaska Native Claims Settlement Act (43 U.S.C.
25 1601 et seq.).

1 (5) “Mineral activities” means any activity on
2 Federal lands related to, or incidental to, exploration
3 for or development, mining, production,
4 beneficiation, or processing of any locatable mineral,
5 or reclamation of the impacts of such activities.

6 (6) “Mining claim or site”, except where pro-
7 vided otherwise, means a lode mining claim, placer
8 mining claim, mill site or tunnel site.

9 (7) “Operator” means any person conducting
10 mineral activities subject to this Subtitle.

11 (8) “Person” means an individual, Indian tribe,
12 partnership, association, society, joint venture, joint
13 stock company, firm, company, limited liability com-
14 pany, corporation, cooperative or other organization,
15 and any instrumentality of State or local govern-
16 ment, including any publicly owned utility or publicly
17 owned corporation of State or local government.

18 (9) “Processing and treatment cost” means any
19 activity following mining including but not limited
20 to, crushing, milling, leaching, flotation, grinding,
21 solvent extraction, electrolytic deposition, roasting,
22 calcining thermal or electric smelting, refining, treat-
23 ment effecting a chemical change, or product fab-
24 rication. Direct and indirect cost such as mainte-
25 nance, depreciation, environmental, labor and

1 consumable cost associated with these activities shall
2 be included in this definition.

3 (10) “Secretary” means the Secretary of the
4 Interior.

5 **SEC. 5702. CLAIM MAINTENANCE REQUIREMENTS.**

6 (a) MAINTENANCE FEE.—After the date of enact-
7 ment of this Subtitle, the owner of each unpatented min-
8 ing claim or site located pursuant to the general mining
9 laws, whether located before or after the enactment of this
10 Subtitle, shall pay in advance to the Secretary annually
11 on or before September 1, and until a patent has been
12 issued therefor, a maintenance fee of \$100 per mining
13 claim or site. The owner of each unpatented mining claim
14 or site located after the date of enactment of this Subtitle
15 pursuant to the general mining laws shall pay to the Sec-
16 retary, at the time the copy of the notice or certificate
17 of location is filed with the Bureau of Land Management
18 pursuant to section 314(b) of the Federal Land Policy and
19 Management Act of 1976 (43 U.S.C. 1744(b)), in addition
20 to the location fee required under subsection (c) of this
21 section, an initial maintenance fee of \$100 per mining
22 claim or site for the assessment year which includes the
23 date of location of such mining claim or site. If a mining
24 claim or site is located within 90 days before September
25 1 and the copy of the notice or certificate of location is

1 timely filed with the Bureau of Land Management under
2 subsection 314(b) of the Federal Land Policy and Man-
3 agement Act of 1976 after September 1, the annual main-
4 tenance fee payable under the first sentence of this sub-
5 section shall be paid at the time such notice or certificate
6 of location is filed, in addition to the location fee and the
7 initial \$100 maintenance fee. No maintenance fee shall be
8 required if the fee is waived or the owner of the mining
9 claim or site is exempt as provided in section 5703 of this
10 Subtitle.

11 (b) MAINTENANCE FEE STATEMENT.—Each pay-
12 ment under subsection (a) of this section shall be accom-
13 panied by a statement which reasonably identifies the min-
14 ing claim or site for which the maintenance fee is being
15 paid. Such statement may include the name of the mining
16 claim or site, the serial number assigned by the Secretary
17 to such mining claim or site, the description of the book
18 and page in which the notice or certificate of location for
19 such mining claim or site is recorded under State law, any
20 combination of the foregoing, or any other information
21 that reasonably identifies the mining claim or site for
22 which the maintenance fee is being paid. The statement
23 required under this subsection shall be in lieu of any an-
24 nual filing requirements for mining claims or sites, under

1 any other Federal law, but shall not supersede any such
2 filing requirement under applicable State law.

3 (c) LOCATION FEE.—The owner of each unpatented
4 mining claim or site located on or after the date of enact-
5 ment of this Subtitle pursuant to the general mining laws
6 shall pay to the Secretary, at the time the notice or certifi-
7 cate of location is filed with the Bureau of Land Manage-
8 ment pursuant to subsection 314(b) of the Federal Land
9 Policy and Management Act of 1976 (43 U.S.C. 1744(b)),
10 a location fee of \$25.00 per claim.

11 (d) CREDIT AGAINST ROYALTY.—The annual claim
12 maintenance fee paid for any unpatented mining claim or
13 site on or before September 1 of any year shall be credited
14 against the amount of royalty required to be paid under
15 Section 5705 for such mining claim or site during the fol-
16 lowing assessment year.

17 (e) FAILURE TO COMPLY.—The failure of the owner
18 of the mining claim or site to pay the claim maintenance
19 fee or location fee for a mining claim or site on or before
20 the date such payment is due under subsection (a) or sub-
21 section (c) of this section shall constitute forfeiture of the
22 mining claim or site and such mining claim or site shall
23 be null and void, effective as of the day after the date
24 such payment is due: *Provided, however,* That, if such
25 maintenance fee or location fee is paid or tendered on or

1 before the 30th day after such payment was due under
2 subsection (a) or subsection (c) of this section, such min-
3 ing claim or site shall not be forfeited or null or void, and
4 such maintenance fee or location fee shall be deemed time-
5 ly paid.

6 (f) REPEAL OF OMNIBUS BUDGET RECONCILIATION
7 ACT FEE REQUIREMENTS.—Sections 10101 through
8 10106 of the Omnibus Budget Reconciliation Act of 1993
9 (30 U.S.C. 28f through 28k) are hereby repealed.

10 (g) AMENDMENT OF FLPMA FILING REQUIRE-
11 MENTS.—Section 314 (a) of the Federal Land Policy and
12 Management Act of 1976 (43 U.S.C. 1744 (a)) is hereby
13 repealed.

14 **SEC. 5703. WAIVER AND EXEMPTION.**

15 (a) WAIVER OF FEE.—The maintenance fee provided
16 for in subsection 5702(a) shall be waived for the owner
17 of a mining claim or site who certifies in writing to the
18 Secretary, on or before the date the payment is due, that,
19 as of the date such payment is due, such owner and all
20 related persons own not more than twenty-five unpatented
21 mining claims or sites. Any owner of a mining claim or
22 site that is not required to pay a maintenance fee under
23 this subsection shall continue to be subject to the assess-
24 ment work requirements of the general mining laws or of
25 any other State or Federal law, subject to any suspension

1 or deferment of annual assessment work provided by law,
2 for the assessment year following the filing of the certifi-
3 cation required by this subsection.

4 (b) **RELATED PERSONS.**—As used in subsection (a),
5 the term “related persons” includes—

6 (1) the spouse and dependent children (as de-
7 fined in section 152 of the Internal Revenue Code of
8 1986), of the owner of the mining claim or site; and

9 (2) a person controlled by, controlling, or under
10 common control with the owner of the mining claim
11 or site.

12 (c) **EXEMPTION.**—The owner of any mining claim or
13 site who certifies in writing to the Secretary on or before
14 the first day of any assessment year that access to such
15 mining claim or site was denied or impeded during the
16 prior assessment year by the action or inaction of any
17 local, State, or Federal Governmental officer, agency, or
18 court, or by any Indian tribal authority, shall be exempt
19 from the maintenance fee requirement of subsection (a)
20 of section 5702 for the assessment year following the filing
21 of the certification.

22 **SEC. 5704. PATENTS.**

23 (a) **IN GENERAL.**—Except as provided in subsection
24 (c), any patent issued by the United States under the gen-

1 eral mining laws after the date of enactment of this Sub-
2 title shall be issued only—

3 (1) upon payment by the owner of the claim of
4 the fair market value for the interest in the land
5 owned by the United States exclusive of and without
6 regard to the mineral deposits in the land or the use
7 of the land for mineral activities; and

8 (2) subject to reservation by the United States
9 of the royalty provided in section 5705.

10 (b) RIGHT OF REENTRY.—

11 (1) Except as provided in subsection 5704(c),
12 and notwithstanding any other provision of law, a
13 patent issued pursuant to this section shall be sub-
14 ject to a right of reentry by the United States if the
15 patented estate is used by the patentee for any pur-
16 pose other than for conducting mineral activities in
17 good faith and such unauthorized use is not discon-
18 tinued as provided in this subsection.

19 (2) If the surface of the patented estate is used
20 by the patentee, or any subsequent owners, for any
21 purpose other than for conducting mineral activities
22 in good faith, the Secretary shall serve on all owners
23 of interests in such patented estate, in the manner
24 prescribed for service of a summons and complaint
25 under the Federal Rules of Civil Procedure, notice

1 specifying such unauthorized use and providing not
2 more than 90 days in which such unauthorized use
3 must be terminated. The giving of such notice shall
4 constitute final agency action appealable by any
5 owner of an interest in such patented estate. The
6 Secretary may exercise the right of reentry as pro-
7 vided in paragraph (3) of this subsection if such un-
8 authorized use has not been terminated in the time
9 provided in this paragraph, and only after all appeal
10 rights have expired and any appeals of such notice
11 have been finally determined.

12 (3) The Secretary may exercise the right of the
13 United States to reenter such patented estate by fil-
14 ing a declaration of reentry in the office of the Bu-
15 reau of Land Management designated by the Sec-
16 retary and recording such declaration where the no-
17 tice or certificate of location for the patented claim
18 or site is recorded under State law. Upon the filing
19 and recording of such declaration, all right, title and
20 interest in such patented estate shall revert to the
21 United States. Lands and interests in lands for
22 which the United States exercises its right of reentry
23 under this section shall remain open to the location
24 of mining claims and mill sites, unless withdrawn
25 under other applicable law.

1 (c) PATENT TRANSITION.—Notwithstanding any
2 other provision of law, the requirements of this subtitle
3 (except the payment of maintenance and location fees in
4 accordance with sections 5702 and 5703) shall not apply
5 to those patent applications pending at the Department
6 of the Interior as of September 30, 1995. Such patents
7 shall be issued under or subject to the general mining laws
8 in effect prior to the date of enactment of this subtitle.

9 **SEC. 5705. ROYALTY.**

10 (a) RESERVATION OF ROYALTY.—

11 (1) IN GENERAL.—Production of locatable min-
12 erals (including associated minerals) from any
13 unpatented mining claim (other than those from
14 Federal lands to which subsection 5704(c) applies)
15 or any mining claim patented under subsection
16 5704(a), including mineral concentrates and prod-
17 ucts derived from locatable minerals, shall be subject
18 to the payment of a royalty of 2.5 percent on the
19 Net Smelter Return of all ores, minerals, metals,
20 and materials mined and removed and sold.

21 (2) WAIVER.—If the Secretary determines that
22 the Secretary's cost of accounting for and collecting
23 a royalty for any mineral exceeds or is likely to ex-
24 ceed the amount of royalty to be collected, the Sec-
25 retary shall waive such royalty. The obligation to

1 pay royalties hereunder shall accrue only upon the
2 sale of locatable minerals or mineral products pro-
3 duced from a mining claim subject to such royalty,
4 and not upon the stockpiling of the same for future
5 processing.

6 (3) EXEMPTION.—Any mine with an annual
7 Revenues Received of less than \$500,000 shall be
8 exempt from the requirement to pay a royalty under
9 this section.

10 (4) DEFINITION.—

11 (A) “Net Smelter Return” means the
12 “Revenues Received” for such ores, minerals,
13 metals or materials, less the “Allowable Deduc-
14 tions” for any calendar year.

15 (B) “Revenues Received” means the pro-
16 ceeds from the sale of ores mined from the
17 claims or patents before subtracting the “Allow-
18 able Deductions”, or, in the case of sales of
19 beneficiated products from locatable minerals
20 such as cathode, anode or copper rod or wire,
21 or other products fabricated from the locatable
22 minerals, the gross income from mining derived
23 from the first commercially marketable product
24 determined in the same manner as under Sec-
25 tion 613 of the Internal Revenue Code, before

1 subtracting the “Allowable Deductions.” Sales
2 or transfers of ores to affiliates shall be valued
3 at the fair market value of the products sold or
4 transferred. Without limiting the foregoing, the
5 profits or losses incurred in connection with for-
6 ward sales, futures or commodity options trad-
7 ing, metal loans, or any other price hedging or
8 speculative activity or arrangement shall not be
9 included in Revenues Received.

10 (C) “Allowable Deductions” means the fol-
11 lowing costs and expenses actually incurred or
12 paid to third parties by the royalty payor: proc-
13 essing and treatment cost, costs for all trans-
14 portation and insurance for ores or products
15 produced from ores mined from the claim,
16 group of claims or patents comprising an oper-
17 ation, between the mine and processing facili-
18 ties, from one processing facility to another,
19 and from processing facilities to the point of de-
20 livery of said ores or products; assaying
21 charges, umpire charges, independent rep-
22 resentative charges; all charges by purchasers
23 of said ores or products; all taxes (except in-
24 come taxes) measured by or valued upon pro-
25 duction.

1 (5) REVENUES RECEIVED.—All Revenues Re-
2 ceived and Allowable Deductions shall be determined
3 in accordance with generally accepted accounting
4 principles and practices consistently applied. Reve-
5 nues Received and Allowable Deductions shall be de-
6 termined by the accrual method.

7 (6) ALLOWABLE DEDUCTIONS.—Where any Al-
8 lowable Deductions are incurred in conjunction with
9 like costs for mineral products from other properties
10 controlled by the payor such costs shall be fairly al-
11 located and apportioned in accordance with generally
12 accepted practices in the mining industry.

13 (7) COMMINGLING.—The payor shall have the
14 right to commingle ore and minerals from the claim,
15 group of claims, or patent comprising an operation,
16 with ore from other lands and properties: *Provided,*
17 *however,* That the payor shall calculate from rep-
18 resentative samples the average grade of the ore be-
19 fore commingling. If concentrates are produced from
20 the commingled ores, the payor shall calculate from
21 representative samples calculating the average grade
22 of the ore, and calculating average recovery percent-
23 ages the payor shall use procedures accepted in the
24 mining and metallurgical industry suitable for the

1 type of mining and processing activity being con-
2 ducted.

3 (8) EFFECTIVE DATE.—

4 (A) IN GENERAL.—The royalty required
5 under this section shall take effect with respect
6 to production on or after the first day of the
7 first month following the date of enactment of
8 this subtitle.

9 (B) PHASE-IN.—The royalty payments re-
10 quired under this section shall be reduced—

11 (i) by 66 $\frac{2}{3}$ percent for the first 12
12 months following the date of enactment of
13 this subtitle for which royalties are due on
14 production pursuant to this subtitle; and

15 (ii) by 33 $\frac{1}{3}$ percent for the second
16 12 months that royalties are due on pro-
17 duction pursuant to this subtitle.

18 (C) TIME FOR PAYMENT.—Any royalty
19 payment attributable to production during the
20 first 15 calendar months after the date of en-
21 actment of this subtitle, after any reduction
22 under paragraph (B), shall be due on the date
23 that is 12 months after the date of enactment
24 of this subtitle.

1 (D) NO MARKETABLE QUANTITY PRIOR TO
2 DATE OF ENACTMENT.—For a claim, group of
3 claims, or patents comprising an operation that
4 has not produced a marketable quantity prior
5 to the date of enactment of this subtitle, the
6 royalty payments required pursuant to this sec-
7 tion shall be reduced—

8 (i) by $66 \frac{2}{3}$ percent for the first 12
9 months following the date of enactment of
10 this subtitle for which royalties are due on
11 production pursuant to this subtitle; and

12 (ii) by $33 \frac{1}{3}$ percent for the second
13 12 months that royalties are due on pro-
14 duction pursuant to this subtitle.

15 (9) ROYALTY REDUCTION FOR MARGINAL OPER-
16 ATIONS.—

17 (A) APPLICATION.—A person that is re-
18 quired to make a royalty payment under this
19 section may file for a reduction or waiver of the
20 royalty by demonstrating that payment of the
21 royalty would preclude recovery of costs of pro-
22 duction, including invested capital, for a claim,
23 group of claims or patents comprising an oper-
24 ation for the remaining reasonable life of the
25 operation: *Provided*, That the Secretary shall

1 not consider royalty reduction effective during
2 the phase-in periods under paragraph (8). For
3 purposes of this initial application, “Projected
4 Revenues” shall be calculated using the opera-
5 tor’s current and projected rates of production
6 at the average price for the preceding 12
7 months.

8 (B) DEFINITION.—For purposes of an ap-
9 plication under subparagraph (A)—

10 (i) “Projected Revenues” shall be the
11 net present value of the expected revenues
12 for the remaining reasonable life of the op-
13 eration calculated using the average min-
14 eral price received for the preceding 12
15 month calendar year.

16 (ii) “Costs of Production” shall mean
17 the net present value of the following costs
18 based on the expected rate of production
19 for the remaining reasonable life of the op-
20 eration—

21 (I) the projected cost of extract-
22 ing the locatable mineral;

23 (II) the projected cost of trans-
24 porting the locatable mineral to the

1 place or places of reduction,
2 beneficiation, refining and sale;

3 (III) the projected cost of reduc-
4 tion, beneficiation, refining and sale of
5 the locatable mineral;

6 (IV) the projected cost of mar-
7 keting and delivering the locatable
8 mineral and the conversion of the
9 locatable mineral into money;

10 (V) the projected cost of mainte-
11 nance and repairs of all machinery,
12 equipment, apparatus, and facilities
13 used in the mine; all crushing, milling,
14 leaching, refining, smelting, and re-
15 duction works, plants, and facilities;
16 and all facilities and equipment for
17 transportation;

18 (VI) the projected cost for sup-
19 port personnel and support services at
20 the mine site, including without limi-
21 tation, accounting, assaying, drafting,
22 and mapping, computer services, sur-
23 veying, housing, camp and office ex-
24 penses, safety and security;

1 (VII) the projected cost of engi-
2 neering, sampling, and assaying per-
3 taining to development and produc-
4 tion;

5 (VIII) the projected cost of per-
6 mitting, reclamation, environmental
7 compliance and monitoring;

8 (IX) the projected cost of fire
9 and other insurance on the machinery,
10 equipment, apparatus, works, plants
11 and facilities mentioned in subclause
12 (B)(ii)(V);

13 (X) depreciation of the original
14 capitalized cost of the machinery,
15 equipment, apparatus, works, plants,
16 and facilities listed in subclause
17 (B)(ii)(V), considering the probable
18 life of the property in computing the
19 annual depreciation charge;

20 (XI) all money expended for pre-
21 miums for industrial insurance, and
22 the owner-paid cost of hospital and
23 medical attention and accident bene-
24 fits and group insurance for all em-

1 ployees engaged in the production or
2 processing of locatable minerals;

3 (XII) all money paid as contribu-
4 tions or payments under State unem-
5 ployment compensation law, all money
6 paid as contributions under the Fed-
7 eral Social Security Act, and all
8 money paid to State government in
9 real property taxes measured or levied
10 on production, or Federal excise tax
11 payments and payments as fees or
12 charges for use of the Federal lands
13 from which the locatable minerals are
14 produced; and

15 (XIII) the projected cost of devel-
16 opmental work in or about the mine
17 or upon a group of mines when oper-
18 ated as a unit.

19 (C) For purposes of the annual deprecia-
20 tion charge under paragraph (B)(ii)X)—

21 (i) Any expenditure not otherwise de-
22 scribed in this clause which is not deduct-
23 ible in the year paid or incurred pursuant
24 to the Internal Revenue Code of 1986, and
25 which is:

1 (I) attributable to the direct ac-
2 quisition of mining claims purchased
3 separately or as part of a group of as-
4 sets, or

5 (II) attributable to the indirect
6 acquisition of mining property or min-
7 ing claims by reason of being a por-
8 tion of the consideration for an inter-
9 est in a corporation, partnership or
10 trust (in connection with an owner-
11 ship change of such entity determined
12 under the principles of Section 382(g)
13 of the Internal Revenue Code of
14 1986) allocable to such property or
15 claims of such entity, shall be allow-
16 able as a depreciation deduction to the
17 purchaser in the case of an expendi-
18 ture described in (I) or to the ac-
19 quired corporation, partnership or
20 trust in the case of an expenditure de-
21 scribed in (II), ratably over a period
22 based on the probable life of the prop-
23 erty, beginning with the taxable year
24 in which such expenditure was made.

1 (ii) The deduction allowed for costs
2 attributable to mining property or claims is
3 available only at the election of the pur-
4 chaser in the case of expenditures de-
5 scribed in (i)(I), or at the election of both
6 the purchaser and acquired corporation,
7 partnership or trust in the case of expendi-
8 tures described in (i)(II), and is in lieu of
9 any other deduction otherwise allowable
10 under this section with respect to such ex-
11 penditure.

12 (D) If the Costs of Production for the op-
13 eration exceed the Projected Revenues, the Sec-
14 retary shall waive in full the royalty obligation.
15 If the Projected Revenues exceed the Costs of
16 Production by less than the full royalty obliga-
17 tion under subsection (a), the Secretary shall
18 reduce the royalty rate to a level allowing the
19 recovery of the Costs of Production, including
20 invested capital, over the remaining reasonable
21 life of the operation.

22 (10) SPLIT ESTATES.—For circumstances
23 where a claim, group of claims or patent is subject
24 to this section but does not comprise the entirety of
25 a mine, the Annual Revenues and Costs of Produc-

1 tion shall be allocated for royalty purposes in pro-
2 portion to the value of production recovered from
3 the claim, group of claims or patent.

4 (11) JUDICIAL REVIEW.—A determination by
5 the Secretary under paragraph (9) shall be judicially
6 reviewable under section 702 of title 5, United
7 States Code, only for actions filed within 180 days
8 of the Secretary’s determination.

9 (12) ANNUAL FILING OF DATA.—If a reduction
10 in royalty is provided under this paragraph, the roy-
11 alty payor shall file cost and revenue data with the
12 Secretary annually during the period of royalty waiv-
13 er or reduction.

14 (b) DUTIES OF CLAIM HOLDERS, OPERATORS AND
15 TRANSPORTERS.—A person that is required to make a
16 royalty payment under this section shall make quarterly
17 estimates of the royalty obligation and shall make the pay-
18 ment to the United States annually in such manner as
19 the Secretary of the Interior may by rule prescribe. The
20 owner or co-owners of a mining claim shall be liable for
21 royalty on locatable minerals produced and sold during the
22 period of ownership to the extent of the interest in such
23 claim owned. As used in this subsection, “owner” or “co-
24 owner” shall mean the person or persons owning the right
25 to mine locatable minerals from such claim and receiving

1 the revenues of sale. Any person who makes any royalty
2 payment attributable to the interest of the owner or co-
3 owners liable therefor shall not become liable to the United
4 States for such royalty as a result.

5 (c) MANNER OF PAYMENT.—

6 (1) Each royalty payment or adjustment shall
7 be accompanied by a statement containing:

8 (A) the name and Bureau of Land Man-
9 agement serial number of the mining claim or
10 claims from which ores, concentrates, solutions
11 or beneficiated products of locatable minerals
12 subject to the royalty required in this section
13 were produced and sold for the period covered
14 by such payment or adjustment;

15 (B) the estimated (or actual, if deter-
16 mined) quantity of such ore, concentrates, solu-
17 tions or beneficiated or fabricated products pro-
18 duced and sold from such mining claim or
19 claims for such period;

20 (C) the estimated (or actual, if deter-
21 mined) Gross Yield from the production and
22 sale of such ore, concentrates, solutions or
23 beneficiated products for such period;

24 (D) the estimated (or actual, if deter-
25 mined) Net Smelter Return from the produc-

1 tion and sale of such ores, concentrates, solu-
2 tions or beneficiated products for such period,
3 including an itemization of the applicable de-
4 ductions described in paragraph 20(a)(4)(A);
5 and

6 (E) the estimated (or actual, if deter-
7 mined) royalty due to the United States, or ad-
8 justment due to the United States or such
9 owner or co-owners, for such period.

10 (2) In lieu of receiving a refund under sub-
11 section (e), the owner or co-owners may elect to
12 apply any adjustment due to such owner or co-own-
13 ers as an offset against royalties due from such
14 owner or co-owners to the United States under this
15 Subtitle, regardless of whether such royalties are
16 due for production and sale from the same mining
17 claim or claims.

18 (d) RECORDKEEPING AND REPORTING REQUIRE-
19 MENTS.—

20 (1) An owner, operator, or other person directly
21 involved in the conduct of mineral activities, trans-
22 portation, purchase, or sale of locatable minerals,
23 concentrates, or products derived therefrom, subject
24 to the royalty required in this section, through the
25 point of royalty computation, shall establish and

1 maintain any records, make any reports, and provide
2 any information that the Secretary may reasonably
3 require for the purposes of implementing this section
4 or determining compliance with regulations or orders
5 under this section. Upon the request of the Sec-
6 retary when conducting an audit or investigation
7 pursuant to subsection (f), the appropriate records,
8 reports, or information which may be required by
9 this section shall be made available for inspection
10 and duplication by the Secretary.

11 (2) Records required by the Secretary under
12 this section shall be maintained for three years after
13 the records are generated unless the Secretary noti-
14 fies the record holder that he or she has initiated an
15 audit or investigation specifically identifying and in-
16 volving such records and that such records must be
17 maintained for a longer period. When an audit or in-
18 vestigation is under way, such records shall be main-
19 tained until the earlier of the date that the Secretary
20 releases the record holder of the obligation to main-
21 tain such records or the date that the limitations pe-
22 riod applicable to such audit or investigation under
23 subsection (f) expires.

24 (e) INTEREST ASSESSMENTS.—In any case in which
25 royalty payments are not received by the Secretary on the

1 date that such payments are due, or when such payments
2 are less than the amount due, the Secretary shall charge
3 interest on such late payments computed at the rate pub-
4 lished by the Department of the Treasury as the “Treas-
5 ury Current Value of Funds Rate.” In the case of an
6 underpayment or partial payment, interest shall be com-
7 puted and charged only on the amount of the deficiency
8 and not on the total amount, and only for the number
9 of days such payment is late. No other late payment or
10 underpayment charge or penalty shall be charged. In any
11 case in which royalty payments are made in excess of the
12 amount due, or amounts are held by the Secretary pending
13 the outcome of any appeal in which the Secretary does
14 not prevail, the Secretary shall promptly refund such over-
15 payments or pay such amounts to the person or persons
16 entitled thereto, together with interest thereon for the
17 number of days such overpayment or amounts were held
18 by the Secretary, with the addition of interest charged
19 against the United States computed at the rate published
20 by the Department of the Treasury as the “Treasury Cur-
21 rent Value of Funds Rate.”

22 (f) AUDITS, PAYMENT DEMANDS AND LIMITA-
23 TIONS.—

1 (1) The Secretary may conduct, after notice,
2 any audit reasonably necessary and appropriate to
3 verify the payments required under this section.

4 (2) Any billing or demand letter for royalty due
5 on locatable minerals produced and sold from any
6 mining claim subject to royalty required by this sec-
7 tion must be sent or issued not later than three
8 years after the date such royalty was due and must
9 specifically identify the production involved, the roy-
10 alty allegedly due and the basis for the claim. No ac-
11 tion, proceeding or claim for royalty due on locatable
12 minerals produced and sold, or relating to such pro-
13 duction, may be brought by the United States, in-
14 cluding but not limited to any claim for additional
15 royalties or claim of the right to offset the amount
16 of such additional royalties against amounts owed to
17 any person by the United States, unless judicial suit
18 or administrative proceedings are commenced to re-
19 cover specific amounts claimed to be due prior to the
20 expiration of three years from the date such royalty
21 is alleged to have been due.

22 (g) PENALTIES.—Any person who withholds payment
23 of royalties under this section after a final, nonappealable
24 determination of liability may be liable for civil penalties

1 of up to \$5,000 per day that payment is withheld after
2 becoming due.

3 (h) DISBURSEMENT OF REVENUES.—The receipts
4 from royalties collected under this section shall be dis-
5 bursed as follows:

6 (1) One-half of such receipts shall be paid into
7 the Treasury of the United States and deposited as
8 miscellaneous receipts; and

9 (2) One-half of such receipts shall be paid into
10 a State Fund or the Federal Fund in accordance
11 with section 5706; until termination as provided in
12 section 5710.

13 **SEC. 5706. ABANDONED LOCATABLE MINERALS MINE REC-**
14 **LAMATION FUND.**

15 (a) STATE FUND.—Any State within which royalties
16 are collected pursuant to section 5705 from a mining
17 claim and which wishes to become eligible to receive such
18 proceeds allocated by paragraph 5705(h)(2) shall establish
19 and maintain an interest-bearing abandoned locatable
20 mineral mine reclamation fund (hereinafter referred to in
21 this subtitle as “State Fund”) to accomplish the purposes
22 of this subtitle.

23 (b) FEDERAL FUND.—There is established on the
24 books of the Treasury of the United States an interest-
25 bearing fund to be known as the Abandoned Locatable

1 Minerals Mine Reclamation Fund (hereinafter referred to
2 in this subtitle as “Federal Fund”) which shall consist of
3 royalty proceeds allocated by paragraph 5705(h)(2) from
4 mining claims in a State where a State Fund has not been
5 established or maintained under subsection (a).

6 **SEC. 5707. ALLOCATION AND PAYMENTS.**

7 (a) STATE FUND.—Royalties collected pursuant to
8 section 5705 and allocated by paragraph 5705(h)(2) shall
9 be paid by the Secretary of the Treasury to the State
10 Fund established pursuant to subsection 5706(a) for the
11 State where the mining claim from which the production
12 occurred is located. Payments to States under this sub-
13 section with respect to any royalties received by the United
14 States, shall be made not later than the last business day
15 of the month in which such royalties are warranted by the
16 United States Treasury to the Secretary of the Interior
17 as having been received, except for any portion of such
18 royalties which is under challenge, which shall be placed
19 in a suspense account pending resolution of such chal-
20 lenge. Such warrants shall be issued by the United States
21 Treasury not later than 10 days after receipt of such roy-
22 alties by the Treasury. Royalties placed in a suspense ac-
23 count which are determined to be due the United States
24 shall be payable to a State Fund not later than fifteen
25 days after such challenge is resolved. Any such amount

1 placed in a suspense account pending resolution shall bear
2 interest until the challenge is resolved. In determining the
3 amount of payments to State Funds under this section,
4 the amount of such payments shall not be reduced by any
5 administrative or other costs incurred by the United
6 States.

7 (b) FEDERAL FUND.—Royalties collected pursuant
8 to section 5705, and allocated by paragraph 5705(h)(2),
9 from mining claims located in a State which has not estab-
10 lished or maintained a State Fund, and such royalties
11 from mining claims located in a State for which the Sec-
12 retary's authority has expired under subsection 5710(a),
13 shall be credited to the Federal Fund and distributed in
14 accordance with subsection (c).

15 (c) TRANSITION.—Prior to the time a State estab-
16 lishes a State Fund pursuant to subsection 5706(a), any
17 royalties collected from a mining claim within such State
18 shall be deposited into the Federal Fund and allocated to
19 such State. Once a State establishes a State Fund under
20 subsection 5706(a), the State allocation in the Federal
21 Fund with accrued interest shall be paid by the Secretary
22 of the Treasury to the State Fund in accordance with sub-
23 section (a). Commencing three years after the date of en-
24 actment of this subtitle, the Secretary of the Treasury
25 shall distribute royalty proceeds then accrued or which are

1 thereafter credited to the Federal Fund equally among all
2 States which maintain a State Fund established under
3 subsection 5706(a), and for which the Secretary of the
4 Treasury's authority has not expired under subsection
5 5710(a).

6 **SEC. 5708. ELIGIBLE AREA.**

7 (a) IN GENERAL.—Subject to subsection (b), lands
8 and water eligible for reclamation under this subtitle shall
9 be Federal lands or private lands patented under the gen-
10 eral mining laws that—

11 (1) have been adversely affected by past min-
12 eral activities on lands abandoned and left inad-
13 equately reclaimed prior to the date of enactment of
14 this Subtitle; and

15 (2) for which the State determines there is no
16 identifiable party with a continuing reclamation re-
17 sponsibility under State or Federal laws.

18 (b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—
19 The following areas shall not be eligible for expenditures
20 from a State Fund:

21 (1) Any area subject to a plan of operations
22 submitted or approved prior to, on or after the date
23 of enactment of this subtitle which includes remining
24 or reclamation of the area adversely affected by past
25 locatable mineral activities.

1 (2) Any area affected by coal mining eligible for
2 reclamation expenditures pursuant to section 404 of
3 the Surface Mining Control and Reclamation Act
4 (30 U.S.C. 1234).

5 (3) Any area designated for remedial action
6 pursuant to the Uranium Mill Tailings Radiation
7 Control Act of 1978 (42 U.S.C. 7912).

8 (4) Any area that was listed on the National
9 Priorities List pursuant to the Comprehensive Envi-
10 ronmental Response, Compensation and Liability
11 Act of 1980 (42 U.S.C. 9605) prior to the date of
12 enactment of this subtitle, or where the Environ-
13 mental Protection Agency has initiated or caused to
14 be initiated a response action pursuant to that Act.

15 **SEC. 5709. USES AND OBJECTIVES OF FUNDS.**

16 (a) USE OF FUNDS.—Royalty proceeds in a State
17 Fund shall be used for the reclamation of eligible areas.
18 For purposes of this section, reclamation includes—

19 (1) backfilling, fencing, sealing, or otherwise
20 controlling abandoned underground mine entries to
21 protect public health and safety;

22 (2) abatement, treatment or control of water
23 pollution;

1 (3) shaping, grading, contouring and
2 revegetation of land to prevent erosion and sedi-
3 mentation, or to enhance fish and wildlife habitat;

4 (4) removal or control of toxic or hazardous
5 materials; and

6 (5) control or reclamation of surface subsidence
7 due to abandoned underground mines.

8 (b) PRIORITIES.—Expenditures of royalty proceeds
9 from a State Fund shall reflect the following priorities in
10 the order stated, but shall not preclude, where feasible and
11 appropriate, a combination of these priorities for cost-ef-
12 fective reclamation:

13 (1) The protection of public health, safety, gen-
14 eral welfare and property from extreme danger from
15 the adverse effects of past mineral activities.

16 (2) The protection of public health, safety, and
17 general welfare from the adverse effects of past min-
18 eral activities.

19 **SEC. 5710. SUNSET PROVISIONS.**

20 (a) TERMINATION OF AUTHORITY.—The Secretary of
21 the Treasury's authority to allocate funds to a State Fund
22 under section 5707 shall expire on the date that the State
23 submits a report to the Congress which states that there
24 are no areas in the State which remain to be reclaimed.

1 (b) TERMINATION OF FUND.—Upon the termination
2 of authority as provided in subsection (a) with respect to
3 all State Funds, the Federal Fund shall also be termi-
4 nated, and all royalty proceeds thereafter remaining in the
5 Federal Fund shall be paid into the Treasury of the Unit-
6 ed States and deposited as miscellaneous receipts.

7 **SEC. 5711. EFFECT ON THE GENERAL MINING LAWS.**

8 The provisions of this Subtitle shall supersede the
9 general mining laws only to the extent such laws conflict
10 with the requirements of this Subtitle. Where no such con-
11 flict exists, the general mining laws, including all judicial
12 and administrative decisions interpreting them, shall re-
13 main in full force and effect.

14 **SEC. 5712. SEVERABILITY.**

15 If any provision of this subtitle or the applicability
16 thereof to any person or circumstances is held invalid, the
17 remainder of this Subtitle and the application of such pro-
18 vision to other persons or circumstances shall not be af-
19 fected thereby.

20 **Subtitle I—Department of the**
21 **Interior**

22 **SEC. 5800. AIRCRAFT SERVICES.**

23 (a) USE OF PRIVATE CONTRACTORS.—By not later
24 than October 1, 1996, the Secretary of the Interior shall
25 contract with private entities for the provision of all air-

1 craft services required by the Department of the Interior,
2 other than those available from existing DOI aircraft
3 whose primary purpose is fire suppression.

4 (b) SALE OF FEDERAL AIRCRAFT.—By September
5 30, 1998, the Secretary of the Interior is authorized and
6 directed to sell all aircraft owned by the Department of
7 the Interior, and all associated equipment and facilities,
8 other than those whose primary purpose is fire suppres-
9 sion.

10 (c) EXEMPTIONS.—The disposition of assets under
11 this section is not subject to section 202 and 203 of the
12 Federal Property and Administrative Services Act of 1949
13 (40 U.S.C. 483 and 484) or section 13 of the Surplus
14 Property Act of 1944 (50 U.S.C. App. 1622).

15 (d) DISPOSITION OF PROCEEDS.—The proceeds from
16 dispositions under this section shall be returned to the
17 Treasury as miscellaneous receipts and all savings from
18 reduced overhead and other costs related to the manage-
19 ment of the assets sold shall be returned to the Treasury.

20 **Subtitle J—Power Marketing**
21 **Administrations**

22 **PART I—BONNEVILLE POWER ADMINISTRATION**
23 **REFINANCING**

24 **SEC. 5900. DEFINITIONS.**

25 For the purposes of this subtitle—

1 (1) “Administrator” means the Administrator
2 of the Bonneville Power Administration;

3 (2) “capital investment” means a capitalized
4 cost funded by Federal appropriations that—

5 (A) is for a project, facility, or separable
6 unit or feature of a project or facility;

7 (B) is a cost for which the Administrator
8 is required by law to establish rates to repay to
9 the United States Treasury through the sale of
10 electric power, transmission, or other services;

11 (C) excludes a Federal irrigation invest-
12 ment; and

13 (D) excludes an investment financed by the
14 current revenues of the Administrator or by
15 bonds issued and sold, or authorized to be is-
16 sued and sold, by the Administrator under sec-
17 tion 13 of the Federal Columbia River Trans-
18 mission System Act (16 U.S.C.838(k));

19 (3) “new capital investment” means a capital
20 investment for a project, facility, or separable unit
21 or feature of a project, facility, or separable unit or
22 feature of a project or facility, placed in service after
23 September 30, 1995;

24 (4) “old capital investment” means a capital in-
25 vestment whose capitalized cost—

1 (A) was incurred, but not repaid, before
2 October 1, 1995, and

3 (B) was for a project, facility, or separable
4 unit or feature of a project or facility, placed in
5 service before October 1, 1995;

6 (5) “repayment date” means the end of the pe-
7 riod within which the Administrator’s rates are to
8 assure the repayment of the principal amount of a
9 capital investment; and

10 (6) “Treasury rate” means—

11 (A) for an old capital investment, a rate
12 determined by the Secretary of the Treasury,
13 taking into consideration prevailing market
14 yields, during the month preceding October 1,
15 1995, on outstanding interest-bearing obliga-
16 tions of the United States with periods to matu-
17 rity comparable to the period between October
18 1, 1995, and the repayment date for the old
19 capital investment; and

20 (B) for a new capital investment, a rate
21 determined by the Secretary of the Treasury,
22 taking into consideration prevailing market
23 yields, during the month preceding the begin-
24 ning of the fiscal year in which the related
25 project, facility, or separable unit or feature is

1 placed in service, on outstanding interest-bear-
2 ing obligations of the United States with peri-
3 ods to maturity comparable to the period be-
4 tween the beginning of the fiscal year and the
5 repayment date for the new capital investment.

6 **SEC. 5901. NEW PRINCIPAL AMOUNTS.**

7 (a) PRINCIPAL AMOUNT.—Effective October 1, 1995,
8 an old capital investment has a new principal amount that
9 is the sum of—

10 (1) the present value of the old payment
11 amounts for the old capital investment, calculated
12 using a discount rate equal to the Treasury rate for
13 the old capital investment; and

14 (2) an amount equal to \$100,000,000 multi-
15 plied by a fraction whose numerator is the principal
16 amount of the old payment amounts for the old cap-
17 ital investment and whose denominator is the sum of
18 the principal amounts of the old payment amounts
19 for all old capital investments.

20 (b) DETERMINATION.—With the approval of the Sec-
21 retary of the Treasury based solely on consistency with
22 this part the Administrator shall determine the new prin-
23 cipal amounts under section 5901 and the assignment of
24 interest rates to the new principal amounts under section
25 5902.

1 (c) OLD PAYMENT AMOUNT.—For the purposes of
2 this section, “old payment amounts” means, for an old
3 capital investment, the annual interest and principal that
4 the Administrator would have paid to the United States
5 Treasury from October 1, 1995, if this part were not en-
6 acted, assuming that—

7 (1) the principal were repaid—

8 (A) on the repayment date the Adminis-
9 trator assigned before October 1, 1993, to the
10 old capital investment, or

11 (B) with respect to an old capital invest-
12 ment for which the Administrator has not as-
13 signed a repayment date before October 1,
14 1993, on a repayment date the Administrator
15 shall assign to the old capital investment in ac-
16 cordance with paragraph 10(d)(1) of the ver-
17 sion of Department of Energy Order RA
18 6120.2 in effect on October 1, 1993; and

19 (2) interest were paid—

20 (A) at the interest rate the Administrator
21 assigned before October 1, 1993, to the old cap-
22 ital investment, or

23 (B) with respect to an old capital invest-
24 ment for which the Administrator has not as-
25 signed an interest rate before October 1, 1993,

1 at a rate determined by the Secretary of the
2 Treasury, taking into consideration prevailing
3 market yields, during the month preceding the
4 beginning of the fiscal year in which the related
5 project, facility, or separable unit or feature is
6 placed in service, on outstanding interest-bear-
7 ing obligations of the United States with peri-
8 ods to maturity comparable to the period be-
9 tween the beginning of the fiscal year and the
10 repayment date for the old capital investment.

11 **SEC. 5902. INTEREST RATE FOR NEW PRINCIPAL AMOUNTS.**

12 As of October 1, 1995, the unpaid balance on the
13 new principal amount established for an old capital invest-
14 ment under section 5901 bears interest annually at the
15 Treasury rate for the old capital investment until the ear-
16 lier of the date that the new principal amount is repaid
17 or the repayment date for the new principal amount.

18 **SEC. 5903. REPAYMENT DATES.**

19 As of October 1, 1995, the repayment date for the
20 new principal amount established for an old capital invest-
21 ment under section 5901 is no earlier than the repayment
22 date for the old capital investment assumed in section
23 5901(c)(1).

1 **SEC. 5904. PREPAYMENT LIMITATIONS.**

2 During the period October 1, 1995, through Septem-
3 ber 30, 2000, the total new principal amounts of old cap-
4 ital investments, as established under section 5901, that
5 the Administrator may pay before their respective repay-
6 ment dates shall not exceed \$100,000,000.

7 **SEC. 5905. INTEREST RATES FOR NEW CAPITAL INVEST-**
8 **MENTS DURING CONSTRUCTION.**

9 (a) **NEW CAPITAL INVESTMENT.**—The principal
10 amount of a new capital investment includes interest in
11 each fiscal year of construction of the related project, facil-
12 ity, or separable unit or feature at a rate equal to the
13 one-year rate for the fiscal year on the sum of—

14 (1) construction expenditures that were made
15 from the date construction commenced through the
16 end of the fiscal year, and

17 (2) accrued interest during construction.

18 (b) **PAYMENT.**—The Administrator is not required to
19 pay, during construction of the project, facility, or sepa-
20 rable unit or feature, the interest calculated, accrued, and
21 capitalized under subsection (a).

22 (c) **ONE-YEAR RATE.**—For the purposes of this sec-
23 tion, “one-year rate” for a fiscal year means a rate deter-
24 mined by the Secretary of the Treasury, taking into con-
25 sideration prevailing market yields, during the month pre-
26 ceding the beginning of the fiscal year, on outstanding in-

1 terest-bearing obligations of the United States with peri-
2 ods to maturity of approximately one year.

3 **SEC. 5906. INTEREST RATES FOR NEW CAPITAL INVEST-**
4 **MENTS.**

5 The unpaid balance on the principal amount of a new
6 capital investment bears interest at the Treasury rate for
7 the new capital investment from the date the related
8 project, facility, or separable unit or feature is placed in
9 service until the earlier of the date the new capital invest-
10 ment is repaid or the repayment date for the new capital
11 investment.

12 **SEC. 5907. APPROPRIATED AMOUNTS.**

13 The Confederated Tribe of the Colville Reservation
14 Grand Coulee Dam Settlement Act (Public Law No. 103-
15 436) is amended by striking section 6 and its catchline
16 and inserting the following:

17 **“SEC. 6. APPROPRIATED AMOUNTS.**

18 “(a) APPROPRIATED AMOUNTS.—Without fiscal year
19 limitation, there are appropriated to the Administrator
20 \$15.25 million in fiscal year 1996, \$15.86 million in fiscal
21 year 1997, \$16.49 million in fiscal year 1998, \$17.15 mil-
22 lion in fiscal year 1999, \$17.84 million in fiscal year 2000,
23 and \$4.10 million in each succeeding fiscal year so long
24 as the Administrator makes annual payments to the
25 Tribes under the settlement agreement.

1 “(b) DEFINITIONS.—For the purposes of this sec-
2 tion—

3 “(1) ‘settlement agreement’ means that settle-
4 ment agreement between the United States of Amer-
5 ica and the Confederated Tribes of the Colville Res-
6 ervation signed by the Tribes on April 16, 1994, and
7 by the United States of America on April 21, 1994,
8 which settlement agreement resolves claims of the
9 Tribes in Docket 181–D of the Indian Claims Com-
10 mission, which docket has been transferred to the
11 United States Court of Federal Claims; and

12 “(2) ‘Tribes’ means the Confederated Tribes of
13 the Colville Reservation, a federally recognized In-
14 dian Tribe.”.

15 **SEC. 5908. CONTRACT PROVISIONS.**

16 In each contract of the Administrator that provides
17 for the Administrator to sell electric power, transmission,
18 or related services, and that is in effect after September
19 30, 1995, the Administrator shall offer to include, or as
20 the case may be, shall offer to amend to include, provisions
21 specifying that after September 30, 1995—

22 (1) the Administrator shall establish rates and
23 charges on the basis that—

24 (A) the principal amount of an old capital
25 investment shall be no greater than the new

1 principal amount established under section
2 5901 of this part;

3 (B) the interest rate applicable to the un-
4 paid balance of the new principal amount of an
5 old capital investment shall be no greater than
6 the interest rate established under section 5902
7 of this part;

8 (C) any payment of principal of an old
9 capital investment shall reduce the outstanding
10 principal balance of the old capital investment
11 in the amount of the payment at the time the
12 payment is tendered; and

13 (D) any payment of interest on the unpaid
14 balance of the new principal amount of an old
15 capital investment shall be a credit against the
16 appropriate interest account in the amount of
17 the payment at the time the payment is ten-
18 dered;

19 (2) apart from charges necessary to repay the
20 new principal amount of an old capital investment as
21 established under section 5901 of this part and to
22 pay the interest on the principal amount under sec-
23 tion 5902 of this part, no amount may be charged
24 for return to the United States Treasury as repay-
25 ment for or return on an old capital investment,

1 whether by way of rate, rent, lease payment, assess-
2 ment, user charge, or any other fee;

3 (3) amounts provided under section 1304 of
4 title 31, United States Code, shall be available to
5 pay, and shall be the sole source for payment of, a
6 judgment against or settlement by the Administrator
7 or the United States on a claim for a breach of the
8 contract provisions required by this part; and

9 (4) the contract provisions specified in this part
10 do not—

11 (A) preclude the Administrator from recov-
12 ering, through rates or other means, any tax
13 that is generally imposed on electric utilities in
14 the United States, or

15 (B) affect the Administrator's authority
16 under applicable law, including section 7(g) of
17 the Pacific Northwest Electric Power Planning
18 and Conservation Act (16 U.S.C. 839e(g)), to—

19 (i) allocate costs and benefits, includ-
20 ing but not limited to fish and wildlife
21 costs, to rates or resources, or

22 (ii) design rates.

23 **SEC. 5909. SAVINGS PROVISIONS.**

24 (a) REPAYMENT.—This part does not affect the obli-
25 gation of the Administrator to repay the principal associ-

1 ated with each capital investment, and to pay interest on
 2 the principal, only from the “Administrator’s net pro-
 3 ceeds,” as defined in section 13 of the Federal Columbia
 4 River Transmission System Act (16 U.S.C. 838k(b)).

5 (b) PAYMENT OF CAPITAL INVESTMENT.—Except as
 6 provided in section 5904 of this part, this part does not
 7 affect the authority of the Administrator to pay all or a
 8 portion of the principal amount associated with a capital
 9 investment before the repayment date for the principal
 10 amount.

11 **PART II—ALASKA POWER MARKETING**

12 **ADMINISTRATION SALE**

13 **SEC. 5910. SALE OF SNETTISHAM AND EKLUTNA HYDRO-**
 14 **ELECTRIC PROJECTS.**

15 (a) SALE OF SNETTISHAM.—The Secretary of En-
 16 ergy is authorized and directed to sell the Snettisham Hy-
 17 droelectric Project (referred to in this part as
 18 “Snettisham”) to the State of Alaska in accordance with
 19 the terms of this part and the February 10, 1989,
 20 Snettisham Purchase Agreement, as amended, between
 21 the Alaska Power Administration of the United States De-
 22 partment of Energy and the Alaska Power Authority and
 23 the Authority’s successors.

24 (b) SALE OF EKLUTNA.—The Secretary of Energy
 25 is authorized and directed to sell the Eklutna Hydro-

1 electric Project (referred to in this part as “Eklutna”) to
2 the Municipality of Anchorage doing business as Municipi-
3 pal Light and Power, the Chugach Electric Association,
4 Inc., and the Matanuska Electric Association, Inc. (re-
5 ferred to in this part as “Eklutna Purchasers”), in accord-
6 ance with the terms of this part and the August 2, 1989,
7 Eklutna Purchase Agreement, as amended, between the
8 Alaska Power Administration of the United States De-
9 partment of Energy and the Eklutna Purchasers.

10 (c) FEDERAL SALE ASSISTANCE.—The heads of
11 other Federal departments and agencies, including the
12 Secretary of the Interior, shall assist the Secretary of En-
13 ergy in implementing the sales authorized and directed by
14 this part.

15 (d) DISPOSITION OF PROCEEDS.—Proceeds from the
16 sales required by this part shall be deposited in the Treas-
17 ury of the United States to the credit of miscellaneous
18 receipts.

19 (e) PREPARATION OF EKLUTNA AND SNETTISHAM
20 FOR SALE.—The Secretary of Energy is authorized and
21 directed to use such funds from the sale of electric power
22 by the Alaska Power Administration as may be necessary
23 to prepare, survey and acquire Eklutna and Snettisham
24 assets for sale and conveyance. Such preparations and ac-

1 quisitions shall provide sufficient title to ensure the bene-
2 ficial use, enjoyment, and occupancy by the purchaser.

3 **SEC. 5911. EXEMPTION AND OTHER PROVISIONS.**

4 (a) FEDERAL POWER ACT EXEMPTION.—

5 (1) After the sales authorized by this part
6 occur, Eklutna and Snettisham, including future
7 modifications, shall continue to be exempt from the
8 requirements of the Federal Power Act (16 U.S.C.
9 791a et seq.) as amended.

10 (2) The exemption provided by paragraph (1)
11 does not affect the Memorandum of Agreement en-
12 tered into among the State of Alaska, the Eklutna
13 Purchasers, the Alaska Energy Authority, and Fed-
14 eral fish and wildlife agencies regarding the protec-
15 tion, mitigation of, damages to, and enhancement of
16 fish and wildlife, dated August 7, 1991, which re-
17 mains in full force and effect.

18 (3) Nothing in this part or the Federal Power
19 Act preempts the State of Alaska from carrying out
20 the responsibilities and authorities of the Memoran-
21 dum of Agreement.

22 (b) JUDICIAL REVIEW.—

23 (1) The United States District Court for the
24 District of Alaska shall have jurisdiction to review
25 decisions made under the Memorandum of Agree-

1 ment and to enforce the provisions of the Memorandum of Agreement, including the remedy of specific
2 performance.
3

4 (2) An action seeking review of a Fish and
5 Wildlife Program (“Program”) of the Governor of
6 Alaska under the Memorandum of Agreement or
7 challenging actions of any of the parties to the
8 Memorandum of Agreement prior to the adoption of
9 the Program shall be brought not later than ninety
10 days after the date on which the Program is adopted
11 by the Governor of Alaska, or be barred.

12 (3) An action seeking review of implementation
13 of the Program shall be brought not later than nine-
14 ty days after the challenged act implementing the
15 Program, or be barred.

16 (c) TRANSFER OF EKLUTNA.—With respect to
17 Eklutna lands described in Exhibit A of the Eklutna Pur-
18 chase Agreement:

19 (1) The Secretary of the Interior shall issue
20 rights-of-way to the Alaska Power Administration
21 for subsequent reassignment to the Eklutna Pur-
22 chasers—

23 (A) at no cost to the Eklutna Purchasers;

1 (B) to remain effective for a period equal
2 to the life of Eklutna as extended by improve-
3 ments, repairs, renewals, or replacements; and

4 (C) sufficient for the operation of, mainte-
5 nance of, repair to, and replacement of, and ac-
6 cess to, Eklutna facilities located on military
7 lands and lands managed by the Bureau of
8 Land Management, including lands selected by
9 the State of Alaska.

10 (2) If the Eklutna Purchasers subsequently sell
11 or transfer Eklutna to private ownership, the Bu-
12 reau of Land Management may assess reasonable
13 and customary fees for continued use of the rights-
14 of-way on lands managed by the Bureau of Land
15 Management and military lands in accordance with
16 existing law.

17 (3) Fee title to lands at Anchorage Substation
18 shall be transferred to Eklutna Purchasers at no ad-
19 ditional cost if the Secretary of the Interior deter-
20 mines that pending claims to, and selections of,
21 those lands are invalid or relinquished.

22 (4) With respect to the Eklutna lands identified
23 in paragraph 1 of Exhibit A of the Eklutna Pur-
24 chase Agreement, the State of Alaska may select,
25 and the Secretary of the Interior shall convey to the

1 State, improved lands under the selection entitle-
2 ments in section 6 of the Act of July 7, 1958 (com-
3 monly referred to as the Alaska Statehood Act, Pub-
4 lic Law 85–508, 72 Stat. 339, as amended), and the
5 North Anchorage Land Agreement dated January
6 31, 1983. This conveyance shall be subject to the
7 rights-of-way provided to the Eklutna Purchasers
8 under paragraph (1).

9 (d) TRANSFER OF SNETTISHAM.—With respect to
10 the Snettisham lands identified in paragraph 1 of Exhibit
11 A of the Snettisham Purchase Agreement and Public
12 Land Order No. 5108, the State of Alaska may select,
13 and the Secretary of the Interior shall convey to the State
14 of Alaska, improved lands under the selection entitlements
15 in section 6 of the Act of July 7, 1958 (commonly referred
16 to as the Alaska Statehood Act, Public Law 85–508, 72
17 Stat. 339, as amended).

18 (e) APA TERMINATION.—Not later than one year
19 after both of the sales authorized in section 102 have oc-
20 curred, as measured by the Transaction Dates stipulated
21 in the Purchase Agreements, the Secretary of Energy
22 shall—

23 (1) complete the business of, and close out, the
24 Alaska Power Administration;

1 (2) submit to Congress a report documenting
2 the sales; and

3 (3) return unobligated balances of funds appro-
4 priated for the Alaska Power Administration to the
5 Treasury of the United States.

6 (f) REPEAL.—The Act of July 31, 1950 (64 Stat.
7 382) is repealed effective on the date, as determined by
8 the Secretary of Energy, that all Eklutna assets have been
9 conveyed to the Eklutna Purchasers.

10 (g) REPEAL.—Section 204 of the Flood Control Act
11 of 1962 (76 Stat. 1193) is repealed effective on the date,
12 as determined by the Secretary of Energy, that all
13 Snettisham assets have been conveyed to the State of
14 Alaska.

15 (h) CONFORMITY CHANGES TO THE DEPARTMENT OF
16 ENERGY ORGANIZATION ACT.—As of the later of the two
17 dates determined in subsections (f) and(g), section 302(a)
18 of the Department of Energy Organization Act (42 U.S.C.
19 7152(a)) is amended—

20 (1) in paragraph (1)—

21 (A) by striking subparagraph (C); and

22 (B) by redesignating subparagraphs (D),

23 (E), and (F) as subparagraphs (C), (D), and

24 (E) respectively; and

1 (2) in paragraph (2) by striking out “and the
2 Alaska Power Administration” and by inserting
3 “and” after “Southwestern Power Administration,”.

4 (i) REPEAL.—The Act of August 9, 1955, concerning
5 water resources investigation in Alaska (69 Stat. 618), is
6 repealed.

7 (j) ASSET DISPOSAL.—The sales of Eklutna and
8 Snettisham under this part are not considered disposal of
9 Federal surplus property under the Federal Property and
10 Administrative Services Act of 1949 (40 U.S.C. 484) or
11 the Act of October 3, 1944, popularly referred to as the
12 “Surplus Property Act of 1944” (50 U.S.C. App. 1622).

13 (k) For purposes of section 147(d) of the Internal
14 Revenue Code, “1st use” of Snettisham shall be consid-
15 ered to occur upon acquisition of the property by or on
16 behalf of the State of Alaska.

17 **Subtitle K—Radio and Television**
18 **Communication Site Fees**

19 **SEC. 5920. RADIO AND TELEVISION COMMUNICATION SITE**
20 **FEEES.**

21 (a) ASSESSMENT AND COLLECTION OF FEES.—Not-
22 withstanding any other provision of law, the Secretary of
23 Agriculture and the Secretary of the Interior (hereinafter
24 referred to as “the Secretaries”), shall assess and collect
25 charges for utilization of radio and television communica-

1 tions sites located on Federal lands administered by the
2 Forest Service or the Bureau of Land Management at
3 such rates as the Forest Service and the Bureau of Land
4 Management shall establish or at such modified rates as
5 are established pursuant to the provisions of subsection
6 (b) of this section.

7 (b) SCHEDULE AND ADJUSTMENT OF FEES.—The
8 schedule of charges established under this section shall be
9 reviewed by the Forest Service and the Bureau of Land
10 Management on an annual basis, and shall be adjusted
11 by the Forest Service and the Bureau of Land Manage-
12 ment to reflect changes in the Consumer Price Index. In-
13 creases or decreases in charges shall apply to all categories
14 of charges, but any increase or decrease shall not total
15 less than 3 percent or more than 5 percent of the charge
16 assessed to the user in the preceding year. The Bureau
17 of Land Management and the Forest Service shall trans-
18 mit to the Congress notification of any such adjustment
19 not later than 60 days before the effective date of such
20 adjustment.

21 (1) Under the schedule of charges established
22 under the section, if any radio or television commu-
23 nications site user is to be charged an amount that
24 is greater than \$1,000 more than the amount such
25 site user pays to the Bureau of Land Management

1 or the Forest Service as of January 1, 1995, then
2 during the first year in which the schedule of
3 charges is in effect, such site user shall pay an
4 amount equal to the amount it paid to the Bureau
5 of Land Management or the Forest Service as of
6 January 1, 1995 plus \$1,000. Each year thereafter,
7 such site user shall pay the full amount under the
8 schedule of charges, as modified pursuant to the
9 subsection.

10 (2) Under the schedule of charges established
11 under this section, if any radio or television commu-
12 nications site user is to be charged an amount that
13 is less than the amount such site user paid to the
14 Bureau of Land Management or the Forest Service
15 as of January 1, 1995, such site user shall continue
16 to pay the higher amount until such time as the
17 charge to the site user in the schedule of charges
18 equals or exceeds that amount, as modified pursuant
19 to this subsection.

20 (c) ADDITIONAL USERS OF COMMUNICATION
21 SITES.—(1) If the radio or television communications site
22 user is permitted under the terms of its site use authoriza-
23 tion from the Bureau of Land Management or the Forest
24 Service to grant access to the site to additional users, then
25 the radio or television communications site user shall pay

1 annually to the Bureau of Land Management or the For-
2 est Service an amount equal to 25 percent of the gross
3 income it receives from each such additional user during
4 that year.

5 (2) Authorizations to radio and television commu-
6 nications site users shall require such site users to provide
7 the Bureau of Land Management or the Forest Service
8 with a certified list which identifies all additional users
9 of such sites and all gross revenues received from such
10 additional users. The Bureau of Land Management and
11 the Forest Service shall not require any additional user
12 of a radio or television communications site to obtain a
13 separate authorization to use such a site.

14 (d) REGULATIONS.—(1) The Secretaries shall pre-
15 scribe appropriate rules and regulations to carry out the
16 provisions of this section.

17 (2) Ten years after the date of enactment of this sec-
18 tion, the Secretaries shall establish a broad-based advisory
19 group, including representatives from the radio and tele-
20 vision broadcast industry, to review the schedule of
21 charges and other acceptable criteria for determining fair
22 market value for radio and television communications site
23 users. The advisory group shall report its findings to the
24 Congress no later than 1 year after it is established.

1 (e) INITIAL SCHEDULE OF CHARGES.—(1) Until
2 modified pursuant to subsection (b) of this section, the
3 schedule of charges for television communications site
4 users which the Secretaries shall prescribe pursuant to
5 subsection (a) of this section shall be as listed in exhibit
6 3, (television rental fee schedule) in the report of the radio
7 and television broadcast use fee advisory committee dated
8 December 1992.

9 (2) Until modified pursuant to subsection (b) of this
10 section, the schedule of charges for radio communications
11 site users which the Secretaries shall prescribe pursuant
12 to subsection (a) of this section shall be as listed in exhibit
13 4, (radio rental fee schedule) in the report of the radio
14 and television broadcast use fee advisory committee dated
15 December 1992.

16 (f) ADVISORY GROUP.—(1) The Secretaries are di-
17 rected to jointly establish a broad-based advisory group
18 comprised of representatives from the non-broadcast com-
19 munications industry (users of both private and public
20 communication sites) and the two agencies to review rec-
21 ommendations on acceptable criteria for determining fair
22 market values and next best alternative use.

23 (2) The advisory group shall review the methodology
24 used in any previous studies and reach concurrence on
25 such methodology.

1 (3) The advisory group shall also assess the validity
 2 of the results of such studies, taking into account all rea-
 3 sonable options for the establishment of fair market values
 4 and next best alternative use.

5 (4) The advisory group shall report its findings to
 6 the Committee on Energy and Natural Resources of the
 7 United States Senate and the Committee on Natural Re-
 8 sources of the United States House of Representatives
 9 within one year after the enactment of this Act.

10 **Subtitle L—Amendments to Outer**
 11 **Continental Shelf Lands Act**

12 **SEC. 5930. AMENDMENTS TO THE OUTER CONTINENTAL**
 13 **SHELF LANDS ACT.**

14 Section 8(a) of the Outer Continental Shelf Lands
 15 Act, (43 U.S.C. 1337(a)(3)), is amended by striking para-
 16 graph (3) in its entirety and inserting the following:

17 “(3)(A) The Secretary may through primary,
 18 secondary, or tertiary recovery means, reduce or
 19 eliminate any royalty or net profit share set forth in
 20 the lease(s). With the lessee’s consent, the Secretary
 21 may make other modifications to the royalty or net
 22 profit share terms of the lease in order to—

23 “(i) promote development or increased pro-
 24 duction on producing or non-producing leases;
 25 or

1 “(ii) encourage production of marginal re-
2 sources on producing or non-producing leases;

3 “(B)(i) Notwithstanding any other provision of
4 this Act, with respect to any lease or unit in exist-
5 ence on the date of enactment of the Outer Con-
6 tinental Shelf Deep Water Royalty Relief Act meet-
7 ing the requirements of this subparagraph, no roy-
8 alty payments shall be due on new production, as de-
9 fined in clause (iv) of this subparagraph, from any
10 lease or unit located in water depths of 200 meters
11 or greater in the Western and Central Planning
12 Areas of the Gulf of Mexico, including that portion
13 of the Eastern Planning Area of the Gulf of Mexico
14 encompassing whole lease blocks lying west of 87 de-
15 grees, 30 minutes West longitude, until such volume
16 of production as determined pursuant to clause (ii)
17 has been produced by the lessee.

18 “(ii) Upon submission of a complete application
19 by the lessee, the Secretary shall determine within
20 180 days of such application whether new produc-
21 tion from such lease or unit would be economic in
22 the absence of the relief from the requirement to pay
23 royalties provided for by clause (i) of this subpara-
24 graph. In making such determination, the Secretary
25 shall consider the increased technological and finan-

1 cial risk of deep water development and all costs as-
2 sociated with exploring, developing, and producing
3 from the lease. The lessee shall provide information
4 required for a complete application to the Secretary
5 prior to such determination. The Secretary shall
6 clearly define the information required for a com-
7 plete application under this section. Such application
8 may be made on the basis of an individual lease or
9 unit. If the Secretary determines that such new pro-
10 production would be economic in the absence of the re-
11 lief from the requirement to pay royalties provided
12 for by clause (i) of this subparagraph, the provisions
13 of clause (i) shall not apply to such production. If
14 the Secretary determines that such new production
15 would not be economic in the absence of the relief
16 from the requirement to pay royalties provided for
17 by clause (i), the Secretary must determine the vol-
18 ume of production from the lease or unit on which
19 no royalties would be due in order to make such new
20 production economically viable; except that for new
21 production as defined in clause (iv)(aa), in no case
22 will that volume be less than 17.5 million barrels
23 of oil equivalent in water depths of 200 to 400 me-
24 ters, 52.5 million barrels of oil equivalent in 400–
25 800 meters of water, and 87.5 million barrels of oil

1 equivalent in water depths greater than 800 meters.
2 Redetermination of the applicability of clause (i)
3 shall be undertaken by the Secretary when requested
4 by the lessee prior to the commencement of the new
5 production and upon significant change in the fac-
6 tors upon which the original determination was
7 made. The Secretary shall make such redetermina-
8 tion within 120 days of submission of a complete
9 application. The Secretary may extend the time pe-
10 riod for making any determination or redetermina-
11 tion under this clause for 30 days, or longer if
12 agreed to by the applicant, if circumstances so war-
13 rant. The lessee shall be notified in writing of any
14 determination or redetermination and the reasons
15 for and assumptions used for such determination.
16 Any determination or redetermination under this
17 clause shall be a final agency action. The Secretary's
18 determination or redetermination shall be judicially
19 reviewable under section 10 (a) of the Administra-
20 tive Procedures Act, 5 U.S.C. Sec. 702, only for ac-
21 tions filed within 30 days of the Secretary's deter-
22 mination or redetermination.

23 “(iii) In the event that the Secretary fails to
24 make the determination or redetermination called
25 for in clause (ii) upon application by the lessee with-

1 in the time period, together with any extension
2 thereof, provided for by clause (ii), no royalty pay-
3 ments shall be due on new production as follows:

4 “(I) For new production, as defined in
5 clause (iv)(aa) of this subparagraph, no royalty
6 shall be due on such production according to
7 the schedule of minimum volumes specified in
8 clause (ii) of this subparagraph.

9 “(II) For new production, as defined in
10 clause (iv)(bb) of this subparagraph, no royalty
11 shall be due on such production for one year
12 following the start of such production.

13 “(iv) For purposes of this subparagraph, the
14 term ‘new production’ is—

15 “(I) any production from a lease from
16 which no royalties are due on production, other
17 than test production, prior to the date of enact-
18 ment of the Outer Continental Shelf Deep
19 Water Royalty Relief Act; or

20 “(II) any production resulting from lease
21 development activities pursuant to a Develop-
22 ment Operations Coordination Document, or
23 supplement thereto that would expand produc-
24 tion significantly beyond the level anticipated in
25 the Development Operations Coordination Doc-

1 ument, approved by the Secretary after the date
2 of enactment of the Outer Continental Shelf
3 Deep Water Royalty Relief Act.

4 “(v) During the production of volumes deter-
5 mined pursuant to clause (ii) or (iii) of this subpara-
6 graph, in any year during which the arithmetic aver-
7 age of the closing prices on the New York Mer-
8 cantile Exchange for Light Sweet crude oil exceeds
9 \$28.00 per barrel, any production of oil will be sub-
10 ject to royalties at the lease stipulated royalty rate.
11 Any production subject to this clause shall be count-
12 ed toward the production volume determined pursu-
13 ant to clause (ii) or (iii). Estimated royalty pay-
14 ments will be made if such average of the closing
15 prices for the previous year exceeds \$28.00. After
16 the end of the calendar year, when the new average
17 price can be calculated, lessees will pay any royalties
18 due, with interest but without penalty, or can apply
19 for a refund, with interest, of any overpayment.

20 “(vi) During the production of volumes deter-
21 mined pursuant to clause (ii) or (iii) of this subpara-
22 graph, in any year during which the arithmetic aver-
23 age of the closing prices on the New York Mer-
24 cantile Exchange for natural gas exceeds \$3.50 per
25 million British thermal units, any production of nat-

1 ural gas will be subject to royalties at the lease stip-
2 ulated royalty rate. Any production subject to this
3 clause shall be counted toward the production vol-
4 ume determined pursuant to clauses (ii) or (iii). Es-
5 timated royalty payments will be made if such aver-
6 age of the closing prices for the previous year ex-
7 ceeds \$3.50. After the end of the calendar year,
8 when the new average price can be calculated, les-
9 sees will pay any royalties due, with interest but
10 without penalty, or can apply for a refund, with in-
11 terest, of any overpayment.

12 “(vii) The prices referred to in clauses (v) and
13 (vi) of this subparagraph shall be changed during
14 any calendar year after 1994 by the percentage, if
15 any, by which the implicit price deflator for the
16 gross domestic product changed during the preced-
17 ing calendar year.”.

18 **SEC. 5931. NEW LEASES.**

19 (a) AMENDMENTS.—Section 8(a)(1) of the Outer
20 Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)) is
21 amended as follows:

22 (1) Redesignate section 8(a)(1)(H) as section
23 8(a)(1)(I);

24 (2) Add a new section 8(a)(1)(H) as follows:

1 “(H) cash bonus bid with royalty at no less
2 than 12 and 1/2 per centum fixed by the Sec-
3 retary in amount or value of production saved,
4 removed, or sold, and with suspension of royal-
5 ties for a period, volume, or value of production
6 determined by the Secretary. Such suspensions
7 may vary based on the price of production from
8 the lease.”.

9 (b) PRODUCTION.—For all tracts located in water
10 depths of 200 meters or greater in the Western and
11 Central Planning Areas of the Gulf of Mexico, including
12 that portion of the Eastern Planning Area of the Gulf of
13 Mexico encompassing whole lease blocks lying west of 87
14 degrees, 30 minutes West longitude, any lease sale within
15 seven years of the date of enactment of this Act, shall use
16 the bidding system authorized in section 8(a)(1)(H) of the
17 Outer Continental Shelf Lands Act, as amended by this
18 Act, except that the suspension of royalties shall be set
19 at a volume of not less than the following:

20 (1) 17.5 million barrels of oil equivalent for
21 leases in water depths of 200 to 400 meters;

22 (2) 52.5 million barrels of oil equivalent for
23 leases in 400 to 800 meters of water; and

24 (3) 87.5 million barrels of oil equivalent for
25 leases in water depths greater than 800 meters.

1 **SEC. 5932. REGULATIONS.**

2 The Secretary shall promulgate such rules and regu-
3 lations as are necessary to implement the provisions of this
4 Act within 180 days after the enactment of this Act.

5 **TITLE VI—COMMITTEE ON ENVI-**
6 **RONMENT AND PUBLIC**
7 **WORKS**

8 **SEC. 6001. SHORT TITLE; TABLE OF CONTENTS.**

9 (a) **SHORT TITLE.**—This title may be cited as the
10 “Public Works Reconciliation Act of 1995”.

11 (b) **TABLE OF CONTENTS.**—The table of contents of
12 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.

13 **SEC. 6002. HIGHWAY DEMONSTRATION PROJECTS.**

14 (a) **PROJECTS AUTHORIZED FOR FISCAL YEARS**
15 **1996 AND 1997.**—

16 (1) **REDUCTIONS.**—Subject to paragraph (2),
17 notwithstanding any other law, for each of fiscal
18 years 1996 and 1997 and with respect to each State,
19 the total of the amounts authorized, allocated, or
20 unallocated to the State for highway demonstration
21 projects under sections 1103 through 1108 of the
22 Intermodal Surface Transportation Efficiency Act of

1 1991 (Public Law 102–240; 105 Stat. 2027) shall
2 be reduced by 15 percent.

3 (2) ORDER OF REDUCTIONS.—For fiscal year
4 1996, the reductions required by paragraph (1) shall
5 be made after any reduction required for the fiscal
6 year under section 1003(c) of the Act (Public Law
7 102–240; 105 Stat. 1921).

8 (b) PROJECTS PREVIOUSLY AUTHORIZED UNDER
9 CERTAIN TRANSPORTATION LAWS.—

10 (1) REDUCTIONS.—Subject to paragraph (2),
11 notwithstanding any other law, with respect to each
12 State, the total unobligated balance as of September
13 30, 1995, of the amounts authorized, allocated,
14 unallocated, or otherwise provided to the State for
15 highway demonstration projects under all of the fol-
16 lowing laws shall be reduced by 15 percent:

17 (A) For each of fiscal years 1992 through
18 1995, sections 1103 through 1108 of the Inter-
19 modal Surface Transportation Efficiency Act of
20 1991 (Public Law 102–240; 105 Stat. 2027).

21 (B) Section 149 of the Surface Transpor-
22 tation and Uniform Relocation Assistance Act
23 of 1987 (Public Law 100–17; 101 Stat. 181).

1 (C) Section 131 of the Surface Transpor-
2 tation Assistance Act of 1982 (Public Law 97-
3 424; 96 Stat. 2119).

4 (2) EFFECT ON OTHER REDUCTIONS.—A reduc-
5 tion under paragraph (1) made with respect to a law
6 described in paragraph (1)(A) shall not affect any
7 reduction required for a fiscal year under section
8 1003(e) of the Intermodal Surface Transportation
9 Efficiency Act of 1991 (Public Law 102-240; 105
10 Stat. 1921).

11 (c) PROJECTS PREVIOUSLY AUTHORIZED UNDER
12 OTHER LAWS.—Notwithstanding any other law, with re-
13 spect to each State, the total unobligated balance as of
14 September 30, 1995, of the amounts authorized, allocated,
15 unallocated, or otherwise provided to the State for high-
16 way demonstration projects under all of the following laws
17 shall be reduced by 15 percent:

18 (1) The Department of Transportation and Re-
19 lated Agencies Appropriations Act, 1995 (Public
20 Law 103-331; 108 Stat. 2471).

21 (2) The Department of Transportation and Re-
22 lated Agencies Appropriations Act, 1994 (Public
23 Law 103-122; 107 Stat. 1198).

1 (3) The Department of Transportation and Re-
2 lated Agencies Appropriations Act, 1993 (Public
3 Law 102–388; 106 Stat. 1520).

4 (4) The Department of Transportation and Re-
5 lated Agencies Appropriations Act, 1992 (Public
6 Law 102–143; 105 Stat. 917).

7 (5) The Department of Transportation and Re-
8 lated Agencies Appropriations Act, 1991 (Public
9 Law 101–516; 104 Stat. 2155).

10 (6) The Department of Transportation and Re-
11 lated Agencies Appropriations Act, 1990 (Public
12 Law 101–164; 103 Stat. 1069).

13 (7) The Department of Transportation and Re-
14 lated Agencies Appropriations Act, 1989 (Public
15 Law 100–457; 102 Stat. 2125).

16 (8) The Department of Transportation and Re-
17 lated Agencies Appropriations Act, 1988 (Public
18 Law 100–202; 101 Stat. 1329–358).

19 (9) Section 101(l) of Public Law 99–591 (100
20 Stat. 3341–308).

21 **SEC. 6003. TECHNICAL CORRECTION CONCERNING MINI-**
22 **MUM ALLOCATION.**

23 (a) FINDINGS.—Congress finds that—

24 (1) under the amendments made by section
25 1013(a) of the Intermodal Surface Transportation

1 Efficiency Act of 1991 (Public Law 102–240; 105
2 Stat. 1940), each State receives back from the Fed-
3 eral-aid highway program not less than 90 percent
4 of the State’s percentage of all contributions to the
5 Highway Account of the Highway Trust Fund estab-
6 lished by section 9503 of the Internal Revenue Code
7 of 1986;

8 (2) for fiscal year 1995, the amount appor-
9 tioned under section 157(a)(4) of title 23, United
10 States Code, was \$1,427,000,000;

11 (3) in fiscal year 1996, the Interstate construc-
12 tion program under the title will be terminated and
13 replaced with a new reimbursement program; and

14 (4) as a result of the termination of the Inter-
15 state construction program, the number of States re-
16 ceiving funds under section 157(a)(4) of the title for
17 fiscal year 1996 may decrease and the amount of
18 funds some States will require will decrease, and,
19 therefore, the amount of funds necessary to ensure
20 that each State receives not less than 90 percent will
21 be reduced from \$1,427,000,000 to an estimated
22 \$565,000,000.

23 (b) CORRECTION.—

24 (1) IN GENERAL.—With respect to the first fis-
25 cal year beginning after September 30, 1995—

1 (A) the Secretary of Transportation shall
2 determine, in accordance with the policies es-
3 tablished by the Intermodal Surface Transpor-
4 tation Efficiency Act of 1991 (Public Law 102-
5 240; 105 Stat. 1914)—

6 (i) which of the States will no longer
7 require an apportionment under section
8 157(a)(4) of title 23, United States Code;
9 and

10 (ii) which of the States will require
11 decreased funding under section 157(a)(4)
12 of the title;

13 as a result of the termination of the Interstate
14 construction program; and

15 (B) as a result of the reduced number of
16 States that may require an apportionment
17 under section 157(a)(4) of the title, and the de-
18 crease in the amount of funds some States will
19 require under section 157(a)(4) of the title, the
20 amount apportioned under section 157(a)(4) of
21 the title shall be reduced from the amount ap-
22 portioned for fiscal year 1995 by 60.4 percent.

23 (2) EFFECT ON CERTAIN CALCULATIONS.—The
24 correction made by paragraph (1) shall not be taken
25 into account in making the calculations required

1 under sections 1003(c), 1013(c), and 1015 of the
2 Intermodal Surface Transportation Efficiency Act of
3 1991 (Public Law 102–240; 105 Stat. 1921, 1940,
4 and 1943).

5 **SEC. 6004. NUCLEAR REGULATORY COMMISSION ANNUAL**
6 **CHARGES.**

7 Section 6101(a)(3) of the Omnibus Budget Reconcili-
8 ation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by
9 striking “September 30, 1998” and inserting “September
10 30, 2005”.

11 **SEC. 6005. RADIOLOGICAL EMERGENCY PREPAREDNESS**
12 **FEES.**

13 The first paragraph of the matter under the heading
14 “ADMINISTRATIVE PROVISIONS” under the heading “FED-
15 ERAL EMERGENCY MANAGEMENT AGENCY” in title III of
16 the Departments of Veterans Affairs and Housing and
17 Urban Development, and Independent Agencies Appro-
18 priations Act, 1995 (Public Law 103–327; 108 Stat.
19 2325), is amended—

20 (1) in the first and second sentences, by strik-
21 ing “fiscal year 1995” each place it appears and in-
22 serting “each of fiscal years 1995 through 2005”;
23 and

24 (2) in the last sentence, by striking “only au-
25 thorized during fiscal year 1995” and inserting “au-

1 thorized only during fiscal years 1995 through
2 2005”.

3 **TITLE VII—COMMITTEE ON FI-**
4 **NANCE—SPENDING CONTROL**
5 **PROVISIONS**

6 **SEC. 7000. REFERENCES; TABLE OF CONTENTS.**

7 (a) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-
8 cept as otherwise specifically provided, whenever in sub-
9 titles A through G of this title an amendment is expressed
10 in terms of an amendment to or repeal of a section or
11 other provision, the reference shall be considered to be
12 made to that section or other provision of the Social Secu-
13 rity Act.

14 (b) REFERENCES TO OBRA.—In this title, the terms
15 “OBRA–1986”, “OBRA–1987”, “OBRA–1990”, and
16 “OBRA–1993” refer to the Omnibus Budget Reconcili-
17 ation Act of 1986 (Public Law 99–509), the Omnibus
18 Budget Reconciliation Act of 1987 (Public Law 100–203),
19 the Omnibus Budget Reconciliation Act of 1989 (Public
20 Law 101–239), the Omnibus Budget Reconciliation Act
21 of 1990 (Public Law 101–508), and the Omnibus Budget
22 Reconciliation Act of 1993 (Public Law 103–66), respec-
23 tively.

- 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.
- Sec. 7346. Reports and data collection by the Secretary.

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

- Sec. 7351. National Child Support Guidelines Commission.
- Sec. 7352. Simplified process for review and adjustment of child support orders.
- Sec. 7353. Furnishing consumer reports for certain purposes relating to child support.
- Sec. 7354. Nonliability for depository institutions providing financial records to State child support enforcement agencies in child support cases.

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

- Sec. 7361. Internal Revenue Service collection of arrearages.
- Sec. 7362. Authority to collect support from Federal employees.
- Sec. 7363. Enforcement of child support obligations of members of the armed forces.
- Sec. 7364. Voiding of fraudulent transfers.
- Sec. 7365. Work requirement for persons owing child support.
- Sec. 7366. Definition of support order.
- Sec. 7367. Reporting arrearages to credit bureaus.
- Sec. 7368. Liens.
- Sec. 7369. State law authorizing suspension of licenses.
- Sec. 7370. Denial of passports for nonpayment of child support.
- Sec. 7371. International child support enforcement.
- Sec. 7372. Denial of means-tested Federal benefits to noncustodial parents who are delinquent in paying child support.
- Sec. 7373. Child support enforcement for Indian tribes.
- Sec. 7374. Financial institution data matches.
- Sec. 7375. Child support enforcement fees for non-assistance families.
- Sec. 7376. Enforcement of orders against paternal grandparents in cases of minor parents.
- Sec. 7377. Sense of the Senate regarding the inability of the non-custodial parent to pay child support.

CHAPTER 8—MEDICAL SUPPORT

- Sec. 7378. Technical correction to ERISA definition of medical child support order.
- Sec. 7379. Enforcement of orders for health care coverage.

CHAPTER 9—ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR
NONRESIDENTIAL PARENTS

- Sec. 7381. Grants to States for access and visitation programs.

CHAPTER 10—EFFECT OF ENACTMENT

- Sec. 7391. Effective dates.

Subtitle F—Noncitizens

- Sec. 7401. State option to prohibit assistance for certain aliens.
- Sec. 7402. Deemed income requirement for Federal and federally funded programs.
- Sec. 7403. Requirements for sponsor's affidavit of support.
- Sec. 7404. Limited eligibility of noncitizens for SSI benefits.
- Sec. 7405. Treatment of noncitizens.

- Sec. 7406. Information reporting.
 Sec. 7407. Prohibition on payment of Federal benefits to certain persons.

Subtitle G—Additional Provisions Relating To Welfare Reform

CHAPTER 1—REDUCTIONS IN FEDERAL GOVERNMENT POSITIONS

- Sec. 7411. Reductions.
 Sec. 7412. Reductions in Federal bureaucracy.
 Sec. 7413. Reducing personnel in Washington, D.C. area.

CHAPTER 2—BLOCK GRANT FOR SOCIAL SERVICES.

- Sec. 7421. Reduction in block grant for social services.
 Sec. 7422. Establishing national goals to prevent teenage pregnancies.

CHAPTER 3—FOSTER CARE MAINTENANCE PAYMENTS PROGRAM

- Sec. 7431. Limitation on growth of administrative expenses for foster care maintenance payments program.

CHAPTER 4—MISCELLANEOUS PROVISIONS

- Sec. 7441. Exemption of battered individuals from certain requirements.
 Sec. 7442. Sense of the Senate on legislative accountability for unfunded mandates in welfare reform legislation.
 Sec. 7443. Sense of the Senate regarding enforcement of statutory rape laws.
 Sec. 7444. Sanctioning for testing positive for controlled substances.
 Sec. 7445. Abstinence education.
 Sec. 7446. Fraud under means-tested welfare and public assistance programs.

Subtitle H—Reform of the Earned Income Tax Credit

- Sec. 7460. Amendment of 1986 code.
 Sec. 7461. Earned income credit denied to individuals not authorized to be employed in the United States.
 Sec. 7462. Repeal of earned income credit for individuals without children.
 Sec. 7463. Modification of earned income credit amount and phaseout.
 Sec. 7464. Rules relating to denial of earned income credit on basis of disqualified income.
 Sec. 7465. Modification of adjusted gross income definition for earned income credit.
 Sec. 7466. Provisions to improve tax compliance.

Subtitle I—Increase in Public Debt Limit

- Sec. 7471. Increase in public debt limit.

Subtitle J—Correction of Cost of Living Adjustments

- Sec. 7481. Sense of the Senate regarding correction of cost of living adjustments.

“Subpart 1—Definitions**2 “SEC. 1895A. DEFINITIONS.**

3 “(a) **MEDICARE CHOICE PLAN.**—In this part—

4 “(1) **IN GENERAL.**—The term ‘medicare choice
5 plan’ means an eligible health plan with respect to
6 which there is a contract in effect under this part
7 to provide health benefits coverage to medicare
8 choice eligible individuals.

9 “(2) **MEDICARE CHOICE PLAN SPONSOR.**—The
10 terms ‘medicare choice plan sponsor’ and ‘plan spon-
11 sor’ mean a public or private entity which estab-
12 lishes or maintains a medicare choice plan.

13 “(b) **TERMS RELATING TO HEALTH PLANS.**—In this
14 part:

15 “(1) **ELIGIBLE HEALTH PLAN.**—

16 “(A) **IN GENERAL.**—The term ‘eligible
17 health plan’ means a policy, contract, or plan
18 which is capable of providing health benefits
19 coverage of items and services provided under
20 the traditional medicare program to medicare
21 choice eligible individuals.

22 “(B) **TYPES OF INSURANCE.**—The term
23 ‘eligible health plan’ shall include any of the fol-
24 lowing types of plans of health insurance:

25 “(i) **INDEMNITY OR FEE-FOR-SERVICE**
26 **PLANS.**—Private indemnity plans that re-

1 imburse hospitals, physicians, and other
2 providers on the basis of a privately deter-
3 mined fee schedule.

4 “(ii) COORDINATED CARE PLANS.—
5 Private managed or coordinated care plans
6 which provide health care services through
7 an integrated network of providers, includ-
8 ing—

9 “(I) qualified health maintenance
10 organizations as defined in section
11 1310(d) of the Public Health Service
12 Act; and

13 “(II) preferred provider organiza-
14 tion plans, point of service plans, pro-
15 vider-sponsored network plans, or
16 other coordinated care plans.

17 “(iii) HIGH DEDUCTIBLE PLAN IN
18 CONNECTION WITH MEDICARE MEDICAL
19 SAVINGS ACCOUNT.—A high deductible
20 health plan that—

21 “(I) requires an individual to pay
22 a minimum annual per person deduct-
23 ible for insured medical expenses
24 equal to at least \$3,000;

1 “(II) has an annual limit on the
2 aggregate deductible, coinsurance, and
3 copayments an individual is required
4 to pay for insured medical expenses
5 which does not exceed \$6,000; and

6 “(III) is operated in connection
7 with a medicare choice account de-
8 scribed in section 137(b) of the Inter-
9 nal Revenue Code of 1986.

10 “(iv) OTHER HEALTH CARE PLANS.—
11 Any other private plan for the delivery of
12 health care items and services that is not
13 described in clause (i), (ii), or (iii).

14 “(2) UNION OR ASSOCIATION PLAN.—

15 “(A) IN GENERAL.—The term ‘union or
16 association plan’ means an eligible health plan
17 with a union sponsor, a Taft-Hartley sponsor,
18 or a qualified association sponsor that—

19 “(i) is organized for purposes other
20 than to market a health plan;

21 “(ii) may not condition its member-
22 ship on health status, health claims experi-
23 ence, receipt of health care, medical his-
24 tory, or lack of evidence of insurability of
25 a potential member;

1 “(iii) may not exclude a member or
2 spouse of a member from health plan cov-
3 erage based on factors described in clause
4 (ii);

5 “(iv) is a permanent entity which re-
6 ceives a substantial majority of its finan-
7 cial support from active members; and

8 “(v) may not be owned or controlled
9 by an insurance company.

10 “(B) UNION SPONSOR.—The term ‘union
11 sponsor’ means an employee organization that
12 establishes or maintains an eligible health plan
13 other than pursuant to a collective bargaining
14 agreement.

15 “(C) TAFT-HARTLEY SPONSOR.—The term
16 ‘Taft-Hartley sponsor’ means, with respect to a
17 group health plan established or maintained by
18 2 or more employees or jointly by 1 or more
19 employees and 1 or more employee organiza-
20 tions, the association, committee, joint board of
21 trustees, or other similar group of representa-
22 tives of parties who establish or maintain the
23 plan.

24 “(D) QUALIFIED ASSOCIATION SPONSOR.—
25 The term ‘qualified association sponsor’ means

1 an association, religious fraternal organization,
2 or other organization (which may be a trade,
3 industry, or professional association, a chamber
4 of commerce, or a public entity association)
5 which establishes or maintains an eligible health
6 plan.

7 “(E) TERMS.—In this paragraph, the
8 terms ‘employee’, ‘employee organization’, and
9 ‘group health plan’ have the meanings given
10 such terms for purposes of part 6 of subtitle B
11 of title I of the Employee Retirement Income
12 Security Act of 1974.

13 “(c) OTHER DEFINITIONS.—In this part:

14 “(1) AREAS.—

15 “(A) MEDICARE PAYMENT AREA.—

16 “(i) IN GENERAL.—Except as pro-
17 vided in clause (ii), the term ‘medicare
18 payment area’ means—

19 “(I) a metropolitan statistical
20 area (whether or not such area is in
21 a single State) or in the case of a con-
22 solidated metropolitan statistical area,
23 each primary metropolitan statistical
24 area within the consolidated area; or

1 “(II) one area within each State
2 composed of all areas that do not fall
3 within a metropolitan statistical area.

4 “(ii) GEOGRAPHIC ADJUSTMENT.—
5 Upon request of a State, the Secretary
6 may make a geographic adjustment to a
7 medicare payment area otherwise deter-
8 mined under clause (i).

9 “(iii) AREAS.—In this subparagraph,
10 the terms ‘metropolitan statistical area’,
11 ‘consolidated metropolitan statistical area’,
12 and ‘primary metropolitan statistical area’
13 mean any area designated as such by the
14 Secretary of Commerce.

15 “(B) MEDICARE SERVICE AREA.—

16 “(i) IN GENERAL.—Except as pro-
17 vided in clause (ii), the term ‘medicare
18 service area’ means a medicare payment
19 area.

20 “(ii) GEOGRAPHIC ADJUSTMENT.—
21 The Secretary may designate a medicare
22 service area other than a medicare pay-
23 ment area for a medicare choice plan if the
24 Secretary determines that such designation
25 would not result in the enrollment of en-

1 rollees in the plan in such area which are
2 substantially nonrepresentative, as deter-
3 mined in accordance with regulations of
4 the Secretary, of the population in the
5 medicare payment area.

6 “(2) MEDICARE CHOICE ELIGIBLE INDIVID-
7 UAL.—

8 “(A) IN GENERAL.—The term ‘medicare
9 choice eligible individual’ means an individual
10 who is entitled to benefits under part A and en-
11 rolled under part B.

12 “(B) SPECIAL RULE FOR END-STAGE
13 RENAL DISEASE.—Such term shall not include
14 an individual medically determined to have end-
15 stage renal disease, except that an individual
16 who develops end-stage renal disease while en-
17 rolled in a medicare choice plan may continue
18 to be enrolled in that plan. Not later than De-
19 cember 31, 1999, the Secretary shall submit to
20 the Congress recommendations on expanding
21 the definition of ‘medicare choice eligible indi-
22 vidual’ to include individuals with end-stage
23 renal disease and the enrollment of such indi-
24 viduals in medicare choice plans.

1 “(3) TRADITIONAL MEDICARE PROGRAM.—The
2 term ‘traditional medicare program’ means the pro-
3 gram of benefits available to individuals entitled to
4 benefits under part A and enrolled under part B of
5 this title, other than enrollment in a medicare choice
6 plan under this part.

7 **“Subpart 2—Entitlement of Medicare Choice Eligible**
8 **Individuals to Health Care Choices**

9 **“SEC. 1895B. ENTITLEMENT TO MEDICARE CHOICES.**

10 “Each medicare choice eligible individual is entitled
11 to choose to receive health care items and services covered
12 under parts A and B—

13 “(1) through the traditional medicare program;
14 or

15 “(2) by receiving payments toward the individ-
16 ual’s enrollment in a medicare choice plan under this
17 part.

18 **“SEC. 1895C. ENROLLMENT PROCEDURES.**

19 “(a) IN GENERAL.—Except as provided in section
20 1895G(a)(2), each medicare choice eligible individual shall
21 be entitled to enroll in any medicare choice plan with a
22 medicare service area including the geographic area in
23 which the individual resides during—

24 “(1) the annual open enrollment period de-
25 scribed in section 1895G(b)(1); or

1 “(2) any other enrollment period described in
2 section 1895G(b)(2) applicable to the individual.

3 “(b) METHOD OF ENROLLMENT AND
4 DISENROLLMENT.—

5 “(1) NOTICE PROVIDED TO THE SECRETARY.—

6 Each medicare choice eligible individual desiring to
7 enroll or terminate enrollment in a medicare choice
8 plan shall provide the Secretary with notice of such
9 enrollment or disenrollment during any enrollment
10 period applicable to the individual. The Secretary
11 shall, to the extent feasible, provide for the receipt
12 of such notice by telephone, through the mail, and
13 in person at local social security offices.

14 “(2) INFORMATION FORWARDED TO THE
15 PLAN.—The Secretary shall promptly provide each
16 medicare choice plan with notice of an individual’s
17 enrollment or disenrollment with the plan.

18 “(c) NOTICES TO INDIVIDUALS TO ASSIST IN EN-
19 ROLLMENT.—

20 “(1) OPEN SEASON NOTIFICATION.—

21 “(A) MAILING OF NOTICE.—By September
22 30 of each year beginning after 1995, the Sec-
23 retary shall mail a notice of eligibility to each
24 medicare choice eligible individual and each in-
25 dividual entitled to benefits under part A prior

1 to the end of the annual open enrollment period
2 described in section 1895G(b)(1).

3 “(B) NOTICE DESCRIBED.—The notice de-
4 scribed in subparagraph (A) shall include an in-
5 formational brochure that includes the informa-
6 tion described in this section, and any other in-
7 formation that the Secretary determines will as-
8 sist the individual’s enrollment decision.

9 “(2) NOTIFICATION TO NEWLY MEDICARE
10 CHOICE ELIGIBLE INDIVIDUALS.—With respect to an
11 individual who becomes eligible to enroll in a medi-
12 care choice plan during the period described in sec-
13 tion 1895G(b)(2)(A) and to whom paragraph (1)
14 does not apply, the Secretary shall, not later than 2
15 months before the date on which the individual be-
16 comes eligible, mail to the individual the notice of
17 eligibility described in paragraph (1).

18 “(d) SECRETARY’S MATERIALS; CONTENTS.—The
19 notice and informational materials mailed by the Secretary
20 under subsection (c) shall be written and formatted in the
21 most easily understandable manner possible, and shall in-
22 clude, at a minimum, the following:

23 “(1) GENERAL INFORMATION.—General infor-
24 mation with respect to coverage under this part dur-
25 ing the next calendar year, including—

1 “(A) the part B premium rates that will be
2 charged for part B coverage,

3 “(B) the deductible, copayment, and coin-
4 surance amounts for coverage under the tradi-
5 tional medicare program,

6 “(C) a description of the coverage under
7 the traditional medicare program and any
8 changes in coverage under the program from
9 the prior year,

10 “(D) a description of the individual’s medi-
11 care payment area, and the standardized medi-
12 care payment amount available with respect to
13 such individual,

14 “(E) information and instructions on how
15 to enroll in a medicare choice plan,

16 “(F) the right of each medicare choice
17 plan sponsor by law to terminate or refuse to
18 renew its contract and the effect the termi-
19 nation or nonrenewal of its contract may have
20 on individuals enrolled with the medicare choice
21 plan under this part, and

22 “(G) to the extent available, quality indica-
23 tors for the traditional medicare program and
24 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

1 payment for services furnished to the enrollees
2 by other than the plan’s participating providers,

3 “(D) out-of-area coverage provided by the
4 plan,

5 “(E) coverage of emergency services and
6 urgently needed care,

7 “(F) appeal rights of enrollees, including
8 the right to address grievances to the Secretary
9 or the applicable external review entity,

10 “(G) whether the plan is out-of-compliance
11 with any requirements of this part (as deter-
12 mined by the Secretary),

13 “(H) the plan’s premium price submitted
14 under section 1895N(a)(1) and an indication of
15 the difference between such premium price and
16 the standardized medicare payment amount,
17 and

18 “(I) optional supplemental coverage avail-
19 able from the plan, including—

20 “(i) the supplemental items and serv-
21 ices covered, and

22 “(ii) the premium price for the op-
23 tional supplemental benefits.

24 “(e) ASSISTANCE.—

1 “(1) AGREEMENTS WITH COMMISSIONER OF SO-
2 CIAL SECURITY.—In order to promote the efficient
3 administration of this section and this part, the Sec-
4 retary may enter into an agreement with the Com-
5 missioner of Social Security under which the Com-
6 missioner performs administrative responsibilities re-
7 lating to enrollment and disenrollment under this
8 section.

9 “(2) USE OF NON-FEDERAL ENTITIES.—The
10 Secretary shall, to the maximum extent feasible,
11 enter into contracts with appropriate non-Federal
12 entities to carry out activities under subsection (d).

13 “(3) PLANS.—Each medicare choice plan spon-
14 sor shall provide such information as the Secretary
15 requests with respect to a medicare choice plan in
16 order to carry out activities under subsection (d).

17 **“SEC. 1895D. EFFECT OF ENROLLMENT.**

18 “(a) PREMIUM DIFFERENTIALS.—If a medicare
19 choice eligible individual enrolls in a medicare choice plan,
20 the individual—

21 “(1) shall receive a rebate in the amount deter-
22 mined under section 1895N(b) if the plan’s premium
23 is less than the standardized medicare payment
24 amount; and

1 “(2) shall be required to pay the plan’s pre-
2 mium in excess of the standardized medicare pay-
3 ment amount.

4 “(b) PERIOD OF ENROLLMENT.—

5 “(1) ANNUAL ENROLLMENT PERIOD.—An indi-
6 vidual enrolling in a medicare choice plan during the
7 annual open enrollment period under section
8 1895G(b)(1) shall be enrolled in the plan for the cal-
9 endar year following the open enrollment period.

10 “(2) SPECIAL ENROLLMENT PERIODS.—An in-
11 dividual enrolling in a plan under section
12 1895G(b)(2) shall be enrolled in the plan for the
13 portion of the calender year on and after the date
14 on which the enrollment becomes effective (as speci-
15 fied by the Secretary).

16 “(3) TERMINATIONS.—

17 “(A) IN GENERAL.—Except as otherwise
18 provided in this subsection, an individual may
19 not terminate enrollment in a medicare choice
20 plan before the next annual open enrollment pe-
21 riod applicable to the individual.

22 “(B) QUALIFYING EVENTS.—Notwith-
23 standing subparagraph (A), an individual may
24 terminate enrollment in a medicare choice plan
25 if—

1 “(i) the individual moves to a new
2 medicare service area, or

3 “(ii) the individual has experienced a
4 qualifying event (as determined by the Sec-
5 retary).

6 “(C) FOR CAUSE.—Notwithstanding sub-
7 paragraph (A), an individual may terminate en-
8 rollment in a medicare choice plan if the plan
9 fails to meet quality or capacity standards or
10 for other cause as determined by the Secretary.

11 “(D) TERMINATION AFTER INITIAL EN-
12 ROLLMENT.—An individual may terminate en-
13 rollment in a medicare choice plan within 90
14 days of the individual’s initial enrollment in
15 such medicare choice plan and enroll in another
16 medicare choice plan or the traditional medicare
17 program.

18 “(4) SEAMLESS ENROLLMENT.—If a medicare
19 choice eligible individual is enrolled in a medicare
20 choice plan under this part and such individual fails
21 to provide the Secretary with notice of the individ-
22 ual’s enrollment or disenrollment under section
23 1895C(b)(1) during any open enrollment period ap-
24 plicable to the individual, the individual shall be
25 deemed to have reenrolled in the plan.

1 “(5) SPECIAL RULES FOR HIGH DEDUCTIBLE
2 PLANS.—In the case of a high deductible plan de-
3 scribed in section 1895A(b)(1)(B)(iii) operated in
4 connection with a medicare choice account, an indi-
5 vidual may not terminate enrollment in the plan
6 (other than under paragraph (3) (B), (C), or (D))
7 without at least 12 months notice given during the
8 annual open enrollment period under section
9 1895G(b)(1).

10 “(6) SPECIAL RULES FOR UNION, TAFT-HART-
11 LEY, OR ASSOCIATION PLANS.—The Secretary shall
12 establish special enrollment rules for the enrollment
13 of individuals in medicare choice plans that are
14 union or association-sponsored health plans de-
15 scribed in section 1895A(b)(2).

16 “(c) SOLE PAYMENTS.—Subject to subsections (d)(2)
17 and (e) of section 1895H, payments under a contract to
18 a medicare choice plan under section 1895O and for re-
19 bates under section 1895N(b) shall be instead of the
20 amounts which (in the absence of the contract) would be
21 otherwise payable under the traditional medicare program
22 for items or services furnished to individuals enrolled with
23 the plan under this section.

1 **“Subpart 3—Medicare Choice Plan Requirements**

2 **“SEC. 1895G. AVAILABILITY AND ENROLLMENT.**

3 “(a) GENERAL AVAILABILITY.—

4 “(1) IN GENERAL.—Except as provided in para-
5 graph (2), each medicare choice plan sponsor shall
6 provide that each medicare choice eligible individual
7 shall be eligible to enroll under this part in a medi-
8 care choice plan of the sponsor during an enrollment
9 period applicable to such individual if the plan’s
10 medicare service area includes the geographic area
11 in which the individual resides.

12 “(2) EXCEPTIONS.—

13 “(A) ACCEPTANCE TO LIMITS OF CAPAC-
14 ITY.—Each medicare choice plan sponsor shall
15 provide that, at any time during which enroll-
16 ments are accepted, the plan sponsor will accept
17 medicare choice eligible individuals in the order
18 in which they apply for enrollment up to the
19 limits of the medicare choice plan’s capacity (as
20 determined by the Secretary) and without re-
21 strictions, except as may be authorized in regu-
22 lations. The preceding sentence shall not apply
23 if it would result in the enrollment of enrollees
24 substantially nonrepresentative, as determined
25 in accordance with regulations of the Secretary,

1 of the medicare population in the medicare
2 service area of the plan.

3 “(B) UNION, TAFT-HARTLEY, OR ASSOCIA-
4 TION HEALTH PLAN.—A medicare choice plan
5 sponsor of a union or association plan described
6 in section 1895A(b)(2) shall limit its enrollment
7 to members of the sponsoring group who are
8 entitled to all rights and privileges of any other
9 members of the group and spouses of such
10 members. An association plan which is spon-
11 sored by a religious fraternal benefit society
12 may limit membership to individuals who share
13 the same religious convictions as the society.

14 “(b) ENROLLMENT PERIODS.—

15 “(1) ANNUAL OPEN ENROLLMENT PERIOD.—
16 Each medicare choice plan sponsor shall offer an an-
17 nual open enrollment period in November of each
18 year for the enrollment and termination of enroll-
19 ment of medicare choice eligible individuals for the
20 next year.

21 “(2) ADDITIONAL PERIODS.—Each medicare
22 choice plan sponsor shall accept the enrollment of an
23 individual in the medicare choice plan—

24 “(A) during the initial medicare enrollment
25 period specified by section 1837 that applies to

1 the individual (effective as specified by section
2 1838), and

3 “(B) during the period specified by the
4 Secretary following any termination of the en-
5 rollment of the individual in a medicare choice
6 plan under subparagraph (B), (C), or (D) of
7 section 1895D(b)(3).

8 “(c) PLAN PARTICIPATION IN ENROLLMENT PROC-
9 ESS.—

10 “(1) IN GENERAL.—In addition to any informa-
11 tional materials distributed by the Secretary under
12 section 1895C(c), a medicare choice plan sponsor
13 may develop and distribute marketing materials and
14 engage in marketing strategies in accordance with
15 this subsection.

16 “(2) PLAN MARKETING AND ADVERTISING
17 STANDARDS.—Any marketing material developed or
18 distributed by a medicare choice plan sponsor and
19 any marketing strategy developed by such plan spon-
20 sor—

21 “(A) shall accurately describe differences
22 between health care coverage available under
23 the plan and the health care coverage available
24 under the traditional medicare program,

1 “(B) shall be pursued in a manner not in-
2 tended to violate the nondiscrimination require-
3 ment of section 1895J(e)(1), and

4 “(C) shall not contain false or materially
5 misleading information, and shall conform to
6 any other fair marketing and advertising stand-
7 ards and requirements applicable to such plans
8 under law.

9 “(3) PRIOR APPROVAL BY SECRETARY.—

10 “(A) IN GENERAL.—No marketing mate-
11 rials may be distributed by a medicare choice
12 plan sponsor to (or for the use of) individuals
13 eligible to enroll with the plan under this part
14 unless—

15 “(i) at least 45 days before its dis-
16 tribution, the plan has submitted the mate-
17 rial to the Secretary for review, and

18 “(ii) the Secretary has not dis-
19 approved the distribution of the material.

20 “(B) REVIEW.—The Secretary shall review
21 all marketing materials submitted under guide-
22 lines established by the Secretary and shall dis-
23 approve such material if the Secretary deter-
24 mines, in the Secretary’s discretion, that the
25 material is materially inaccurate or misleading

1 or otherwise makes a material misrepresenta-
2 tion.

3 “(C) DEEMED APPROVAL.—If marketing
4 material has been submitted under subpara-
5 graph (A) to the Secretary or a regional office
6 of the Department of Health and Human Serv-
7 ices and the Secretary or the office has not dis-
8 approved the distribution of the materials under
9 subparagraph (B) with respect to an area, the
10 Secretary is deemed not to have disapproved
11 such distribution in all areas covered by the
12 plan.

13 **“SEC. 1895H. BENEFITS PROVIDED TO INDIVIDUALS.**

14 “(a) BASIC BENEFITS.—Each medicare choice plan
15 shall provide to members enrolled under this part, through
16 providers and other persons that meet the applicable re-
17 quirements of this title and part A of title XI—

18 “(1) those items and services covered under
19 parts A and B of this title which are available to in-
20 dividuals residing in the medicare service area of the
21 plan, and

22 “(2) additional health services as the Secretary
23 may approve.

24 The Secretary shall approve any such additional health
25 care services which the plan proposes to offer to such

1 members, unless the Secretary determines that including
2 such additional services will substantially discourage en-
3 rollment by medicare choice eligible individuals with the
4 plan.

5 “(b) SUPPLEMENTAL BENEFITS.—Each medicare
6 choice plan may offer optional supplemental benefits to
7 each individual enrolled in the plan under this part for
8 an additional premium amount. If the supplemental bene-
9 fits are offered only to individuals enrolled in the sponsor’s
10 plan under this part, the additional premium amount shall
11 be the same for all enrolled individuals in the medicare
12 payment area. Such benefits may be marketed and sold
13 by the medicare choice plan sponsor outside of the enroll-
14 ment process described in section 1895D(b).

15 “(c) COST-SHARING.—

16 “(1) ENROLLEE COST-SHARING UNDER CHOICE
17 PLAN MAY NOT EXCEED MEDICARE ENROLLEE
18 COST.—Except as provided in paragraph (2), in no
19 event may the average total amount of deductibles,
20 coinsurance, and copayments charged an individual
21 under a medicare choice plan with respect to basic
22 benefits described in subsection (a)(1) for a year ex-
23 ceed the average total amount of deductibles, coin-
24 surance, and copayments charged an individual
25 under the traditional medicare program for a year.

1 “(2) HIGH DEDUCTIBLE PLANS.—Subpara-
2 graph (A) shall not apply to a high deductible plan
3 described in section 1895A(b)(1)(B)(iii).

4 “(3) DETERMINATION ON OTHER BASIS.—If the
5 Secretary determines that adequate data are not
6 available to determine the average amount under
7 paragraph (1), the Secretary may determine such
8 amount with respect to all individuals in the medi-
9 care payment area, the State, or in the United
10 States, eligible to enroll in such plan under this part
11 or on the basis of other appropriate data.

12 “(d) NATIONAL COVERAGE DETERMINATION.—If
13 there is a national coverage determination made in the pe-
14 riod beginning on the date of an announcement under sec-
15 tion 1895M(a) and ending on the date of the next an-
16 nouncement under such section and the Secretary projects
17 that the determination will result in a significant change
18 in the costs to the medicare choice plan of providing the
19 benefits that are the subject of such national coverage de-
20 termination and that such change in costs was not incor-
21 porated in the determination of the medicare payment
22 amount included in the announcement made at the begin-
23 ning of such period—

1 “(1) such determination shall not apply to con-
2 tracts under this part until the first contract year
3 that begins after the end of such period, and

4 “(2) if such coverage determination provides for
5 coverage of additional benefits or coverage under ad-
6 ditional circumstances, section 1895I(b)(2) shall not
7 apply to payment for such additional benefits or
8 benefits provided under such additional cir-
9 cumstances until the first contract year that begins
10 after the end of such period,
11 unless otherwise required by law.

12 “(e) OVERLAPPING PERIODS OF COVERAGE.—A con-
13 tract under this part shall provide that in the case of an
14 individual who is receiving inpatient hospital services from
15 a subsection (d) hospital (as defined in section
16 1886(d)(1)(B)) as of the effective date of the individ-
17 ual’s—

18 “(1) enrollment with a medicare choice plan
19 under this part—

20 “(A) payment for such services until the
21 date of the individual’s discharge shall be made
22 under this title as if the individual were not en-
23 rolled with the plan,

24 “(B) the plan sponsor shall not be finan-
25 cially responsible for payment for such services

1 until the date after the date of the individual's
2 discharge, and

3 “(C) the plan sponsor shall nonetheless be
4 paid the full amount otherwise payable to the
5 plan under this part, or

6 “(2) termination of enrollment with a medicare
7 choice plan under this part—

8 “(A) the plan sponsor shall be financially
9 responsible for payment for such services after
10 such date and until the date of the individual's
11 discharge,

12 “(B) payment for such services during the
13 stay shall not be made under section 1886(d),
14 and

15 “(C) the plan sponsor shall not receive any
16 payment with respect to the individual under
17 this part during the period the individual is not
18 enrolled.

19 “(f) ORGANIZATION AS SECONDARY PAYER.—Not-
20 withstanding any other provision of law, a medicare choice
21 plan sponsor may (in the case of the provision of services
22 to an individual under this part under circumstances in
23 which payment is made secondary pursuant to section
24 1862(b)(2)) charge or authorize the provider of such serv-
25 ices to charge, in accordance with the charges allowed

1 under the law, plan, or policy which is the primary payer
2 under such circumstances—

3 “(1) the insurance carrier, employer, or other
4 entity which under such law, plan, or policy is to pay
5 for the provision of such services, or

6 “(2) such individual to the extent that the indi-
7 vidual has been paid under such law, plan, or policy
8 for such services.

9 **“SEC. 1895I. LICENSING AND FINANCIAL REQUIREMENTS.**

10 “(a) LICENSING REQUIREMENT.—

11 “(1) IN GENERAL.—A medicare choice plan
12 sponsor shall be organized and licensed under appli-
13 cable State law as a risk-bearing entity eligible to
14 offer health insurance or health benefits coverage in
15 each State in which the medicare choice plan enrolls
16 individuals under this part.

17 “(2) EXCEPTION FOR UNION, TAFT-HARTLEY,
18 OR ASSOCIATION PLANS.—Paragraph (1) shall not
19 apply to a union or association plan described in sec-
20 tion 1895A(b)(2) if such plan is exempt from such
21 requirements under the Employee Retirement In-
22 come Security Act of 1974.

23 “(3) COORDINATED CARE PLANS.—Paragraph
24 (1) shall apply to a coordinated care plan except to
25 the extent provided in section 1895R.

1 “(b) ASSUMPTION OF FULL FINANCIAL RISK.—A
2 medicare choice plan sponsor shall assume full financial
3 risk on a prospective basis for the provision of health care
4 services for which benefits are required to be provided
5 under section 1895H(a)(1), except that such plan sponsor
6 may—

7 “(1) obtain insurance or make other arrange-
8 ments for the cost of such health care services the
9 aggregate value of which exceeds \$5,000 in any
10 year,

11 “(2) obtain insurance or make other arrange-
12 ments for the cost of such health care services pro-
13 vided to its enrolled members other than through the
14 plan sponsor because medical necessity required
15 their provision before they could be secured through
16 the plan sponsor,

17 “(3) obtain insurance or make other arrange-
18 ments for not more than 90 percent of the amount
19 by which its costs for any of its fiscal years exceed
20 115 percent of its income for such fiscal year, and

21 “(4) make arrangements with physicians or
22 other health professionals, health care institutions,
23 or any combination of such individuals or institu-
24 tions to assume all or part of the financial risk on
25 a prospective basis for the provision of basic health

1 services by the physicians or other health profes-
2 sionals or through the institutions.

3 “(c) PROTECTION AGAINST RISK OF INSOLVENCY.—

4 “(1) IN GENERAL.—A medicare choice plan
5 sponsor shall make adequate provision against the
6 risk of insolvency (including provision to prevent en-
7 rollees from being held liable to any person or entity
8 for the plan sponsor’s debts in the event of the plan
9 sponsor’s insolvency)—

10 “(A) as determined by the Secretary, or

11 “(B) as determined by a State which the
12 Secretary determines requires solvency stand-
13 ards at least as stringent as the standards
14 under subparagraph (A).

15 “(2) FACTORS TO CONSIDER.—In establishing
16 standards under paragraph (1) for coordinated care
17 plans described in section 1895A(b)(1)(B)(ii), the
18 Secretary shall consult with interested parties and
19 shall take into account—

20 “(A) a coordinated care plan sponsor’s de-
21 livery system assets and its ability to provide
22 services directly to enrollees through affiliated
23 providers, and

24 “(B) alternative means of protecting
25 against insolvency, including reinsurance, unre-

1 stricted surplus, letters of credit, guarantees,
2 organizational insurance coverage, and partner-
3 ships with other licensed entities.

4 The Secretary is not required to include alternative
5 means described in subparagraph (B) in the stand-
6 ards but may consider such alternatives where con-
7 sistent with the standards.

8 “(d) PAYMENTS TO THE PLAN.—

9 “(1) PREPAID PAYMENT.—A medicare choice
10 plan sponsor shall be compensated (except for
11 deductibles, coinsurance, and copayments) for the
12 provision of health care services to individuals en-
13 rolled under this part by a payment by the Secretary
14 (and if applicable, the individual) which is paid on
15 a periodic basis without regard to the date the
16 health care services are provided and which is fixed
17 without regard to the frequency, extent, or kind of
18 health care service actually provided to a member.

19 “(2) SOLE PAYMENTS.—Subject to subsections
20 (d)(2) and (e) of section 1895H, if an individual is
21 enrolled under this part with a medicare choice plan,
22 only the plan sponsor shall be entitled to receive
23 payments from the Secretary under this title for
24 services furnished to the individual.

1 **“SEC. 1895J. HEALTH PLAN STANDARDS.**

2 “(a) IN GENERAL.—Each medicare choice plan spon-
3 sor shall meet the requirements of this section.

4 “(b) QUALITY ASSURANCE AND ACCREDITATION.—

5 “(1) INTERNAL REVIEW.—

6 “(A) IN GENERAL.—Each medicare choice
7 plan sponsor must establish an ongoing quality
8 assurance program (in accordance with regula-
9 tions established by the Secretary) for health
10 care services it provides to such individuals.

11 “(B) ELEMENTS OF PROGRAM.—The qual-
12 ity assurance program established under sub-
13 paragraph (A) shall—

14 “(i) stress health outcomes,

15 “(ii) provide for the establishment of
16 written protocols for utilization review,
17 based on current standards of medical
18 practice,

19 “(iii) provide review by physicians and
20 other health care professionals of the proc-
21 ess followed in the provision of such health
22 care services,

23 “(iv) monitor and evaluate high-vol-
24 ume and high-risk services and the care of
25 acute and chronic conditions,

1 “(v) evaluate the continuity and co-
2 ordination of care that enrollees receive,

3 “(vi) have mechanisms to detect both
4 underutilization and overutilization of serv-
5 ices,

6 “(vii) after identifying areas for im-
7 provement, establish or alter practice pa-
8 rameters,

9 “(viii) take action to improve quality
10 and assess the effectiveness of such action
11 through systematic followup,

12 “(ix) make available information on
13 quality and outcomes measures to facilitate
14 beneficiary comparison and choice of
15 health coverage options (in such form and
16 on such quality and outcomes measures as
17 the Secretary determines to be appro-
18 priate), and

19 “(x) provide that the program is eval-
20 uated on an ongoing basis as to its effec-
21 tiveness.

22 “(2) EXTERNAL REVIEW.—

23 “(A) IN GENERAL.—Each medicare choice
24 plan sponsor shall, for each medicare choice
25 plan it operates, have an agreement with an

1 independent quality review and improvement or-
2 ganization approved by the Secretary.

3 “(B) FUNCTIONS OF ORGANIZATION.—

4 Each independent quality review and improve-
5 ment organization with an agreement under
6 subparagraph (A) shall—

7 “(i) provide an alternative mechanism
8 for addressing enrollee grievances,

9 “(ii) review plan performance based
10 on accepted quality performance criteria,

11 “(iii) promote and make plans ac-
12 countable for improved plan performance,

13 “(iv) integrate into ongoing external
14 quality assurance activities a new set of
15 quality indicators and standards developed
16 specifically for the medicare population
17 that would be used to determine whether a
18 plan is providing quality care and appro-
19 priate continuity and coordination of care,
20 and

21 “(v) report to the Secretary on those
22 plans that have demonstrated unwilling-
23 ness or inability to improve their perform-
24 ance.

1 “(3) ACCREDITATION.—Each medicare choice
2 plan sponsor shall be required—

3 “(A) to meet accreditation standards es-
4 tablished by the Secretary, or

5 “(B) to be accredited by an external inde-
6 pendent accrediting organization, recognized by
7 the Secretary as requiring standards at least as
8 stringent as the standards established under
9 subparagraph (A).

10 “(4) ENCOUNTER DATA.—The Secretary shall
11 create incentives for medicare choice plan sponsors
12 to report aggregate encounter data, including data
13 on physician visits, nursing home days, home health
14 days, hospital inpatient days, and rehabilitation
15 services.

16 “(c) ACCESS.—Each medicare choice plan sponsor
17 shall—

18 “(1) make the services described in section
19 1895H(a) (and such other health care services as
20 such individuals have contracted for)—

21 “(A) available and accessible to each such
22 individual, within the medicare service area of
23 the plan, with reasonable promptness, and in a
24 manner which assures continuity, and

1 “(B) when medically necessary, available
2 and accessible 24 hours a day and 7 days a
3 week,

4 “(2) provide for reimbursement with respect to
5 such services which are provided to such an individ-
6 ual other than through the plan’s providers, if—

7 “(A) the services were medically necessary
8 and immediately required because of an unfore-
9 seen illness, injury, or condition, and

10 “(B) it was not reasonable given the cir-
11 cumstances to obtain the services through the
12 plan’s providers,

13 “(3) provide access to appropriate providers, in-
14 cluding credentialed specialists, for all medically nec-
15 essary treatment and services, and

16 “(4) except as provided by the Secretary on a
17 case-by-case basis, in the case of a coordinated care
18 plan described in section 1895A(b)(1)(B)(ii), provide
19 primary care services within 30 minutes or 30 miles
20 from an enrollee’s place of residence if the enrollee
21 resides in a rural area.

22 “(d) CAPACITY.—Each medicare choice plan sponsor
23 shall provide the Secretary with a demonstration of the
24 plan’s capacity to adequately service the plan’s expected
25 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

1 than he believes he is required to pay is enti-
2 tled, if the amount in controversy is \$100 or
3 more, to a hearing before the Secretary to the
4 same extent as is provided in section 205(b),
5 and in any such hearing the Secretary shall
6 make the plan sponsor a party. If the amount
7 in controversy is \$1,000 or more, the individual
8 or plan sponsor shall, upon notifying the other
9 party, be entitled to judicial review of the Sec-
10 retary's final decision as provided in section
11 205(g), and both the individual and the plan
12 sponsor shall be entitled to be parties to that
13 judicial review. In applying sections 205(b) and
14 205(g) as provided in this subparagraph, and in
15 applying section 205(l) thereto, any reference
16 therein to the Commissioner of Social Security
17 or the Social Security Administration shall be
18 considered a reference to the Secretary or the
19 Department of Health and Human Services, re-
20 spectively.

21 “(C) EXPEDITED REVIEW.—The Secretary
22 shall provide an expedited review procedure
23 under subparagraph (B) where a failure to re-
24 ceive any health care service or payment for
25 such service would result in significant harm.

1 “(3) SUPPLEMENTAL COVERAGE IF PLAN TER-
2 MINATES THE CONTRACT.—Each medicare choice
3 plan sponsor that provides items and services pursu-
4 ant to a contract under this part shall provide assur-
5 ances to the Secretary that in the event the contract
6 is terminated, the sponsor shall provide or arrange
7 for supplemental coverage of benefits under this title
8 related to a preexisting condition with respect to any
9 exclusion period, to all individuals enrolled with the
10 entity who receive benefits under this title, for the
11 lesser of 6 months or the duration of such period.

12 “(f) PROMPT PAYMENT.—

13 “(1) IN GENERAL.—Each medicare choice plan
14 sponsor shall provide prompt payment (consistent
15 with the provisions of sections 1816(c)(2) and
16 1842(e)(2)) of claims submitted for services and
17 supplies furnished to individuals pursuant to such
18 contract, if the services or supplies are not furnished
19 under a contract between the plan and the provider
20 or supplier.

21 “(2) DIRECT PAYMENT.—In the case of a medi-
22 care choice plan sponsor which the Secretary deter-
23 mines, after notice and opportunity for a hearing,
24 has failed to make payments of amounts in compli-
25 ance with paragraph (1), the Secretary may provide

1 for direct payment of the amounts owed to providers
2 and suppliers for such covered services furnished to
3 individuals enrolled under this part under the con-
4 tract. If the Secretary provides for such direct pay-
5 ments, the Secretary shall provide for an appropriate
6 reduction in the amount of payments otherwise
7 made to the plan sponsor under this part to reflect
8 the amount of the Secretary's payments (and costs
9 incurred by the Secretary in making such pay-
10 ments).

11 “(g) ADVANCE DIRECTIVES.—A contract under this
12 part shall provide that a medicare choice plan sponsor
13 shall meet the requirement of section 1866(f) (relating to
14 maintaining written policies and procedures respecting ad-
15 vance directives).

16 **“Subpart 4—Determination of Medicare Payment**
17 **Amounts and Rebates**

18 **“SEC. 1895M. MEDICARE PAYMENT AMOUNTS.**

19 “(a) IN GENERAL.—Not later than July 31 of each
20 calendar year (beginning with 1996), the Secretary shall
21 determine, and announce in a manner intended to provide
22 notice to interested parties, a standardized medicare pay-
23 ment amount determined in accordance with this section
24 for the following calendar year for each medicare payment
25 area.

1 “(b) CALCULATION OF STANDARDIZED MEDICARE
2 PAYMENT AMOUNTS.—For purposes of this part—

3 “(1) 1997.—

4 “(A) IN GENERAL.—The standardized
5 medicare payment amount for calendar year
6 1997 for a medicare payment area shall be
7 equal to the sum of—

8 “(i) 50 percent of the modified per
9 capita rate for calendar year 1996, and

10 “(ii) 50 percent of the adjusted aver-
11 age national per capita rate for calendar
12 year 1996,

13 increased by the percentage increase in the
14 gross domestic product per capita for the 12-
15 month period ending on June 30, 1996.

16 “(B) MODIFIED PER CAPITA RATE.—For
17 purposes of subparagraph (A)(i), the modified
18 per capita rate for calendar year 1996 for a
19 medicare payment area shall be equal to the per
20 capita rate which would have been determined
21 (without regard to class) under section
22 1876(a)(1)(C) for 1995 if—

23 “(i) the applicable geographic area
24 were the medicare payment area, and

1 “(ii) 50 percent of any payments at-
2 tributable to sections 1886(d)(5)(B),
3 1886(h), and 1886(d)(5)(F) (relating to
4 IME, GME, and DSH payments) were not
5 taken into account,

6 increased by the percentage increase which the
7 Secretary estimates will occur in medicare ex-
8 penditures per capita for 1996 over medicare
9 expenditures per capita for 1995.

10 “(C) ADJUSTED AVERAGE NATIONAL PER
11 CAPITA RATE.—

12 “(i) IN GENERAL.—For purposes of
13 subparagraph (A)(ii), the adjusted average
14 national per capita rate for a medicare
15 payment area for calendar year 1996 shall
16 be equal to the sum, for all types of medi-
17 care services (as classified by the Sec-
18 retary), of the product for each such type
19 of—

20 “(I) the average national per
21 capita rate for 1996,

22 “(II) the proportion of such rate
23 for the year which is attributable to
24 such type of services, and

1 “(III) an index that reflects for
2 1996 and that type of service the rel-
3 ative input price of such services in
4 the medicare payment area as com-
5 pared to the national average input
6 price of such services.

7 In applying subclause (III), the Secretary
8 shall apply those indices that are used in
9 applying (or updating) medicare payment
10 rates for specific areas and localities.

11 “(ii) AVERAGE NATIONAL PER CAPITA
12 RATE.—For purposes of clause (i), the av-
13 erage national per capita rate for 1996 is
14 the weighted average of the modified per
15 capita rates determined under subpara-
16 graph (B) for all medicare payment areas
17 for 1996.

18 “(2) SUCCEEDING YEARS.—

19 “(A) IN GENERAL.—The standardized
20 medicare payment amount for any calendar
21 year after 1997 in a medicare payment area
22 shall be an amount equal to the standardized
23 medicare payment amount determined for such
24 area for the preceding year, increased by the
25 percentage increase in the gross domestic prod-

1 uct per capita for the 12-month period ending
2 on June 30 of the preceding calendar year.

3 “(B) SPECIAL RULE FOR 1998.—In apply-
4 ing subparagraph (A) for 1998, the standard-
5 ized medicare payment amount for the preced-
6 ing calendar year shall be the amount which
7 would have been determined if clause (ii) of
8 paragraph (1)(B) had been applied by sub-
9 stituting ‘100 percent’ for ‘50 percent’.

10 “(3) SPECIAL RULE FOR INDIVIDUALS WITH
11 END-STAGE RENAL DISEASE.—In computing the
12 standardized medicare payment amount for any
13 medicare payment area, there shall not be taken into
14 account any individuals with end-stage renal disease
15 or any medicare expenditures for such individuals.

16 “(c) ADJUSTMENTS FOR PAYMENTS TO PLAN SPON-
17 SORS.—

18 “(1) IN GENERAL.—The rate of payment under
19 section 1895O to a medicare choice plan sponsor
20 with respect to any individual enrolled in a medicare
21 choice plan of the sponsor shall be equal to the
22 standardized medicare payment amount for the med-
23 icare payment area, adjusted for such risk factors as
24 age, disability status, gender, institutional status,
25 health status, and such other factors as the Sec-

1 retary determines to be appropriate, so as to ensure
2 actuarial equivalence. The Secretary may add to,
3 modify, or substitute for such classes, if such
4 changes will improve the determination of actuarial
5 equivalence.

6 “(2) SPECIAL RULE FOR END-STAGE RENAL
7 DISEASE.—The Secretary shall establish a separate
8 rate of payment under section 1895O to a medicare
9 choice plan sponsor with respect to any individual
10 with end-stage renal disease enrolled in a medicare
11 choice plan of the sponsor. Such rate of payment
12 shall be actuarially equivalent to rates paid to other
13 enrollees in the medicare payment area (or such
14 other area as specified by the Secretary).

15 “(d) GEOGRAPHICAL ADJUSTMENTS.—

16 “(1) ANNUAL ADJUSTMENTS.—

17 “(A) IN GENERAL.—Unless Congress pro-
18 vides otherwise, beginning with calendar years
19 after 1999, the Secretary shall, based on the
20 analysis under paragraph (2) and to the extent
21 the Secretary determines necessary, make an-
22 nual differential adjustments to the standard-
23 ized medicare payment amounts determined
24 under subsection (b)(2) for calendar years 2000
25 and 2001 in a manner designed to achieve ap-

1 appropriate and equitable variation in standard-
2 ized medicare payment amounts across medi-
3 care payment areas by calendar year 2002.
4 Such variation shall be reasonably related to
5 measurable geographic differences in medicare
6 payment areas.

7 “(B) BUDGET NEUTRALITY.—The Sec-
8 retary shall adjust the standardized medicare
9 payment amounts under subsection (b) in a
10 manner that ensures that total payments under
11 this section for a year are not greater or less
12 than total payments under this section would
13 have been but for the application of subpara-
14 graph (A).

15 “(2) ANALYSIS.—The Secretary, in consultation
16 with interested parties, shall conduct an analysis of
17 the measurable input cost differences across medi-
18 care payment areas, including wage differentials,
19 and other measurable variables identified by the Sec-
20 retary. The Secretary shall also determine the de-
21 gree to which medicare beneficiaries, including bene-
22 ficiaries in rural and underserved areas, have access
23 to more health plan choices by calendar year 2000
24 under this part, and the extent to which standard-

1 ized medicare payment amounts have limited or en-
2 hanced such choices.

3 “(3) REPORT TO CONGRESS.—Not later than
4 March 1, 1999, the Secretary shall submit a report
5 to the appropriate committees of Congress that in-
6 cludes the results of the analysis described in para-
7 graph (2) and the annual differential adjustments
8 that the Secretary intends to implement under para-
9 graph (1) for calendar years 2000 and 2001.

10 “(e) NOTICE IN CHANGES TO BENEFIT ASSUMP-
11 TIONS.—

12 “(1) IN GENERAL.—At least 45 days before
13 making the announcement under subsection (a) for
14 a year (beginning with the announcement for 1998),
15 the Secretary shall provide for notice to medicare
16 choice plans of proposed changes to be made in the
17 methodology or benefit coverage assumptions from
18 the methodology and assumptions used in the pre-
19 vious announcement and shall provide such plans an
20 opportunity to comment on such proposed changes.

21 “(2) EXPLANATION.—In each announcement
22 made under subsection (a) for a year (beginning
23 with the announcement for 1998), the Secretary
24 shall include an explanation of the assumptions (in-
25 cluding any benefit coverage assumptions) and

1 changes in methodology used in the announcement
2 in sufficient detail so that medicare choice plans can
3 compute medicare payment rates under subsection
4 (d) for classes of individuals located in each medi-
5 care payment area which is in whole or in part with-
6 in the medicare service area of such a plan.

7 “(f) DEMONSTRATION PROJECT ON MARKET-BASED
8 REIMBURSEMENT AND COMPETITIVE PRICING.—The Sec-
9 retary shall establish 1 or more demonstration projects to
10 determine the standardized medicare payment amounts
11 described in subsection (b) through competitive bidding by
12 medicare choice plans in a medicare payment area. Not
13 later than December 31, 2001, the Secretary shall submit
14 a report to the Congress on the success of such projects
15 in determining standardized medicare payment amounts
16 that are reflective of market price.

17 **“SEC. 1895N. PREMIUMS AND REBATES.**

18 “(a) SUBMISSION AND CHARGING OF PREMIUMS.—

19 “(1) IN GENERAL.—Each medicare choice plan
20 sponsor shall file with the Secretary each year, in a
21 form and manner and at a time specified by the Sec-
22 retary, the amount of the monthly premium for cov-
23 erage under each medicare choice plan it offers
24 under this part in each medicare payment area in
25 which the plan is being offered.

1 “(2) UNIFORM PREMIUM.—The premiums
2 charged by a medicare choice plan sponsor under
3 this part may not vary among individuals who reside
4 in the same medicare payment area.

5 “(3) TERMS AND CONDITIONS OF IMPOSING
6 PREMIUMS.—Each medicare choice plan sponsor
7 shall permit the payment of monthly premiums on a
8 monthly basis.

9 “(b) REBATES.—

10 “(1) IN GENERAL.—If the standardized medi-
11 care payment amount for the medicare payment
12 area in which an individual resides exceeds the
13 amount of the monthly premium for the plan in
14 which the individual is enrolled (as submitted under
15 subsection (a)(1)), the Secretary shall—

16 “(A) in the case of an individual—

17 “(i) who is enrolled in a high deduct-
18 ible health plan described in section
19 1895A(b)(1)(B)(iii), deposit 100 percent of
20 such excess in the medicare choice account
21 specified by the individual, or

22 “(ii) who is not so enrolled but who
23 elects the application of this clause, deposit
24 100 percent of such excess in the medicare

1 choice account specified by the individual;

2 or

3 “(B)(i) pay to the medicare choice plan
4 sponsor on behalf of such individual the month-
5 ly amount equal to 100 percent of such excess
6 up to the amount of the premium amount of
7 such individual for supplemental benefits de-
8 scribed in section 1895H(b),

9 “(ii) pay to such individual an amount
10 equal to 75 percent of the remainder of such
11 excess, and

12 “(iii) deposit the remainder of such excess
13 in the Federal Hospital Insurance Trust Fund.

14 “(2) TIME FOR PAYMENT.—

15 “(A) IN GENERAL.—A rebate under para-
16 graph (1)(B)(ii) shall be paid as of the close of
17 the calendar year to which the enrollment ap-
18 plied.

19 “(B) DEPOSITS IN MEDICARE CHOICE AC-
20 COUNTS.—Deposits described in paragraph
21 (1)(A) shall be made on a monthly basis.

22 “(C) OTHER PAYMENTS AND DEPOSITS.—
23 Payments and deposits described in subpara-
24 graphs (B)(i) and (iii) shall be made on a
25 monthly basis.

1 “(3) SOURCE OF REBATES.—Deposits and pay-
2 ments described in paragraph (1) shall be made in
3 the same manner as payments are made under sec-
4 tion 1895O(b).

5 **“SEC. 1895O. PAYMENTS TO PLAN SPONSORS.**

6 “(a) MONTHLY PAYMENTS.—

7 “(1) IN GENERAL.—For each individual en-
8 rolled with a plan under this part, the Secretary
9 shall make monthly payments in advance to the
10 medicare choice plan sponsor of the medicare choice
11 plan with which the individual is enrolled in an
12 amount equal to the medicare payment rate deter-
13 mined with respect to such individual under section
14 1895M(c).

15 “(2) RETROACTIVE ADJUSTMENTS.—The
16 amount of payment under this paragraph may be
17 retroactively adjusted to take into account any dif-
18 ference between the actual number of individuals en-
19 rolled in the plan under this section and the number
20 of such individuals estimated to be so enrolled in de-
21 termining the amount of the advance payment.

22 “(b) PAYMENTS FROM TRUST FUNDS.—The pay-
23 ment to a medicare choice plan sponsor under this section
24 for a medicare-eligible individual shall be made from the
25 Federal Hospital Insurance Trust Fund and the Federal

1 Supplementary Medical Insurance Trust Fund in such
2 proportion as the Secretary determines reflects the relative
3 weight that benefits under parts A and B are representa-
4 tive of the actuarial value of the total benefits under this
5 part.

6 **“Subpart 5—Contractual Authority; Temporary**
7 **Certification; Regulations**

8 **“SEC. 1895P. GENERAL PERMISSION TO CONTRACT.**

9 “The Secretary shall enter into a contract with any
10 medicare choice plan sponsor in a medicare payment area
11 if the requirements of this part are met with respect to
12 the medicare choice plan and the plan sponsor.

13 **“SEC. 1895Q. RENEWAL AND TERMINATION OF CONTRACT.**

14 “(a) IN GENERAL.—Except as provided in subsection
15 (b), each contract under this part may be made automati-
16 cally renewable from term to term in the absence of notice
17 by either party of intention to terminate at the end of the
18 current term.

19 “(b) TERMINATION FOR CAUSE.—

20 “(1) IN GENERAL.—In accordance with proce-
21 dures established under paragraph (2), the Secretary
22 may terminate any contact with a medicare choice
23 plan sponsor at any time or may impose the inter-
24 mediate sanctions described in paragraph (2) or (3)
25 or subsection (f) (whichever is applicable) on the

1 plan sponsor, if the Secretary finds that the plan
2 sponsor—

3 “(A) has failed substantially to carry out
4 the contract,

5 “(B) is carrying out the contract in a man-
6 ner substantially inconsistent with the efficient
7 and effective administration of this part, or

8 “(C) no longer substantially meets the ap-
9 plicable conditions of this part.

10 “(2) PROCEDURES.—The Secretary may termi-
11 nate a contract with a medicare choice plan sponsor
12 under this part or may impose the intermediate
13 sanctions described in subsection (f)(3) on the plan
14 in accordance with formal investigation and compli-
15 ance procedures established by the Secretary under
16 which—

17 “(A) the Secretary first provides the medi-
18 care choice plan sponsor with the reasonable
19 opportunity to develop and implement a correc-
20 tive action plan to correct the deficiencies that
21 were the basis of the Secretary’s determination
22 under paragraph (1) and the medicare choice
23 plan sponsor fails to develop or implement such
24 a corrective action plan,

1 “(B) in deciding whether to impose sanc-
2 tions, the Secretary considers aggravating fac-
3 tors such as whether a plan sponsor has a his-
4 tory of deficiencies or has not taken action to
5 correct deficiencies the Secretary has brought
6 to the plan sponsor’s attention,

7 “(C) there are no unreasonable or unneces-
8 sary delays between the finding of a deficiency
9 and the imposition of sanctions, and

10 “(D) the Secretary provides the plan spon-
11 sor with reasonable notice and opportunity for
12 hearing (including the right to appeal an initial
13 decision) before imposing any sanction or termi-
14 nating the contract.

15 “(c) TERMS OF CONTRACT.—Each contract under
16 this part—

17 “(1) shall provide that the Secretary, or any
18 person or organization designated by the Sec-
19 retary—

20 “(A) shall have the right to inspect or oth-
21 erwise evaluate—

22 “(i) the quality, appropriateness, and
23 timeliness of services performed under the
24 contract, and

1 “(ii) the facilities of the plan sponsor
2 when there is reasonable evidence of some
3 need for such inspection,

4 “(B) shall have the right to audit and in-
5 spect any books and records of the plan sponsor
6 that pertain—

7 “(i) to the ability of the plan sponsor
8 to bear the risk of potential financial
9 losses, and

10 “(ii) shall require the plan sponsor
11 with a contract to provide (and pay for)
12 written notice in advance of the contract’s
13 termination, as well as a description of al-
14 ternatives for obtaining benefits under this
15 title, to each individual enrolled under this
16 part with the plan sponsor,

17 “(C)(i) except as provided by the Sec-
18 retary, shall require the plan sponsor to comply
19 with requirements similar to the requirements
20 of subsections (a) and (c) of section 1318 of the
21 Public Health Service Act (relating to dislo-
22 sure of certain financial information) and sec-
23 tion 1301(c)(8) of such Act (relating to liability
24 arrangements to protect members),

1 “(ii) shall require the plan sponsor to pro-
2 vide and supply information (described in sec-
3 tion 1866(b)(2)(C)(ii)) in the manner such in-
4 formation is required to be provided or supplied
5 under that section, and

6 “(iii) shall require the plan sponsor to no-
7 tify the Secretary of loans and other special fi-
8 nancial arrangements which are made between
9 the plan sponsor and subcontractors, affiliates,
10 and related parties, and

11 “(D) shall contain such other terms and
12 conditions not inconsistent with this part (in-
13 cluding requiring the plan sponsor to provide
14 the Secretary with such information) as the
15 Secretary may find necessary and appropriate.

16 “(d) 5-YEAR LOCKOUT.—The Secretary may not
17 enter into a contract under this part with a medicare
18 choice plan sponsor if a previous contract with that plan
19 sponsor under this part was terminated at the request of
20 the plan sponsor within the preceding 5-year period, ex-
21 cept in circumstances which warrant special consideration,
22 as determined by the Secretary.

23 “(e) APPLICATION OF OTHER FEDERAL LAWS.—The
24 authority vested in the Secretary by this part may be per-
25 formed without regard to such provisions of law or regula-

1 tions relating to the making, performance, amendment, or
2 modification of contracts of the United States as the Sec-
3 retary may determine to be inconsistent with the further-
4 ance of the purpose of this title.

5 “(f) REMEDIES FOR FAILURE TO COMPLY.—

6 “(1) FAILURE OF PLAN SPONSOR TO COMPLY
7 WITH CONTRACT.—If the Secretary determines that
8 a medicare choice plan sponsor—

9 “(A) fails substantially to provide medi-
10 cally necessary items and services that are re-
11 quired (under law or under the contract) to be
12 provided to an individual covered under the con-
13 tract, and the failure has adversely affected (or
14 has substantial likelihood of adversely affecting)
15 the individual,

16 “(B) imposes cost sharing on individuals
17 enrolled under this part in excess of the cost
18 sharing permitted,

19 “(C) acts to expel or to refuse to re-enroll
20 an individual in violation of the provisions of
21 this part,

22 “(D) engages in any practice that would
23 reasonably be expected to have the effect of de-
24 nying or discouraging enrollment (except as
25 permitted by this part) by eligible individuals

1 with the plan whose medical condition or his-
2 tory indicates a need for substantial future
3 medical services,

4 “(E) misrepresents or falsifies information
5 that is furnished—

6 “(i) to the Secretary under this sec-
7 tion, or

8 “(ii) to an individual or to any other
9 entity under this section,

10 “(F) fails to comply with the requirements
11 of section 1895J(f), or

12 “(G) employs or contracts with any indi-
13 vidual or entity that is excluded from participa-
14 tion under this title under section 1128 or
15 1128A for the provision of health care, utiliza-
16 tion review, medical social work, or administra-
17 tive services or employs or contracts with any
18 entity for the provision (directly or indirectly)
19 through such an excluded individual or entity of
20 such services,

21 the Secretary may provide, in addition to any other
22 remedies authorized by law, for any of the remedies
23 described in paragraph (2).

24 “(2) REMEDIES.—The remedies described in
25 this paragraph are—

1 “(A) civil money penalties of not more
2 than \$25,000 for each determination under
3 paragraph (1) or, with respect to a determina-
4 tion under subparagraph (D) or (E)(i) of such
5 paragraph, of not more than \$100,000 for each
6 such determination, plus, with respect to a de-
7 termination under paragraph (1)(B), double the
8 excess amount charged in violation of such sub-
9 paragraph (and the excess amount charged
10 shall be deducted from the penalty and returned
11 to the individual concerned), and plus, with re-
12 spect to a determination under paragraph
13 (1)(D), \$15,000 for each individual not enrolled
14 as a result of the practice involved,

15 “(B) suspension of enrollment of individ-
16 uals under this section after the date the Sec-
17 retary notifies the plan sponsor of a determina-
18 tion under paragraph (1) and until the Sec-
19 retary is satisfied that the basis for such deter-
20 mination has been corrected and is not likely to
21 recur, or

22 “(C) suspension of payment to the plan
23 sponsor under this section for individuals en-
24 rolled after the date the Secretary notifies the
25 plan sponsor of a determination under para-

1 graph (1) and until the Secretary is satisfied
2 that the basis for such determination has been
3 corrected and is not likely to recur.

4 “(3) INTERMEDIATE SANCTIONS.—In the case
5 of a medicare choice plan sponsor for which the Sec-
6 retary makes a determination under subsection
7 (b)(1) the basis of which is not described in subpara-
8 graph (A) thereof, the Secretary may apply the fol-
9 lowing intermediate sanctions:

10 “(A) Civil money penalties of not more
11 than \$25,000 for each determination under
12 subsection (b)(1) if the deficiency that is the
13 basis of the determination has directly adversely
14 affected (or has the substantial likelihood of ad-
15 versely affecting) an individual covered under
16 the plan’s contract.

17 “(B) Civil money penalties of not more
18 than \$10,000 for each week beginning after the
19 initiation of procedures by the Secretary under
20 subsection (b)(2) during which the deficiency
21 that is the basis of a determination under sub-
22 section (b)(1) exists.

23 “(C) Suspension of enrollment of individ-
24 uals under this section after the date the Sec-
25 retary notifies the plan sponsor of a determina-

1 tion under subsection (b)(1) and until the Sec-
2 retary is satisfied that the deficiency that is the
3 basis for the determination has been corrected
4 and is not likely to recur.

5 “(4) PROCEEDINGS.—The provisions of section
6 1128A (other than subsections (a) and (b)) shall
7 apply to a civil money penalty under paragraph
8 (2)(A) or (3)(A) in the same manner as they apply
9 to a civil money penalty or proceeding under section
10 1128A(a).

11 **“SEC. 1895R. TEMPORARY CERTIFICATION PROCESS FOR**
12 **COORDINATED CARE PLANS.**

13 “(a) FEDERAL ACTION ON CERTIFICATION.—

14 “(1) IN GENERAL.—If—

15 “(A) a State fails to substantially complete
16 action on a licensing application of a coordi-
17 nated care plan sponsor within 90 days of re-
18 ceipt of the completed application, or

19 “(B) a State denies a licensing application
20 and the Secretary determines that the State’s
21 licensing standards or review process create an
22 unreasonable barrier to market entry,
23 the Secretary shall evaluate such application pursu-
24 ant to the procedures established under subsection
25 (b).

1 “(2) UNREASONABLE BARRIERS TO MARKET
2 ENTRY.—A State’s licensing standards and review
3 process shall not be treated as unreasonable barriers
4 to market entry under paragraph (1) if—

5 “(A) they are applied consistently to all co-
6 ordinated care medicare choice plan applica-
7 tions,

8 “(B) are not directly in conflict, or incon-
9 sistent with, the Federal standards.

10 “(b) FEDERAL CERTIFICATION PROCEDURES.—

11 “(1) IN GENERAL.—The Secretary shall estab-
12 lish a process for certification of a coordinated care
13 plan and its sponsor as meeting the requirements of
14 this part in cases described in subsection (a)(1).

15 “(2) REQUIREMENTS.—Such process shall—

16 “(A) set forth the standards for certifi-
17 cation,

18 “(B) provide that final action will be taken
19 on an application for certification within 120
20 business days of receipt of the completed appli-
21 cation,

22 “(C) provide that State law and regula-
23 tions shall apply to the extent they have not
24 been found to be an unreasonable barrier to
25 market entry under subsection (a)(1)(B), and

1 “(D) require any person receiving a certifi-
2 cate to provide the Secretary with all reasonable
3 information in order to ensure compliance with
4 the certification.

5 “(3) EFFECT OF CERTIFICATIONS.—

6 “(A) IN GENERAL.—A certificate under
7 this section shall be issued for not more than
8 36 months and may not be renewed.

9 “(B) COORDINATION WITH STATE.—A per-
10 son receiving a certificate under this section
11 shall continue to seek State licensure under
12 subsection (a) during the period the certificate
13 is in effect.

14 “(C) SUNSET.—No certificate shall be is-
15 sued under this section after December 31,
16 2000, and no certificate under this section shall
17 remain in effect after December 31, 2001.

18 “(c) REPORT.—Not later than December 31, 1998,
19 the Secretary shall report to Congress on the temporary
20 Federal certification system under subsection (b), includ-
21 ing an analysis of State efforts to adopt licensing stand-
22 ards and review processes that take into account the fact
23 that coordinated care plan sponsors provide services di-
24 rectly to enrollees through affiliated providers.

1 “(d) COORDINATED CARE PLAN.—In this section,
2 the term ‘coordinated care plan’ means a plan described
3 in section 1895A(b)(1)(B)(ii).

4 “(e) TRANSITION RULE FOR CERTAIN RISK CON-
5 TRACTORS.—A medicare choice plan sponsor that is an eli-
6 gible organization (as defined in section 1876(b)) and
7 that—

8 “(1) has a risk-sharing contract in effect under
9 section 1876 as of the date of the enactment of this
10 part, or

11 “(2) has an application for such a contract filed
12 before such date and the contract is entered into be-
13 fore July 1, 1996,

14 shall be treated as meeting the Federal standards in effect
15 under this section for any contract year beginning before
16 January 1, 2000.

17 “(f) PARTIAL CAPITATION DEMONSTRATION.—The
18 Secretary shall conduct a demonstration on alternative
19 partial risk-sharing arrangements between the Secretary
20 and health care providers. The Secretary shall report to
21 Congress no later than December 31, 1998, on the admin-
22 istrative feasibility of such partial capitation methods and
23 the information necessary to implement such arrange-
24 ments.

1 **“SEC. 1895S. REGULATIONS.**

2 “(a) IN GENERAL.—The Secretary shall establish
3 such regulations as may be necessary to carry out the pur-
4 poses of this part, including regulations setting forth the
5 requirements to meet all quality, access, and solvency
6 standards specified in sections 1895I and 1895J.

7 “(b) USE OF INTERIM, FINAL REGULATIONS.—In
8 order to carry out the provisions of this part in a timely
9 manner, the Secretary may, within 120 days after the date
10 of the enactment of this part, promulgate regulations de-
11 scribed in subsection (a) that take effect on an interim
12 basis, after notice and opportunity for public comment.”

13 (b) COORDINATION WITH FEHBP.—Notwithstand-
14 ing any provision of part D of title XVIII of the Social
15 Security Act (as added by subsection (a)), individuals who
16 are enrolled in a health benefit plan under chapter 89 of
17 title 5, United States Code, shall not be eligible to enroll
18 in high deductible medicare choice plans described in sec-
19 tion 1895A(b)(1)(B)(iii) of such Act until such time as
20 the Director of the Office of Management and Budget cer-
21 tifies to the Secretary of Health and Human Services that
22 the Office of Personnel Management has adopted policies
23 which will ensure that the enrollment of such individuals
24 in such plans will not result in increased expenditures for
25 the Federal Government for health benefit plans under
26 such chapter.

1 (c) CONFORMING AMENDMENTS.—

2 (1) IN GENERAL.—Not later than 90 days after
3 the date of the enactment of this Act, the Secretary
4 of Health and Human Services shall submit to the
5 appropriate committees of Congress a legislative pro-
6 posal providing for such technical and conforming
7 amendments in the law as are required by the provi-
8 sions of this chapter.

9 (2) OTHER AMENDMENTS.—(A) Section
10 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is
11 amended—

12 (i) in the matter preceding clause (i), by
13 inserting “or medicare choice plan under part
14 D” after “eligible organization”, and

15 (ii) in clause (i), by inserting “or under a
16 contract under part D, ” after “1972,”.

17 (B) Section 1882(g)(1) (42 U.S.C.
18 1395ww(g)(1)) is amended in the first sentence by
19 inserting “, or under a medicare choice plan under
20 part D” before the end period.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply with respect to contracts effective
23 on and after January 1, 1997.

1 **SEC. 7002. TREATMENT OF 1876 ORGANIZATIONS.**

2 (a) TERMINATION OF 1876 RISK-SHARING ORGANI-
3 ZATIONS.—Section 1876 (42 U.S.C. 1395mm) is amended
4 by adding at the end the following new subsection:

5 “(k)(1) Except as provided in paragraph (2), this sec-
6 tion shall not apply to risk-sharing contracts effective for
7 contract years beginning on or after January 1, 1997.

8 “(2) An individual who is enrolled in part B only and
9 is enrolled in an eligible organization with a risk-sharing
10 contract under this section on December 31, 1996, may
11 continue enrollment in such organization. Not later than
12 July 1, 1996, the Secretary shall issue regulations relating
13 to such individuals and such organizations.”

14 (b) HMO LIMITS LIFTED.—Section 1301(b) of the
15 Public Health Service Act (42 U.S.C. 300e(b)) is amended
16 by adding at the end the following new paragraph:

17 “(6)(A) Effective January 1, 1997, if a member
18 certifies that a medicare choice account has been es-
19 tablished for the benefit of such member, a health
20 maintenance organization may reduce the basic
21 health services payment otherwise determined under
22 paragraph (1) by requiring the payment of a deduct-
23 ible by the member for basic health services.

24 “(B) For purposes of this paragraph, the term
25 ‘medicare choice account’ has the meaning given

1 such term by section 7705 of the Internal Revenue
2 Code of 1986.”

3 **SEC. 7003. SPECIAL RULE FOR CALCULATION OF PAYMENT**
4 **RATES FOR 1996.**

5 (a) IN GENERAL.—Notwithstanding any other provi-
6 sion of law, the per capita rate under section 1876 of the
7 Social Security Act for 1996 for any class for a geographic
8 area shall be equal to the sum of—

9 (1) 75 percent of the updated per capita rate
10 for such class for such area, and

11 (2) 25 percent of the weighted average of the
12 updated per capita rates for such class for all geo-
13 graphic areas, adjusted in the same manner as
14 under section 1895M(b)(1)(C)(i) of the Social Secu-
15 rity Act (as added by section 7001 of this Act) to
16 reflect differences in input prices in the geographic
17 area as compared to the national average input
18 prices.

19 In no event shall any average per capita rate in a geo-
20 graphic area determined under the preceding sentence be
21 less than such rate determined under section 1876 of such
22 Act for 1995.

23 (b) UPDATED PER CAPITA RATES.—For purposes of
24 subsection (a), the updated per capita rate for any class
25 is the per capita rate of payment for 1995 determined

1 under section 1876(a)(1)(C) of the Social Security Act for
 2 a county (or equivalent area), increased by the percentage
 3 increase which the Secretary estimates will occur in medi-
 4 care expenditures per capita for 1996 over medicare ex-
 5 penditures per capita for 1995.

6 (c) PUBLICATION.—The Secretary shall publish the
 7 rates determined under subsection (a) no later than 30
 8 days after the date of the enactment of this Act.

9 **Subchapter B—Tax Provisions Relating to**
 10 **Medicare Choice Plans**

11 **SEC. 7006. MEDICARE CHOICE ACCOUNTS.**

12 (a) IN GENERAL.—Part III of subchapter B of chap-
 13 ter 1 of the Internal Revenue Code of 1986 (relating to
 14 amounts specifically excluded from gross income) is
 15 amended by redesignating section 137 as section 138 and
 16 by inserting after section 136 the following new section:

17 **“SEC. 137. MEDICARE CHOICE ACCOUNTS.**

18 “(a) EXCLUSION.—

19 “(1) IN GENERAL.—Gross income shall not in-
 20 clude any payment to the medicare choice account of
 21 an individual by the Secretary of Health and Human
 22 Services under section 1895N(b)(1) of the Social Se-
 23 curity Act.

24 “(2) NO CONSTRUCTIVE RECEIPT.—No amount
 25 shall be included in the gross income of an individ-

1 ual solely because the individual may choose be-
2 tween—

3 “(A) the payment described in paragraph
4 (1) or a rebate under section 1895N(b) of the
5 Social Security Act, or

6 “(B) the payment of the individual’s pre-
7 mium for supplemental benefits described in
8 section 1895H(b) of such Act or such a rebate.

9 “(b) DEFINITIONS.—For purposes of this section—

10 “(1) MEDICARE CHOICE ACCOUNT.—The term
11 ‘medicare choice account’ means a trust created or
12 organized in the United States exclusively for the
13 purpose of paying qualified medical expenses, but
14 only if the written governing instrument creating the
15 trust meets the following requirements:

16 “(A) Except in the case of a trustee-to-
17 trustee transfer described in subsection (d)(4),
18 no contribution will be accepted unless it is
19 made by the Secretary of Health and Human
20 Services under section 1895N(b)(1) of the So-
21 cial Security Act.

22 “(B) The trustee is a bank (as defined in
23 section 408(n)), an insurance company (as de-
24 fined in section 816), or another person who
25 demonstrates to the satisfaction of the Sec-

1 retary that the manner in which such person
2 will administer the trust will be consistent with
3 the requirements of this section.

4 “(C) No part of the trust assets will be in-
5 vested in life insurance contracts.

6 “(D) The assets of the trust will not be
7 commingled with other property except in a
8 common trust fund or common investment
9 fund.

10 “(E) The interest of an individual in the
11 balance in his account is nonforfeitable.

12 “(F) Trustee-to-trustee transfers described
13 in subsection (d)(4) may be made to and from
14 the trust.

15 “(2) QUALIFIED MEDICAL EXPENSES.—

16 “(A) IN GENERAL.—The term ‘qualified
17 medical expenses’ means, with respect to an ac-
18 count beneficiary, amounts paid by such bene-
19 ficiary—

20 “(i) for medical care (as defined in
21 section 213(d)) for—

22 “(I) the account beneficiary, or

23 “(II) the spouse of the account
24 beneficiary if the spouse is entitled to
25 benefits under part A of title XVIII of

1 the Social Security Act and enrolled
2 under part B of such title,
3 but only to the extent such amounts are
4 not compensated for by insurance or other-
5 wise, or

6 “(ii) for qualified long-term care serv-
7 ices for the account beneficiary or such
8 spouse.

9 “(B) HEALTH INSURANCE MAY NOT BE
10 PURCHASED FROM ACCOUNT.—Subparagraph
11 (A) shall not apply to any payment for insur-
12 ance other than insurance providing coverage
13 for qualified long-term care services.

14 “(C) QUALIFIED LONG-TERM CARE SERV-
15 ICES.—The term ‘qualified long-term care serv-
16 ices’ means necessary diagnostic, preventive,
17 therapeutic, rehabilitative, and maintenance (in-
18 cluding personal care) services which are re-
19 quired by an individual during any period dur-
20 ing which such individual is a functionally im-
21 paired individual (as determined in the manner
22 prescribed by the Secretary).

23 “(3) ACCOUNT BENEFICIARY.—

1 “(A) IN GENERAL.—The term ‘account
2 beneficiary’ means the individual on whose be-
3 half the medicare choice account is maintained.

4 “(B) JOINT ACCOUNTS.—If married indi-
5 viduals are both enrolled in a medicare choice
6 plan, they may establish a joint account and
7 each spouse shall be treated as an account ben-
8 eficiary.

9 “(4) MEDICARE CHOICE PLAN.—The term
10 ‘medicare choice plan’ has the meaning given such
11 term by section 1895A(a) of the Social Security Act.

12 “(5) CERTAIN RULES TO APPLY.—Rules similar
13 to the rules of subsections (g) and (h) of section 408
14 shall apply for purposes of this section.

15 “(c) TAX TREATMENT OF ACCOUNTS.—

16 “(1) IN GENERAL.—A medicare choice account
17 is exempt from taxation under this subtitle unless
18 such account has ceased to be a medicare choice ac-
19 count by reason of paragraph (2). Notwithstanding
20 the preceding sentence, any such account is subject
21 to the taxes imposed by section 511 (relating to im-
22 position of tax on unrelated business income of char-
23 itable, etc. organizations).

24 “(2) ACCOUNT ASSETS TREATED AS DISTRIB-
25 UTED 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

1 shall be increased by 10 percent of the amount
2 of such payment or distribution.

3 “(B) EXCEPTIONS.—Subparagraph (A)
4 shall not apply if the payment or distribution is
5 made on or after the date the account bene-
6 ficiary—

7 “(i) becomes disabled within the
8 meaning of section 72(m)(7), or

9 “(ii) dies.

10 “(C) SPECIAL RULES.—For purposes of
11 subparagraph (A)—

12 “(i) all medicare choice accounts of
13 the account beneficiary shall be treated as
14 1 account,

15 “(ii) all payments and distributions
16 not used exclusively to pay qualified medi-
17 cal expenses during any taxable year shall
18 be treated as 1 distribution, and

19 “(iii) any distribution of property
20 shall be taken into account at its fair mar-
21 ket value on the date of the distribution.

22 “(3) WITHDRAWAL OF ERRONEOUS CONTRIBU-
23 TIONS.—Paragraphs (1) and (2) shall not apply to
24 any payment or distribution from a medicare choice
25 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.

1 “(B) SPECIAL RULES IF SPOUSE NOT MED-
2 ICARE ELIGIBLE.—If, as of the date of such
3 death, such spouse is not entitled to benefits
4 under title XVIII of the Social Security Act,
5 then after the date of such death—

6 “(i) the Secretary of Health and
7 Human Services may not make any pay-
8 ments to such account, other than pay-
9 ments attributable to periods before such
10 date, and

11 “(ii) in applying subsection (b)(2)
12 with respect to such account, references to
13 the account beneficiary shall be treated as
14 including references to any dependent (as
15 defined in section 152) of such spouse and
16 any subsequent spouse of such spouse.

17 “(2) TREATMENT IF DESIGNATED BENEFICIARY
18 IS NOT SPOUSE.—In the case of an account bene-
19 ficiary’s interest in a medicare choice account which
20 is payable to (or for the benefit of) any person other
21 than such beneficiary’s spouse upon the death of
22 such beneficiary—

23 “(A) such account shall cease to be a med-
24 icare choice account as of the date of death,
25 and

1 “(B) an amount equal to the fair market
2 value of the assets in such account on such date
3 shall be includible—

4 “(i) if such person is not the estate of
5 such beneficiary, in such person’s gross in-
6 come for the taxable year which includes
7 such date, or

8 “(ii) if such person is the estate of
9 such beneficiary, in such beneficiary’s
10 gross income for last taxable year of such
11 beneficiary.

12 “(f) REPORTS.—

13 “(1) IN GENERAL.—The trustee of a medicare
14 choice account shall make such reports regarding
15 such account to the Secretary and to the account
16 beneficiary with respect to—

17 “(A) the fair market value of the assets in
18 such account as of the close of each calendar
19 year, and

20 “(B) contributions, distributions, and other
21 matters,

22 as the Secretary may require by regulations.

23 “(2) TIME AND MANNER OF REPORTS.—The re-
24 ports required by this subsection—

1 “(A) shall be filed at such time and in
2 such manner as the Secretary prescribes in
3 such regulations, and

4 “(B) shall be furnished to the account ben-
5 eficiary—

6 “(i) not later than January 31 of the
7 calendar year following the calendar year
8 to which such reports relate, and

9 “(ii) in such manner as the Secretary
10 prescribes in such regulations.”

11 (b) **EXCLUSION OF MEDICARE CHOICE ACCOUNTS**
12 **FROM ESTATE TAX.**—Part IV of subchapter A of chapter
13 11 of such Code is amended by adding at the end the fol-
14 lowing new section:

15 **“SEC. 2057. MEDICARE CHOICE ACCOUNTS.**

16 “For purposes of the tax imposed by section 2001,
17 the value of the taxable estate shall be determined by de-
18 ducting from the value of the gross estate an amount
19 equal to the value of any medicare choice account (as de-
20 fined in section 137(b)) included in the gross estate.”

21 (c) **TAX ON PROHIBITED TRANSACTIONS.**—

22 (1) Section 4975 of such Code (relating to tax
23 on prohibited transactions) is amended by adding at
24 the end of subsection (c) the following new para-
25 graph:

1 “(5) SPECIAL RULE FOR MEDICARE CHOICE AC-
2 COUNTS.—An individual for whose benefit a medi-
3 care choice account (within the meaning of section
4 137(b)) is established shall be exempt from the tax
5 imposed by this section with respect to any trans-
6 action concerning such account (which would other-
7 wise be taxable under this section) if, with respect
8 to such transaction, the account ceases to be a medi-
9 care choice account by reason of the application of
10 section 137(c)(2) to such account.”

11 (2) Paragraph (1) of section 4975(e) of such
12 Code is amended to read as follows:

13 “(1) PLAN.—For purposes of this section, the
14 term ‘plan’ means—

15 “(A) a trust described in section 401(a)
16 which forms a part of a plan, or a plan de-
17 scribed in section 403(a), which trust or plan is
18 exempt from tax under section 501(a),

19 “(B) an individual retirement account de-
20 scribed in section 408(a),

21 “(C) an individual retirement annuity de-
22 scribed in section 408(b),

23 “(D) a medicare choice account described
24 in section 137(b), or

1 “(E) a trust, plan, account, or annuity
2 which, at any time, has been determined by the
3 Secretary to be described in any preceding sub-
4 paragraph of this paragraph.”

5 (d) FAILURE TO PROVIDE REPORTS ON MEDICARE
6 CHOICE ACCOUNTS.—

7 (1) Subsection (a) of section 6693 of such Code
8 (relating to failure to provide reports on individual
9 retirement accounts or annuities) is amended to read
10 as follows:

11 “(a) REPORTS.—

12 “(1) IN GENERAL.—If a person required to file
13 a report under a provision referred to in paragraph
14 (2) fails to file such report at the time and in the
15 manner required by such provision, such person
16 shall pay a penalty of \$50 for each failure unless it
17 is shown that such failure is due to reasonable
18 cause.

19 “(2) PROVISIONS.—The provisions referred to
20 in this paragraph are—

21 “(A) subsections (i) and (l) of section 408
22 (relating to individual retirement plans), and

23 “(B) section 137(f) (relating to medicare
24 choice accounts).”

1 (2) The section heading for section 6693 of
2 such Code is amended to read as follows:

3 **“SEC. 6693. FAILURE TO FILE REPORTS ON INDIVIDUAL RE-**
4 **TIREMENT PLANS AND CERTAIN OTHER TAX-**
5 **FAVORED ACCOUNTS; PENALTIES RELATING**
6 **TO DESIGNATED NONDEDUCTIBLE CON-**
7 **TRIBUTIONS.”**

8 (e) EXCEPTION FROM CAPITALIZATION OF POLICY
9 ACQUISITION EXPENSES.—Subparagraph (B) of section
10 848(e)(1) of such Code (defining specified insurance con-
11 tract) is amended by striking “and” at the end of clause
12 (ii), by striking the period at the end of clause (iii) and
13 inserting “, and”, and by adding at the end the following
14 new clause:

15 “(iv) any contract which is a medicare
16 choice account (as defined in section
17 137(b)).”

18 (f) CLERICAL AMENDMENTS.—

19 (1) The table of sections for part III of sub-
20 chapter B of chapter 1 of such Code is amended by
21 striking the last item and inserting the following:

 “Sec. 137. Medicare choice accounts.
 “Sec. 138. Cross references to other Acts.”

22 (2) The table of sections for subchapter B of
23 chapter 68 of such Code is amended by striking the

1 item relating to section 6693 and inserting the fol-
 2 lowing new item:

“Sec. 6693. Failure to file reports on individual retirement plans
 and certain other tax-favored accounts; penalties re-
 lating to designated nondeductible contributions.”

3 (3) The table of sections for part IV of sub-
 4 chapter A of chapter 11 of such Code is amended by
 5 adding at the end the following new item:

“Sec. 2057. Medicare choice accounts.”

6 (g) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply to taxable years beginning after
 8 December 31, 1996.

9 **SEC. 7007. CERTAIN REBATES INCLUDED IN GROSS IN-**
 10 **COME.**

11 (a) IN GENERAL.—Section 61(a) of the Internal Rev-
 12 enue Code of 1986 (defining gross income) is amended
 13 by striking “and” at the end of paragraph (14), by strik-
 14 ing the period at the end of paragraph (15) and inserting
 15 “; and”, and by adding at the end the following new para-
 16 graph:

17 “(16) Payments under section
 18 1895N(b)(1)(B)(ii) of the Social Security Act.”

19 (b) EFFECTIVE DATE.—The amendment made by
 20 subsection (a) shall apply to amounts received after the
 21 date of the enactment of this Act.

1 **CHAPTER 2—PROVISIONS RELATING TO**
2 **PART A**
3 **Subchapter A—General Provisions Relating**
4 **to Part A**

5 **SEC. 7011. PPS HOSPITAL PAYMENT UPDATE.**

6 Section 1886(b)(3)(B)(i) (42 U.S.C.
7 1395ww(b)(3)(B)(i)) is amended by striking subclauses
8 (XI), (XII), and (XIII) and inserting the following new
9 subclauses:

10 “(XI) for fiscal years 1996 through 2002 for
11 hospitals in all areas, the greater of—

12 “(aa) the market basket percentage in-
13 crease minus 2.5 percentage points, or

14 “(bb) 1.1 percent (1.3 percent for dis-
15 charges during fiscal year 1996 and 1.2 percent
16 for discharges during fiscal year 1997), and

17 “(XII) for fiscal year 2003 and each subse-
18 quent fiscal year for hospitals in all areas, the mar-
19 ket basket percentage increase.”.

20 **SEC. 7012. PPS-EXEMPT HOSPITAL PAYMENTS.**

21 (a) UPDATE.—

22 (1) IN GENERAL.—Section 1886(b)(3)(B)(ii)
23 (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

24 (A) in subclause (V)—

1 (i) by striking “1997” and inserting
2 “1995”, and

3 (ii) by striking “and” at the end,

4 (B) by redesignating subclause (VI) as
5 subclause (VII); and

6 (C) by inserting after subclause (V), the
7 following subclause:

8 “(VI) for fiscal years 1996 through 2002—

9 “(aa) the market basket percentage in-
10 crease minus the applicable reduction (as de-
11 fined in clause (vi)(II)),

12 “(bb) in the case of a hospital for a fiscal
13 year for which the hospital’s update adjustment
14 percentage (as defined in clause (vi)(I)) is at
15 least 10 percent, the market basket percentage
16 increase, or

17 “(cc) in the case of a hospital for which
18 150 percent of the hospital’s allowable operat-
19 ing costs of inpatient hospital services recog-
20 nized under this title for the most recent cost
21 reporting period for which information is avail-
22 able is less than the hospital’s target amount
23 (as determined under subparagraph (A)) for
24 such cost reporting period, 0 percent,

1 except that the applicable percentage increase deter-
2 mined under item (aa) or (bb) may not be less than
3 1.4 percent for fiscal year 1996, 1.3 percent for fis-
4 cal year 1997, and 1.1 percent for fiscal years 1998
5 through 2002, and”.

6 (2) DEFINITIONS.—Section 1886(b)(3)(B) (42
7 U.S.C. 1395ww(b)(3)(B)) is amended by adding at
8 the end the following new clause:

9 “(vi) For purposes of clause (ii)(VI)—

10 “(I) a hospital’s ‘update adjustment percentage’
11 for a fiscal year is the percentage by which the hos-
12 pital’s allowable operating costs of inpatient hospital
13 services recognized under this title for the most re-
14 cent cost reporting period for which information is
15 available exceeds the hospital’s target amount (as
16 determined under subparagraph (A)) for such cost
17 reporting period, and

18 “(II) the ‘applicable reduction’ with respect to
19 a hospital for a fiscal year is 2.5 percentage points,
20 reduced by 0.25 percentage point for each percent-
21 age point (if any) the hospital’s update adjustment
22 percentage for the fiscal year is less than 10 per-
23 centage points.”.

24 (3) EFFECT OF PAYMENT REDUCTION ON EX-
25 CEPTIONS AND ADJUSTMENTS.—Section

1 1886(b)(4)(A)(ii) (42 U.S.C. 1395ww(b)(4)(A)(ii))
2 is amended by striking “paragraph (3)(B)(ii)(V)”
3 and inserting “subclause (V) or (VI) of paragraph
4 (3)(B)(ii)”.

5 (b) TARGET AMOUNTS FOR NEW REHABILITATION
6 HOSPITALS AND LONG-TERM CARE HOSPITALS.—Section
7 1886(b)(3)(A) (42 U.S.C. 1395ww(b)(3)(A)) is amend-
8 ed—

9 (1) by redesignating clauses (i) and (ii) as
10 subclauses (I) and (II), respectively;

11 (2) by inserting “(i)” after “(3)(A)”;

12 (3) by adding at the end the following new
13 clauses:

14 “(ii) Notwithstanding clause (i), in the case of a reha-
15 bilitation hospital (or unit thereof) which first receives
16 payments under this section—

17 “(I) on or before October 1, 1995, the target
18 amount determined under this subparagraph for
19 such hospital or unit for a cost reporting period be-
20 ginning during a fiscal year shall not be less than
21 50 percent of the national mean of the target
22 amounts determined under this paragraph for all re-
23 habilitation hospitals (and units thereof) for cost re-
24 porting periods beginning during such fiscal year
25 (determined without regard to this clause); and

1 “(II) on or after October 1, 1995, such target
2 amount may not be greater than 130 percent of the
3 national mean of the target amounts for such hos-
4 pitals (and units thereof) for cost reporting periods
5 beginning during fiscal year 1991.

6 “(iii) Notwithstanding clause (i), in the case of a hos-
7 pital which has an average inpatient length of stay of
8 greater than 25 days—

9 “(I) which first receives payments under this
10 section as a hospital that is not a subsection (d) hos-
11 pital (as defined in section 1886(d)(1)(B)) or a sub-
12 section (d) Puerto Rico hospital (as defined in sec-
13 tion 1886(d)(9)(A)) on or before October 1, 1995,
14 the target amount determined under this subpara-
15 graph for such hospital for a cost reporting period
16 beginning during a fiscal year shall not be less than
17 50 percent of the national mean of the target
18 amounts determined under this paragraph for all
19 such hospitals for cost reporting periods beginning
20 during such fiscal year (determined without regard
21 to this clause); and

22 “(II) which first receives payment under this
23 section as a hospital described in subclause (I) on or
24 after October 1, 1995, such target amount may not
25 be greater than 130 percent of such national mean

1 of the target amounts for such hospitals for cost re-
2 porting periods beginning during fiscal year 1991.

3 “(iv) The Secretary shall, if the Secretary determines
4 it is appropriate, calculate and implement a separate ceil-
5 ing under clause (iii)(II) based on case-mix and DRG cat-
6 egory.”.

7 (c) DEVELOPMENT NATIONAL PROSPECTIVE PAY-
8 MENT RATES FOR CURRENT NON-PPS HOSPITALS.—

9 (1) IN GENERAL.—The Secretary of Health and
10 Human Services, in consultation with the Prospec-
11 tive Payment Assessment Commission, appropriate
12 providers of services, health plans, and other ex-
13 perts, shall develop a proposal to replace the current
14 system under which hospitals that are not subsection
15 (d) hospitals (as defined in section 1886(d)(1)(B) of
16 the Social Security Act) receive payment for the op-
17 erating and capital-related costs of inpatient hospital
18 services under part A of the medicare program with
19 a prospective payment system.

20 (2) DEVELOPMENT OF SYSTEM FOR REHABILI-
21 TATION AND LONG TERM CARE HOSPITALS.—

22 (A) IN GENERAL.—Not later than June 1,
23 1996, the Secretary of Health and Human
24 Services shall submit a report to the Congress
25 providing recommendations on a prospective

1 payment system for rehabilitation hospitals
2 (and units thereof) and hospitals which have an
3 average inpatient length of stay of greater than
4 25 days.

5 (B) MATTERS INCLUDED.—The report
6 submitted under subparagraph (A) shall in-
7 clude—

8 (i) the available and preferred systems
9 of classifying rehabilitation patients rel-
10 ative to duration and intensity of inpatient
11 services;

12 (ii) the means of calculating medicare
13 program payments to reflect such patient
14 requirements;

15 (iii) other adjustments deemed appro-
16 priate such as geographic variations in
17 wages and other costs and outliers;

18 (iv) a schedule upon which it is
19 deemed feasible to introduce a prospective
20 payment system for such providers and
21 whether any such system should be applied
22 to other types of providers of rehabilitation
23 services; and

24 (v) any other matters the Secretary
25 determines are relevant including rec-

1 ommendations for other types of hospitals
2 that are not subsection (d) hospitals (as
3 defined in section 1886(d)(1)(B) of the So-
4 cial Security Act).

5 (d) CAPITAL PAYMENTS FOR PPS-EXEMPT HOS-
6 PITALS.—Section 1886(g) (42 U.S.C. 1395ww(g)) is
7 amended by adding at the end the following new para-
8 graph:

9 “(4) In determining the amount of the payments that
10 may be made under this title with respect to all the cap-
11 ital-related costs of inpatient hospital services furnished
12 during fiscal years 1996 through 2002 of a hospital which
13 is not a subsection (d) hospital or a subsection (d) Puerto
14 Rico hospital, the Secretary shall reduce the amounts of
15 such payments otherwise determined under this title by
16 15 percent.”.

17 **SEC. 7013. CAPITAL PAYMENTS FOR PPS HOSPITALS.**

18 (a) IN GENERAL.—Section 1886(g)(1)(A) (42 U.S.C.
19 1395ww(g)(1)(A)) is amended by adding at the end the
20 following new sentence: “In addition to the reduction de-
21 scribed in the preceding sentence, for discharges occurring
22 after September 30, 1995, the Secretary shall reduce by
23 7.47 percent the unadjusted standard Federal capital pay-
24 ment rate (as described in 42 CFR 412.308(e), as in effect
25 on the date of the enactment of the Balanced Budget Rec-

1 onciliation Act of 1995) and shall reduce by 8.27 percent
2 the unadjusted hospital-specific rate (as described in 42
3 CFR 412.328(e)(1), as in effect on the date of the enact-
4 ment of such Act).”.

5 (b) BUDGET NEUTRALITY ADJUSTMENT.—

6 (1) IN GENERAL.—The second sentence of sec-
7 tion 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is
8 amended—

9 (A) by striking “fiscal years 1992 through
10 1995” and inserting “fiscal years 1996 through
11 2002”; and

12 (B) by striking “10 percent” and inserting
13 “15 percent”.

14 (2) EFFECTIVE DATE.—The amendments made
15 by paragraph (1) shall apply on and after October
16 1, 1995.

17 (c) HOSPITAL-SPECIFIC ADJUSTMENT FOR CAPITAL-
18 RELATED TAX COSTS.—Section 1886(g)(1) (42 U.S.C.
19 1395ww(g)(1)) is amended—

20 (1) by redesignating subparagraph (C) as sub-
21 paragraph (D), and

22 (2) by inserting after subparagraph (B) the fol-
23 lowing subparagraph:

24 “(C)(i) For discharges occurring after Sep-
25 tember 30, 1995, such system shall provide for

1 an adjustment in an amount equal to the
2 amount determined under clause (iv) for cap-
3 ital-related tax costs for each hospital that is el-
4 igible for such adjustment.

5 “(ii) Subject to clause (iii), a hospital is el-
6 igible for an adjustment under this subpara-
7 graph, with respect to discharges occurring in a
8 fiscal year, if the hospital—

9 “(I) is a hospital that may otherwise
10 receive payments under this subsection,

11 “(II) is not a public hospital, and

12 “(III) incurs capital-related tax costs
13 for the fiscal year.

14 “(iii)(I) In the case of a hospital that first
15 incurs capital-related tax costs in a fiscal year
16 after fiscal year 1992 because of a change from
17 nonproprietary to proprietary status or because
18 the hospital commenced operation after such
19 fiscal year, the first fiscal year for which the
20 hospital shall be eligible for such adjustment is
21 the second full fiscal year following the fiscal
22 year in which the hospital first incurs such
23 costs.

24 “(II) In the case of a hospital that first in-
25 curs capital-related tax costs in a fiscal year

1 after fiscal year 1992 because of a change in
2 State or local tax laws, the first fiscal year for
3 which the hospital shall be eligible for such ad-
4 justment is the fourth full fiscal year following
5 the fiscal year in which the hospital first incurs
6 such costs.

7 “(iv) The per discharge adjustment under
8 this clause shall be equal to the hospital-specific
9 capital-related tax costs per discharge of a hos-
10 pital for fiscal year 1992 (or, in the case of a
11 hospital that first incurs capital-related tax
12 costs for a fiscal year after fiscal year 1992, for
13 the first full fiscal year for which such costs are
14 incurred), updated to the fiscal year to which
15 the adjustment applies. Such per discharge ad-
16 justment shall be added to the Federal capital
17 rate, after such rate has been adjusted as de-
18 scribed in 42 CFR 412.312 (as in effect on the
19 date of the enactment of the Balanced Budget
20 Reconciliation Act of 1995), and before such
21 rate is multiplied by the applicable Federal rate
22 percentage.

23 “(v) For purposes of this subparagraph,
24 capital-related tax costs include—

1 “(I) the costs of taxes on land and de-
2 preciable assets owned by a hospital and
3 used for patient care,

4 “(II) payments in lieu of such taxes
5 (made by hospitals that are exempt from
6 taxation), and

7 “(III) the costs of taxes paid by a
8 hospital as lessee of land, buildings, or
9 fixed equipment from a lessor that is unre-
10 lated to the hospital under the terms of a
11 lease that requires the lessee to pay all ex-
12 penses (including mortgage, interest, and
13 amortization) and leaves the lessor with an
14 amount free of all claims (sometimes re-
15 ferred to as a ‘net net net’ or ‘triple net’
16 lease).

17 In determining the adjustment required under
18 clause (i), the Secretary shall not take into ac-
19 count any capital-related tax costs of a hospital
20 to the extent that such costs are based on tax
21 rates and assessments that exceed those for
22 similar commercial properties.

23 “(vi) The system shall provide that the
24 Federal capital rate for any fiscal year after
25 September 30, 1995, shall be reduced by a per-

1 centage sufficient to ensure that the adjust-
2 ments required to be paid under clause (i) for
3 a fiscal year neither increase nor decrease the
4 total amount that would have been paid under
5 this system but for the payment of such adjust-
6 ments for such fiscal year.”.

7 (d) REVISION OF EXCEPTIONS PROCESS UNDER
8 PROSPECTIVE PAYMENT SYSTEM FOR CERTAIN
9 PROJECTS.—

10 (1) IN GENERAL.—Section 1886(g)(1) (42
11 U.S.C. 1395ww(g)(1)), as amended by subsection
12 (c), is amended—

13 (A) by redesignating subparagraph (D) as
14 subparagraph (E), and

15 (B) by inserting after subparagraph (C)
16 the following subparagraph:

17 “(D) The exceptions under the system provided by
18 the Secretary under subparagraph (B)(iii) shall include
19 the provision of exception payments under the special ex-
20 ceptions process provided under 42 CFR 412.348(g) (as
21 in effect on September 1, 1995), except that the Secretary
22 shall revise such process as follows:

23 “(i) A hospital with at least 100 beds which is
24 located in an urban area shall be eligible under such
25 process without regard to its disproportionate pa-

1 tient percentage under subsection (d)(5)(F) or
2 whether it qualifies for additional payment amounts
3 under such subsection.

4 “(ii) The minimum payment level for qualifying
5 hospitals shall be 80 percent.

6 “(iii) A hospital shall be considered to meet the
7 requirement that it completes the project involved no
8 later than the end of the hospital’s last cost report-
9 ing period beginning after October 1, 2001, if—

10 “(I) the hospital has obtained a certificate
11 of need for the project approved by the State or
12 a local planning authority by September 1,
13 1995, and

14 “(II) by September 1, 1995, the hospital
15 has expended on the project at least \$750,000
16 or 10 percent of the estimated cost of the
17 project.

18 “(iv) Offsetting amounts, as described in 42
19 CFR 412.348(g)(8)(ii), shall apply except that sub-
20 paragraph (B) of such section shall be revised to re-
21 quire that the additional payment that would other-
22 wise be payable for the cost reporting period shall be
23 reduced by the amount (if any) by which the hos-
24 pital’s current year medicare capital payments (ex-
25 cluding, if applicable, 75 percent of the hospital’s

1 capital-related disproportionate share payments) ex-
2 ceeds its medicare capital costs for such year.”.

3 (2) LIMIT TO ADDITIONAL PAYMENTS.—The
4 amendment made by subsection (a) shall not result
5 in aggregate additional payments under the special
6 exception process described in section 1886(b)(1)(D)
7 for fiscal years 1996 through 2000 in excess of an
8 amount equal to the sum of \$50,000,000 per year
9 more than would have been paid in such fiscal years
10 if such amendment had not been enacted.

11 (3) CONFORMING AMENDMENT.—Section
12 1886(g)(1)(B) (42 U.S.C. 1395ww(g)(1)(B)) is
13 amended by striking “may provide” and inserting
14 “shall provide (in accordance with subparagraph
15 (D))”.

16 **SEC. 7014. DISPROPORTIONATE SHARE HOSPITAL PAY-**
17 **MENTS.**

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

20 (1) by striking “The” and inserting “Subject to
21 clause (ix), the”;

22 (2) by redesignating subclauses (I) and (II) as
23 items (aa) and (bb), respectively;

24 (3) by inserting “(I)” after “(ii)”;

1 (4) by inserting “the applicable percentage de-
2 termined under subclause (II) of the amount” after
3 “discharge shall be”;

4 (5) by adding at the end the following new
5 subclause:

6 “(II) For purposes of subclause (I), the
7 applicable percentage for discharges occurring
8 during a fiscal year is 95 percent in fiscal year
9 1996, 90 percent in fiscal year 1997, 85 per-
10 cent in fiscal year 1998, 80 percent in fiscal
11 year 1999, and 75 percent in fiscal years 2000,
12 2001, and 2002.”; and

13 (6) by adding at the end the following new
14 clause:

15 “(ix) With respect to discharges occurring on or
16 after October 1, 1995, the Secretary shall adjust the
17 additional payment amounts provided in accordance
18 with this subparagraph for each discharge such that
19 the total amount of such additional payment
20 amounts for discharges occurring over the 7-year pe-
21 riod beginning on October 1, 1995, does not exceed
22 an average 5 percent of the sum of the total esti-
23 mated payments under this subsection over such 7-
24 year period (other than payments under subpara-
25 graph (B) or this subparagraph).”.

1 (b) NO RESTANDARDIZATION OF PAYMENT
 2 AMOUNTS REQUIRED.—Section 1886(d)(2)(C)(iv) (42
 3 U.S.C. 1395ww(d)(2)(C)(iv)) is amended by striking
 4 “1990” and inserting “, 1990, and the modifications made
 5 to such paragraph by section 7014(a) of the Balanced
 6 Budget Reconciliation Act of 1995.”.

7 (c) EFFECTIVE DATE.—The amendments made by
 8 subsections (a) and (b) shall apply to discharges occurring
 9 on or after October 1, 1995.

10 **SEC. 7015. INDIRECT MEDICAL EDUCATION PAYMENTS.**

11 (a) IN GENERAL.—Section 1886(d)(5)(B)(ii) (42
 12 U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as fol-
 13 lows:

14 “(ii) For purposes of clause (i)(II), the indirect
 15 teaching adjustment factor is equal to $c \times (((1+r)$
 16 $\text{to the } n\text{th power}) - 1)$, where ‘r’ is the ratio of the
 17 hospital’s full-time equivalent interns and residents
 18 to beds and ‘n’ equals .405. For discharges occur-
 19 ring on or after—

20 “(I) May 1, 1986, and before October 1,
 21 1995, ‘c’ is equal to 1.89;

22 “(II) October 1, 1995, and before October
 23 1, 1996, ‘c’ is equal to 1.65;

24 “(III) October 1, 1996, and before October
 25 1, 1997, ‘c’ is equal to 1.38; and

1 “(IV) October 1, 1997, and before October
2 1, 2001, ‘c’ is equal to 1.11.”.

3 (b) NO RESTANDARDIZATION OF PAYMENT
4 AMOUNTS REQUIRED.—Section 1886(d)(2)(C)(i) (42
5 U.S.C. 1395ww(d)(2)(C)(i)) is amended by striking “of
6 1985” and inserting “of 1985, but not taking into account
7 the amendments made by section 7015(a) of the Balanced
8 Budget Reconciliation Act of 1995”.

9 **SEC. 7016. GRADUATE MEDICAL EDUCATION AND DIS-**
10 **PROPORTIONATE SHARE PAYMENT ADJUST-**
11 **MENTS FOR MEDICARE CHOICE.**

12 Section 1886 (42 U.S.C. 1395ww) is amended by
13 adding at the end the following new subsection:

14 “(j) GRADUATE MEDICAL EDUCATION AND DIS-
15 PROPORTIONATE SHARE PAYMENT ADJUSTMENTS FOR
16 MEDICARE CHOICE.—

17 “(1) IN GENERAL.—For discharges occurring
18 on or after January 1, 1997, a subsection (d) hos-
19 pital shall receive payment for each discharge of an
20 individual enrolled under part D with a medicare
21 choice plan in an amount equal to the applicable
22 percentage of the amount that the hospital would
23 have received for such discharge under subsections
24 (d)(5)(B), (relating to indirect medical education),
25 (d)(5)(F) (relating to disproportionate share), and

1 (h) (relating to direct graduate medical education),
2 if such individual was enrolled in the traditional
3 medicare program (as defined in section
4 1895A(c)(3)).

5 “(2) APPLICABLE PERCENTAGE.—For purposes
6 of paragraph (1), the applicable percentage is—

7 “(A) for calendar year 1997, 50 percent;

8 and

9 “(B) for calendar years after 1997, 100
10 percent.”.

11 **SEC. 7017. PAYMENTS FOR HOSPICE SERVICES.**

12 Section 1814(i)(1)(C)(ii) (42 U.S.C.
13 1395f(i)(1)(C)(ii)) is amended by striking subclauses (IV),
14 (V), and (VI), and inserting the following subclauses:

15 “(IV) for each of fiscal years 1996 through
16 2002, the greater of—

17 “(aa) the market basket percentage in-
18 crease for the fiscal year minus 2.5 percentage
19 points, or

20 “(bb) 1.1 percent (1.3 percent in fiscal
21 year 1996 and 1.2 percent in fiscal year 1997);

22 and

23 “(V) for a subsequent fiscal year, the market
24 basket percentage increase for the fiscal year.”.

1 **SEC. 7018. EXTENDING MEDICARE COVERAGE OF, AND AP-**
2 **PLICATION OF HOSPITAL INSURANCE TAX**
3 **TO, ALL STATE AND LOCAL GOVERNMENT**
4 **EMPLOYEES.**

5 (a) IN GENERAL.—

6 (1) APPLICATION OF HOSPITAL INSURANCE
7 TAX.—Section 3121(u)(2) of the Internal Revenue
8 Code of 1986 is amended by striking subparagraphs
9 (C) and (D).

10 (2) COVERAGE UNDER MEDICARE.—Section
11 210(p) (42 U.S.C. 410(p)) is amended by striking
12 paragraphs (3) and (4).

13 (3) EFFECTIVE DATE.—The amendments made
14 by this subsection shall apply to services performed
15 after December 31, 1995.

16 (b) TRANSITION IN BENEFITS FOR STATE AND
17 LOCAL GOVERNMENT EMPLOYEES AND FORMER EM-
18 PLOYEES.—

19 (1) IN GENERAL.—

20 (A) EMPLOYEES NEWLY SUBJECT TO
21 TAX.—For purposes of sections 226, 226A, and
22 1811 of the Social Security Act, in the case of
23 any individual who performs services during the
24 calendar quarter beginning January 1, 1996,
25 the wages for which are subject to the tax im-
26 posed by section 3101(b) of the Internal Reve-

1 nue Code of 1986 only because of the amend-
2 ments made by subsection (a), the individual’s
3 medicare qualified State or local government
4 employment (as defined in subparagraph (B))
5 performed before January 1, 1996, shall be
6 considered to be “employment” (as defined for
7 purposes of title II of such Act), but only for
8 purposes of providing the individual (or another
9 person) with entitlement to hospital insurance
10 benefits under part A of title XVIII of such Act
11 for months beginning with January 1996.

12 (B) MEDICARE QUALIFIED STATE OR
13 LOCAL GOVERNMENT EMPLOYMENT DE-
14 FINED.—In this paragraph, the term “medicare
15 qualified State or local government employ-
16 ment” means medicare qualified government
17 employment described in section 210(p)(1)(B)
18 of the Social Security Act (determined without
19 regard to section 210(p)(3) of such Act, as in
20 effect before its repeal under subsection (a)(2)).

21 (2) AUTHORIZATION OF APPROPRIATIONS.—
22 There are authorized to be appropriated to the Fed-
23 eral Hospital Insurance Trust Fund from time to
24 time such sums as the Secretary of Health and

1 Human Services deems necessary for any fiscal year
2 on account of—

3 (A) payments made or to be made during
4 such fiscal year from such Trust Fund with re-
5 spect to individuals who are entitled to benefits
6 under title XVIII of the Social Security Act
7 solely by reason of paragraph (1),

8 (B) the additional administrative expenses
9 resulting or expected to result therefrom, and

10 (C) any loss in interest to such Trust
11 Fund resulting from the payment of those
12 amounts, in order to place such Trust Fund in
13 the same position at the end of such fiscal year
14 as it would have been in if this subsection had
15 not been enacted.

16 (3) INFORMATION TO INDIVIDUALS WHO ARE
17 PROSPECTIVE MEDICARE BENEFICIARIES BASED ON
18 STATE AND LOCAL GOVERNMENT EMPLOYMENT.—
19 Section 226(g) (42 U.S.C. 426(g)) is amended—

20 (A) by redesignating paragraphs (1)
21 through (3) as subparagraphs (A) through (C),
22 respectively,

23 (B) by inserting “(1)” after “(g)”, and

24 (C) by adding at the end the following new
25 paragraph:

1 “(2) The Secretary, in consultation with State and
2 local governments, shall provide procedures designed to
3 assure that individuals who perform medicare qualified
4 government employment by virtue of service described in
5 section 210(a)(7) are fully informed with respect to (A)
6 their eligibility or potential eligibility for hospital insur-
7 ance benefits (based on such employment) under part A
8 of title XVIII, (B) the requirements for, and conditions
9 of, such eligibility, and (C) the necessity of timely applica-
10 tion as a condition of becoming entitled under subsection
11 (b)(2)(C), giving particular attention to individuals who
12 apply for an annuity or retirement benefit and whose eligi-
13 bility for such annuity or retirement benefit is based on
14 a disability.”

15 (c) TECHNICAL AMENDMENTS.—

16 (1) Subparagraph (A) of section 3121(u)(2) of
17 the Internal Revenue Code of 1986 is amended by
18 striking “subparagraphs (B) and (C),” and inserting
19 “subparagraph (B),”.

20 (2) Subparagraph (B) of section 210(p)(1) (42
21 U.S.C. 410(p)(1)) is amended by striking “para-
22 graphs (2) and (3).” and inserting “paragraph (2).”

23 (3) Section 218 (42 U.S.C. 418) is amended by
24 striking subsection (n).

1 “INCENTIVES FOR COST-EFFECTIVE MANAGEMENT OF
2 COVERED NON-ROUTINE SERVICES OF SKILLED
3 NURSING FACILITIES

4 “SEC. 1888A. (a) DEFINITIONS.—For purposes of
5 this section:

6 “(1) COVERED NON-ROUTINE SERVICES.—The
7 term ‘covered non-routine services’ means post-hos-
8 pital extended care services consisting of any of the
9 following:

10 “(A) Physical or occupational therapy or
11 speech-language pathology services, or res-
12 piratory therapy.

13 “(B) Prescription drugs.

14 “(C) Complex medical equipment.

15 “(D) Intravenous therapy and solutions
16 (including enteral and parenteral nutrients,
17 supplies, and equipment).

18 “(E) Radiation therapy.

19 “(F) Diagnostic services, including labora-
20 tory, radiology (including computerized tomog-
21 raphy services and imaging services), and pul-
22 monary services.

23 “(2) SNF MARKET BASKET PERCENTAGE IN-
24 CREASE.—The term ‘SNF market basket percentage
25 increase’ for a fiscal year means a percentage equal

1 to input price changes in routine service costs for
2 the year under section 1888(a).

3 “(3) STAY.—The term ‘stay’ means, with re-
4 spect to an individual who is a resident of a skilled
5 nursing facility, a period of continuous days during
6 which the facility provides extended care services for
7 which payment may be made under this title for the
8 individual during the individual’s spell of illness.

9 “(b) NEW PAYMENT METHOD FOR COVERED NON-
10 ROUTINE SERVICES.—

11 “(1) IN GENERAL.—Subject to subsection (c), a
12 skilled nursing facility shall receive interim pay-
13 ments under this title for covered non-routine serv-
14 ices furnished to an individual during a cost report-
15 ing period beginning during a fiscal year (after fiscal
16 year 1996) in an amount equal to the reasonable
17 cost of providing such services in accordance with
18 section 1861(v). The Secretary may adjust such pay-
19 ments if the Secretary determines (on the basis of
20 such estimated information as the Secretary consid-
21 ers appropriate) that payments to the facility under
22 this paragraph for a cost reporting period would
23 substantially exceed the cost reporting period limit
24 determined under subsection (c)(1)(B).

1 “(2) RESPONSIBILITY OF SKILLED NURSING
2 FACILITY TO MANAGE BILLINGS.—

3 “(A) CLARIFICATION RELATING TO PART A
4 BILLING.—In the case of a covered non-routine
5 service furnished to an individual who (at the
6 time the service is furnished) is a resident of a
7 skilled nursing facility who is entitled to cov-
8 erage under section 1812(a)(2) for such service,
9 the skilled nursing facility shall submit a claim
10 for payment under this title for such service
11 under part A (without regard to whether or not
12 the item or service was furnished by the facility,
13 by others under arrangement with them made
14 by the facility, under any other contracting or
15 consulting arrangement, or otherwise).

16 “(B) PART B BILLING.—In the case of a
17 covered non-routine service furnished to an in-
18 dividual who (at the time the service is fur-
19 nished) is a resident of a skilled nursing facility
20 who is not entitled to coverage under section
21 1812(a)(2) for such service but is entitled to
22 coverage under part B for such service, the
23 skilled nursing facility shall submit a claim for
24 payment under this title for such service under
25 part B (without regard to whether or not the

1 item or service was furnished by the facility, by
2 others under arrangement with them made by
3 the facility, under any other contracting or con-
4 sulting arrangement, or otherwise).

5 “(C) MAINTAINING RECORDS ON SERVICES
6 FURNISHED TO RESIDENTS.—Each skilled nurs-
7 ing facility receiving payments for extended
8 care services under this title shall document on
9 the facility’s cost report all covered non-routine
10 services furnished to all residents of the facility
11 to whom the facility provided extended care
12 services for which payment was made under
13 part A during a fiscal year (beginning with fis-
14 cal year 1996) (without regard to whether or
15 not the services were furnished by the facility,
16 by others under arrangement with them made
17 by the facility, under any other contracting or
18 consulting arrangement, or otherwise).

19 “(c) RECONCILIATION OF AMOUNTS.—

20 “(1) LIMIT BASED ON PER STAY LIMIT AND
21 NUMBER OF STAYS.—

22 “(A) IN GENERAL.—If a skilled nursing fa-
23 cility has received aggregate payments under
24 subsection (b) for covered non-routine services
25 during a cost reporting period beginning during

1 a fiscal year in excess of an amount equal to
2 the cost reporting period limit determined
3 under subparagraph (B), the Secretary shall re-
4 duce the payments made to the facility with re-
5 spect to such services for cost reporting periods
6 beginning during the following fiscal year in an
7 amount equal to such excess. The Secretary
8 shall reduce payments under this subparagraph
9 at such times and in such manner during a fis-
10 cal year as the Secretary finds necessary to
11 meet the requirement of this subparagraph.

12 “(B) COST REPORTING PERIOD LIMIT.—
13 The cost reporting period limit determined
14 under this subparagraph is an amount equal to
15 the product of—

16 “(i) the per stay limit applicable to
17 the facility under subsection (d) for the pe-
18 riod; and

19 “(ii) the number of stays beginning
20 during the period for which payment was
21 made to the facility for such services.

22 “(C) PROSPECTIVE REDUCTION IN PAY-
23 MENTS.—In addition to the process for reduc-
24 ing payments described in subparagraph (A),
25 the Secretary may reduce payments made to a

1 facility under this section during a cost report-
2 ing period if the Secretary determines (on the
3 basis of such estimated information as the Sec-
4 retary considers appropriate) that payments to
5 the facility under this section for the period will
6 substantially exceed the cost reporting period
7 limit for the period determined under this para-
8 graph.

9 “(2) INCENTIVE PAYMENTS.—

10 “(A) IN GENERAL.—If a skilled nursing fa-
11 cility has received aggregate payments under
12 subsection (b) for covered non-routine services
13 during a cost reporting period beginning during
14 a fiscal year in an amount that is less than the
15 amount determined under paragraph (1)(B),
16 the Secretary shall pay the skilled nursing facil-
17 ity in the following fiscal year an incentive pay-
18 ment equal to 50 percent of the difference be-
19 tween such amounts, except that the incentive
20 payment may not exceed 5 percent of the aggre-
21 gate payments made to the facility under sub-
22 section (b) for the previous fiscal year (without
23 regard to subparagraph (B)).

24 “(B) INSTALLMENT INCENTIVE PAY-
25 MENTS.—The Secretary may make installment

1 payments during a fiscal year to a skilled nurs-
2 ing facility based on the estimated incentive
3 payment that the facility would be eligible to
4 receive with respect to such fiscal year.

5 “(d) DETERMINATION OF FACILITY PER STAY
6 LIMIT.—

7 “(1) LIMIT FOR FISCAL YEAR 1997.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B), the Secretary shall establish
10 separate per stay limits for hospital-based and
11 freestanding skilled nursing facilities for the 12-
12 month cost reporting period beginning during
13 fiscal year 1997 that are equal to the sum of—

14 “(i) 50 percent of the facility-specific
15 stay amount for the facility (as determined
16 under subsection (e)) for the last 12-month
17 cost reporting period ending on or before
18 September 30, 1994; and

19 “(ii) 50 percent of the average of all
20 facility-specific stay amounts for all hos-
21 pital-based facilities or all freestanding fa-
22 cilities (whichever is applicable) during the
23 cost reporting period described in clause
24 (i).

1 “(B) FACILITIES NOT HAVING 1994 COST
2 REPORTING PERIOD.—In the case of a skilled
3 nursing facility for which payments were not
4 made under this title for covered non-routine
5 services for the last 12-month cost reporting pe-
6 riod ending on or before September 30, 1994,
7 the per stay limit for the 12-month cost report-
8 ing period beginning during fiscal year 1997
9 shall be twice the amount determined under
10 subparagraph (A)(ii).

11 “(2) LIMIT FOR SUBSEQUENT FISCAL YEARS.—
12 Subject to paragraph (3), the per stay limit for a
13 skilled nursing facility for a 12-month cost reporting
14 period beginning during a fiscal year after fiscal
15 year 1997 is equal to the per stay limit established
16 under this subsection for the 12-month cost report-
17 ing period beginning during the previous fiscal year,
18 increased by the greater of—

19 “(A) the SNF market basket percentage
20 increase for such subsequent fiscal year minus
21 2.5 percentage points; or

22 “(B) 1.1 percent (1.2 percent for fiscal
23 year 1997).

24 “(3) REBASING OF AMOUNTS.—

1 “(A) IN GENERAL.—The Secretary shall
2 provide for an adjustment to the facility-specific
3 amounts used to determine the per stay limits
4 under this subsection for cost reporting periods
5 beginning on or after October 1, 1999, and
6 every 2 years thereafter.

7 “(B) TREATMENT OF FACILITIES NOT
8 HAVING REBASED COST REPORTING PERIODS.—
9 Paragraph (1)(B) shall apply with respect to a
10 skilled nursing facility for which payments were
11 not made under this title for covered non-rou-
12 tine services for the 12-month cost reporting
13 period used by the Secretary to update facility-
14 specific amounts under subparagraph (A) in the
15 same manner as such paragraph applies with
16 respect to a facility for which payments were
17 not made under this title for covered non-rou-
18 tine services for the last 12-month cost report-
19 ing period ending on or before September 30,
20 1994.

21 “(e) DETERMINATION OF FACILITY-SPECIFIC STAY
22 AMOUNTS.—The ‘facility-specific stay amount’ for a
23 skilled nursing facility for a cost reporting period is the
24 sum of—

1 “(1) the average amount of payments made to
2 the facility under part A during the period which are
3 attributable to covered non-routine services fur-
4 nished during a stay; and

5 “(2) the Secretary’s best estimate of the aver-
6 age amount of payments made under part B during
7 the period for covered non-routine services furnished
8 to all residents of the facility to whom the facility
9 provided extended care services for which payment
10 was made under part A during the period (without
11 regard to whether or not the services were furnished
12 by the facility, by others under arrangement with
13 them made by the facility under any other contract-
14 ing or consulting arrangement, or otherwise), as es-
15 timated by the Secretary.

16 “(f) INTENSIVE NURSING OR THERAPY NEEDS.—

17 “(1) IN GENERAL.—In applying subsection (b)
18 to covered non-routine services furnished during a
19 stay beginning during a cost reporting period begin-
20 ning during a fiscal year (beginning with fiscal years
21 after fiscal year 1997) to a resident of a skilled
22 nursing facility who requires intensive nursing or
23 therapy services, the per stay limit for such resident
24 shall be the per stay limit developed under para-

1 graph (2) instead of the per stay limit determined
2 under subsection (d)(1)(A).

3 “(2) PER STAY LIMIT FOR INTENSIVE NEED
4 RESIDENTS.—Not later than June 30, 1997, the
5 Secretary, after consultation with the Prospective
6 Payment Assessment Commission and skilled nurs-
7 ing facility experts, shall develop and publish a per
8 stay limit for residents of a skilled nursing facility
9 who require intensive nursing or therapy services.

10 “(3) BUDGET NEUTRALITY.—The Secretary
11 shall adjust payments under subsection (b) in a
12 manner that ensures that total payments for covered
13 non-routine services under this section are not great-
14 er or less than total payments for such services
15 would have been but for the application of para-
16 graph (1).

17 “(g) EXCEPTIONS AND ADJUSTMENTS TO LIMITS.—

18 “(1) IN GENERAL.—The Secretary may make
19 exceptions and adjustments to the cost reporting pe-
20 riod limits applicable to a skilled nursing facility
21 under subsection (c)(1)(B) for a cost reporting pe-
22 riod, except that the total amount of any additional
23 payments made under this section for covered non-
24 routine services during the cost reporting period as
25 a result of such exceptions and adjustments may not

1 exceed 5 percent of the aggregate payments made to
2 all skilled nursing facilities for covered non-routine
3 services during the cost reporting period (determined
4 without regard to this paragraph).

5 “(2) BUDGET NEUTRALITY.—The Secretary
6 shall adjust payments under subsection (b) in a
7 manner that ensures that total payments for covered
8 non-routine services under this section are not great-
9 er or less than total payments for such services
10 would have been but for the application of para-
11 graph (1).

12 “(h) SPECIAL TREATMENT FOR MEDICARE LOW
13 VOLUME SKILLED NURSING FACILITIES.—The Secretary
14 shall determine an appropriate manner in which to apply
15 this section, taking into account the purposes of this sec-
16 tion, to non-routine costs of a skilled nursing facility for
17 which payment is made for routine service costs during
18 a cost reporting period on the basis of prospective pay-
19 ments under section 1888(d).”.

20 (b) CONFORMING AMENDMENT.—Section 1814(b)
21 (42 U.S.C. 1395f(b)) is amended in the matter preceding
22 paragraph (1) by striking “1813 and 1886” and inserting
23 “1813, 1886, 1888, and 1888A”.

1 **SEC. 7033. PAYMENTS FOR ROUTINE SERVICE COSTS.**

2 (a) MAINTAINING SAVINGS RESULTING FROM TEM-
3 PORARY FREEZE ON PAYMENT INCREASES.—

4 (1) BASING UPDATES TO PER DIEM COST LIM-
5 ITS ON LIMITS FOR FISCAL YEAR 1993.—

6 (A) IN GENERAL.—The last sentence of
7 section 1888(a) (42 U.S.C. 1395yy(a)) is
8 amended by adding at the end the following:
9 “(except that such updates may not take into
10 account any changes in the routine service costs
11 of skilled nursing facilities occurring during
12 cost reporting periods which began during fiscal
13 year 1994 or fiscal year 1995).”.

14 (B) NO EXCEPTIONS PERMITTED BASED
15 ON AMENDMENT.—The Secretary of Health and
16 Human Services shall not consider the amend-
17 ment made by subparagraph (A) in making any
18 adjustments pursuant to section 1888(c) of the
19 Social Security Act.

20 (2) PAYMENTS TO LOW MEDICARE VOLUME
21 SKILLED NURSING FACILITIES.—Any change made
22 by the Secretary of Health and Human Services in
23 the amount of any prospective payment paid to a
24 skilled nursing facility under section 1888(d) of the
25 Social Security Act for cost reporting periods begin-
26 ning on or after October 1, 1995, may not take into

1 account any changes in the costs of services occur-
2 ring during cost reporting periods which began dur-
3 ing fiscal year 1994 or fiscal year 1995.

4 (b) ESTABLISHMENT OF SCHEDULE FOR MAKING
5 ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C.
6 1395yy(c)) is amended by striking the period at the end
7 of the second sentence and inserting “, and may only make
8 adjustments under this subsection with respect to a facil-
9 ity which applies for an adjustment during an annual ap-
10 plication period established by the Secretary.”.

11 (c) LIMITATION ON AGGREGATE INCREASE IN PAY-
12 MENTS RESULTING FROM ADJUSTMENTS TO LIMITS.—
13 Section 1888(c) (42 U.S.C. 1395yy(c)) is amended—

14 (1) by striking “(c) The Secretary” and insert-
15 ing “(c)(1) Subject to paragraph (2), the Sec-
16 retary”; and

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

19 “(2) The Secretary may not make any adjustments
20 under this subsection in the limits set forth in subsection
21 (a) for a cost reporting period beginning during a fiscal
22 year to the extent that the total amount of the additional
23 payments made under this title as a result of such adjust-
24 ments is greater than an amount equal to—

1 “(T) Such regulations shall provide that, in determin-
2 ing the amount of the payments that may be made under
3 this title with respect to all the capital-related costs of
4 skilled nursing facilities, the Secretary shall reduce the
5 amounts of such payments otherwise established under
6 this title by 15 percent for payments attributable to por-
7 tions of cost reporting periods occurring during fiscal
8 years 1996 through 2002.”.

9 **SEC. 7035. TREATMENT OF ITEMS AND SERVICES PAID FOR**
10 **UNDER PART B.**

11 (a) **REQUIRING PAYMENT FOR ALL ITEMS AND**
12 **SERVICES TO BE MADE TO FACILITY.—**

13 (1) **IN GENERAL.—**The first sentence of section
14 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

15 (A) by striking “and (D)” and inserting
16 “(D)”; and

17 (B) by striking the period at the end and
18 inserting the following: “, and (E) in the case
19 of an item or service furnished to an individual
20 who (at the time the item or service is fur-
21 nished) is a resident of a skilled nursing facil-
22 ity, payment shall be made to the facility (with-
23 out regard to whether or not the item or service
24 was furnished by the facility, by others under
25 arrangement with them made by the facility,

1 under any other contracting or consulting ar-
2 rangement, or otherwise), except that this sub-
3 paragraph shall not preclude a physician from
4 providing evaluation and management services
5 to patients under the physician’s care.”.

6 (2) EXCLUSION FOR ITEMS AND SERVICES NOT
7 BILLED BY FACILITY.—Section 1862(a) (42 U.S.C.
8 1395y(a)) is amended—

9 (A) by striking “or” at the end of para-
10 graph (14);

11 (B) by striking the period at the end of
12 paragraph (15) and inserting “; or”; and

13 (C) by inserting after paragraph (15) the
14 following new paragraph:

15 “(16) where such expenses are for covered non-
16 routine services (as defined in section 1888A(a)(1))
17 furnished to an individual who is a resident of a
18 skilled nursing facility and for which the claim for
19 payment under this title is not submitted by the fa-
20 cility.”.

21 (3) CONFORMING AMENDMENT.—Section
22 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by
23 striking “(2);” and inserting “(2) and section
24 1842(b)(6)(E);”.

1 (b) REDUCTION IN PAYMENTS FOR ITEMS AND SERV-
2 ICES FURNISHED BY OR UNDER ARRANGEMENTS WITH
3 FACILITIES.—Section 1861(v)(1) (42 U.S.C.
4 1395x(v)(1)), as amended by section 7034, is amended by
5 adding at the end the following new subparagraph:

6 “(U) In the case of an item or service furnished by
7 a skilled nursing facility (or by others under arrangement
8 with them made by a skilled nursing facility or under any
9 other contracting or consulting arrangement or otherwise)
10 for which payment is made under part B in an amount
11 determined in accordance with section 1833(a)(2)(B), the
12 Secretary shall reduce the reasonable cost for such item
13 or service otherwise determined under clause (i)(I) of such
14 section by 5.8 percent for payments attributable to por-
15 tions of cost reporting periods occurring during fiscal
16 years 1996 through 2002.”.

17 **SEC. 7036. MEDICAL REVIEW PROCESS.**

18 In order to ensure that medicare beneficiaries are
19 furnished appropriate extended care services, the Sec-
20 retary of Health and Human Services shall establish and
21 implement a thorough medical review process to examine
22 the effects of the amendments made by this subchapter
23 on the quality of extended care services furnished to medi-
24 care beneficiaries. In developing such a medical review
25 process, the Secretary shall place a particular emphasis

1 on the quality of non-routine covered services for which
2 payment is made under section 1888A of the Social Secu-
3 rity Act.

4 **SEC. 7037. REPORT BY PROSPECTIVE PAYMENT ASSESS-**
5 **MENT COMMISSION.**

6 Not later than October 1, 1997, the Prospective Pay-
7 ment Assessment Commission shall submit to Congress a
8 report on the system under which payment is made under
9 the medicare program for extended care services furnished
10 by skilled nursing facilities, and shall include in the report
11 the following:

12 (1) An analysis of the effect of the methodology
13 established under section 1888A of the Social Secu-
14 rity Act (as added by section 7032) on the payments
15 for, and the quality of, extended care services under
16 the medicare program.

17 (2) An analysis of the advisability of determin-
18 ing the amount of payment for covered non-routine
19 services of facilities (as described in such section) on
20 the basis of the amounts paid for such services when
21 furnished by suppliers under part B of the medicare
22 program.

23 (3) An analysis of the desirability of maintain-
24 ing separate limits for hospital-based and freestand-
25 ing facilities in the costs of extended care services

1 recognized as reasonable under the medicare pro-
2 gram.

3 (4) An analysis of the quality of services fur-
4 nished by skilled nursing facilities.

5 (5) An analysis of the adequacy of the process
6 and standards used to provide exceptions to the lim-
7 its described in paragraph (3).

8 **SEC. 7038. EFFECTIVE DATE.**

9 Except as otherwise provided in this subchapter, the
10 amendments made by this subchapter shall apply to serv-
11 ices furnished during cost reporting periods (or portions
12 of cost reporting periods) beginning on or after October
13 1, 1996.

14 **CHAPTER 3—PROVISIONS RELATING TO**
15 **PART B**

16 **SEC. 7041. PAYMENTS FOR PHYSICIANS' SERVICES.**

17 (a) ESTABLISHING UPDATE TO CONVERSION FACTOR
18 TO MATCH SPENDING UNDER SUSTAINABLE GROWTH
19 RATE.—

20 (1) Section 1848(d)(2) (42 U.S.C.
21 1395ww(d)(2)) is amended to read as follows:

22 “(2) RECOMMENDATION OF UPDATE.—

23 “(A) IN GENERAL.—Not later than April
24 15 of each year (beginning with 1996), the Sec-
25 retary shall transmit to the Congress a report

1 that includes a recommendation on the appro-
2 priate update in the conversion factor for all
3 physicians' services (as defined in subsection
4 (f)(3)(A)) in the following year. In making the
5 recommendation, the Secretary shall consider—

6 “(i) the percentage change in the
7 medicare economic index (described in the
8 fourth sentence of section 1842(b)(3)) for
9 that year;

10 “(ii) such factors as enter into the
11 calculation of the update adjustment factor
12 as described in paragraph (3)(B); and

13 “(iii) access to services.

14 “(B) ADDITIONAL CONSIDERATIONS.—In
15 making recommendations under subparagraph
16 (A), the Secretary may also consider—

17 “(i) unexpected changes by physicians
18 in response to the implementation of the
19 fee schedule;

20 “(ii) unexpected changes in outlay
21 projections;

22 “(iii) changes in the quality or appro-
23 priateness of care;

1 “(iv) any other relevant factors not
2 measured in the resource-based payment
3 methodology; and

4 “(v) changes in volume or intensity of
5 services.

6 “(C) COMMISSION REVIEW.—The Physi-
7 cian Payment Review Commission shall review
8 the report submitted under subparagraph (A)
9 in a year and shall submit to the Congress, by
10 not later than May 15 of the year, a report in-
11 cluding its recommendations respecting the up-
12 date in the conversion factor for the following
13 year.”.

14 (2) UPDATE.—Section 1848(d)(3) (42 U.S.C.
15 1395w-4(d)(3)) is amended to read as follows:

16 “(3) UPDATE.—

17 “(A) IN GENERAL.—Unless Congress oth-
18 erwise provides, subject to subparagraph (E),
19 for purposes of this section the update for a
20 year (beginning with 1997) is equal to the
21 product of—

22 “(i) 1 plus the Secretary’s estimate of
23 the percentage increase in the medicare
24 economic index (described in the fourth

1 sentence of section 1842(b)(3)) for the
2 year (divided by 100), and

3 “(ii) 1 plus the Secretary’s estimate of
4 the update adjustment factor for the year
5 (divided by 100),

6 minus 1 and multiplied by 100.

7 “(B) UPDATE ADJUSTMENT FACTOR.—The
8 ‘update adjustment factor’ for a year is equal to
9 the quotient of—

10 “(i) the difference between (I) the
11 sum of the allowed expenditures for physi-
12 cians’ services furnished during each of the
13 years 1995 through the year involved and
14 (II) the sum of the amount of actual ex-
15 penditures for physicians’ services fur-
16 nished during each of the years 1995
17 through the previous year; divided by

18 “(ii) the Secretary’s estimate of al-
19 lowed expenditures for physicians’ services
20 furnished during the year.

21 “(C) DETERMINATION OF ALLOWED EX-
22 PENDITURES.—For purposes of subparagraph
23 (B), allowed expenditures for physicians’ serv-
24 ices shall be determined as follows (as esti-
25 mated by the Secretary):

1 “(i) In the case of allowed expendi-
2 tures for 1995, such expenditures shall be
3 equal to actual expenditures for services
4 furnished during the 12-month period end-
5 ing with June 30, 1995.

6 “(ii) In the case of allowed expendi-
7 tures for 1996 and each subsequent year,
8 such expenditures shall be equal to allowed
9 expenditures for the previous year, in-
10 creased by the sustainable growth rate
11 under subsection (f) for the fiscal year
12 which begins during the year.

13 “(D) DETERMINATION OF ACTUAL EX-
14 PENDITURES.—For purposes of subparagraph
15 (B), the amount of actual expenditures for phy-
16 sicians’ services furnished during a year shall
17 be equal to the amount of expenditures for such
18 services during the 12-month period ending
19 with June of the previous year.

20 “(E) RESTRICTION ON VARIATION FROM
21 MEDICARE ECONOMIC INDEX.—Notwithstanding
22 the amount of the update adjustment factor de-
23 termined under subparagraph (B) for a year,
24 the update in the conversion factor under this
25 paragraph for the year may not be—

1 “(i) greater than 103 percent of 1
2 plus the Secretary’s estimate of the per-
3 centage increase in the medicare economic
4 index (described in the fourth sentence of
5 section 1842(b)(3)) for the year (divided
6 by 100), minus 1 and multiplied by 100; or

7 “(ii) less than 93 percent of 1 plus
8 the Secretary’s estimate of the percentage
9 increase in the medicare economic index
10 (described in the fourth sentence of section
11 1842(b)(3)) for the year (divided by 100),
12 minus 1 and multiplied by 100.”.

13 (3) EFFECTIVE DATE.—The amendments made
14 by this subsection shall apply to physicians’ services
15 furnished on or after January 1, 1997.

16 (b) REPLACEMENT OF VOLUME PERFORMANCE
17 STANDARD WITH SUSTAINABLE GROWTH RATE.—Section
18 1848(f) (42 U.S.C. 1395w-4(f)) is amended to read as
19 follows:

20 “(f) SUSTAINABLE GROWTH RATE.—

21 “(1) PROCESS FOR ESTABLISHING SUSTAIN-
22 ABLE GROWTH RATE OF INCREASE.—

23 “(A) SECRETARY’S RECOMMENDATION.—

24 By not later than April 15 of each year (begin-
25 ning with 1996), the Secretary shall transmit to

1 the Congress a recommendation on the sustain-
2 able growth rate for the fiscal year beginning in
3 such year. In making the recommendation, the
4 Secretary shall confer with organizations rep-
5 resenting physicians and shall consider—

6 “(i) inflation,

7 “(ii) changes in numbers of enrollees
8 (other than private plan enrollees) under
9 this part,

10 “(iii) changes in the age composition
11 of enrollees (other than private plan enroll-
12 ees) under this part,

13 “(iv) changes in technology,

14 “(v) evidence of inappropriate utiliza-
15 tion of services,

16 “(vi) evidence of lack of access to nec-
17 essary physicians’ services, and

18 “(vii) such other factors as the Sec-
19 retary considers appropriate.

20 “(B) COMMISSION REVIEW.—The Physi-
21 cian Payment Review Commission shall review
22 the recommendation transmitted during a year
23 under subparagraph (A) and shall make its rec-
24 ommendation to Congress, by not later than
25 May 15 of the year, respecting the sustainable

1 growth rate for the fiscal year beginning in that
2 year.

3 “(C) PUBLICATION OF SUSTAINABLE
4 GROWTH RATE.—The Secretary shall cause to
5 have the sustainable growth rate published in
6 the Federal Register, in the last 15 days of Oc-
7 tober of each calendar year (beginning with
8 1997), for the fiscal year beginning in that
9 year. The Secretary shall cause to have pub-
10 lished in the Federal Register, by not later than
11 January 1, 1997, the paragraph (2) for fiscal
12 year 1997.

13 “(2) SPECIFICATION OF GROWTH RATE.—

14 “(A) FISCAL YEAR 1996.—The sustainable
15 growth rate for all physicians’ services for fiscal
16 year 1996 shall be equal to the product of—

17 “(i) 1 plus the Secretary’s estimate of
18 the percentage change in the medicare eco-
19 nomic index for 1996 (described in the
20 fourth sentence of section 1842(b)(3)) (di-
21 vided by 100),

22 “(ii) 1 plus the Secretary’s estimate of
23 the percentage change (divided by 100) in
24 the average number of individuals enrolled
25 under this part (other than private plan

1 enrollees) from fiscal year 1995 to fiscal
2 year 1996,

3 “(iii) 1 plus the Secretary’s estimate
4 of the projected percentage growth in real
5 gross domestic product per capita (divided
6 by 100) from fiscal year 1995 to fiscal
7 year 1996, plus 2 percentage points, and

8 “(iv) 1 plus the Secretary’s estimate
9 of the percentage change (divided by 100)
10 in expenditures for all physicians’ services
11 in fiscal year 1996 (compared with fiscal
12 year 1995) which will result from changes
13 in law (including the Balanced Budget
14 Reconciliation Act of 1995), determined
15 without taking into account estimated
16 changes in expenditures due to changes in
17 the volume and intensity of physicians’
18 services or changes in expenditures result-
19 ing from changes in the update to the con-
20 version factor under subsection (d),
21 minus 1 and multiplied by 100.

22 “(B) SUBSEQUENT FISCAL YEARS.—The
23 sustainable growth rate for all physicians’ serv-
24 ices for fiscal year 1997 and each subsequent
25 fiscal year shall be equal to the product of—

1 “(i) 1 plus the Secretary’s estimate of
2 the percentage change in the medicare eco-
3 nomic index for the fiscal year involved
4 (described in the fourth sentence of section
5 1842(b)(3)) (divided by 100),

6 “(ii) 1 plus the Secretary’s estimate of
7 the percentage change (divided by 100) in
8 the average number of individuals enrolled
9 under this part (other than private plan
10 enrollees) from the previous fiscal year to
11 the fiscal year involved,

12 “(iii) 1 plus the Secretary’s estimate
13 of the projected percentage growth in real
14 gross domestic product per capita (divided
15 by 100) from the previous fiscal year to
16 the fiscal year involved, plus 2 percentage
17 points, and

18 “(iv) 1 plus the Secretary’s estimate
19 of the percentage change (divided by 100)
20 in expenditures for all physicians’ services
21 in the fiscal year (compared with the pre-
22 vious fiscal year) which will result from
23 changes in law, determined without taking
24 into account estimated changes in expendi-
25 tures due to changes in the volume and in-

1 tensity of physicians' services or changes in
2 expenditures resulting from changes in the
3 update to the conversion factor under sub-
4 section (d)(3),
5 minus 1 and multiplied by 100.

6 “(3) DEFINITIONS.—In this subsection:

7 “(A) SERVICES INCLUDED IN PHYSICIANS’
8 SERVICES.—The term ‘physicians’ services’ in-
9 cludes other items and services (such as clinical
10 diagnostic laboratory tests and radiology serv-
11 ices), specified by the Secretary, that are com-
12 monly performed or furnished by a physician or
13 in a physician’s office, but does not include
14 services furnished to a private plan enrollee.

15 “(B) PRIVATE PLAN ENROLLEE.—The
16 term ‘private plan enrollee’ means, with respect
17 to a fiscal year, an individual enrolled under
18 this part who has elected to receive benefits
19 under this title for the fiscal year through a
20 medicare choice plan offered under part D or
21 through enrollment with an eligible organization
22 with a risk-sharing contract under section
23 1876.”.

24 (c) ESTABLISHMENT OF SINGLE CONVERSION FAC-
25 TOR FOR 1996.—

1 (1) IN GENERAL.—Section 1848(d)(1) (42
2 U.S.C. 1395w-4(d)(1)) is amended—

3 (A) by redesignating subparagraph (C) as
4 subparagraph (D); and

5 (B) by inserting after subparagraph (B)
6 the following new subparagraph:

7 “(C) SPECIAL RULE FOR 1996.—For 1996,
8 the conversion factor under this subsection shall
9 be \$35.42 for all physicians’ services.”.

10 (2) CONFORMING AMENDMENTS.—Section 1848
11 (42 U.S.C. 1395w-4) is amended—

12 (A) by striking “(or factors)” each place it
13 appears in subsection (d)(1)(A) and
14 (d)(1)(C)(ii);

15 (B) in subsection (d)(1)(A), by striking “or
16 updates”;

17 (C) in subsection (d)(1)(C)(ii), by striking
18 “(or updates)”;

19 (D) in subsection (i)(1)(C), by striking
20 “conversion factors” and inserting “the conver-
21 sion factor”.

1 **SEC. 7042. ELIMINATION OF FORMULA-DRIVEN OVERPAY-**
2 **MENTS FOR CERTAIN OUTPATIENT HOSPITAL**
3 **SERVICES.**

4 (a) **AMBULATORY SURGICAL CENTER PROCE-**
5 **DURES.**—Section 1833(i)(3)(B)(i)(II) (42 U.S.C.
6 1395l(i)(3)(B)(i)(II)) is amended—

7 (1) by striking “of 80 percent”; and

8 (2) by striking the period at the end and insert-
9 ing the following: “, less the amount a provider may
10 charge as described in clause (ii) of section
11 1866(a)(2)(A).”.

12 (b) **RADIOLOGY SERVICES AND DIAGNOSTIC PROCE-**
13 **DURES.**—Section 1833(n)(1)(B)(i)(II) (42 U.S.C.
14 1395l(n)(1)(B)(i)(II)) is amended—

15 (1) by striking “of 80 percent”; and

16 (2) by striking the period at the end and insert-
17 ing the following: “, less the amount a provider may
18 charge as described in clause (ii) of section
19 1866(a)(2)(A).”.

20 (c) **EFFECTIVE DATE.**—The amendments made by
21 this section shall apply to services furnished during por-
22 tions of cost reporting periods occurring on or after Octo-
23 ber 1, 1995.

1 **SEC. 7043. PAYMENTS FOR CLINICAL LABORATORY DIAG-**
 2 **NOSTIC SERVICES.**

3 (a) FREEZE IN UPDATE.—Section
 4 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV))
 5 is amended by striking “and 1995” and inserting
 6 “through 2002”.

7 (b) REDUCTION OF NATIONAL CAPS.—Section
 8 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

9 (1) by striking “and” at the end of clause (vi);
 10 (2) in clause (vii)—

11 (A) by inserting “and before January 1,
 12 1997,” after “December 31, 1995,”; and

13 (B) by striking the period and inserting “,
 14 and”; and

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

17 “(viii) after December 31, 1996, is equal to 65
 18 percent of such median.”.

19 (c) STUDY AND REPORT TO CONGRESS.—

20 (1) STUDY.—The Secretary of Health and
 21 Human Services shall conduct a study of—

22 (A) the fee schedule determined under sec-
 23 tion 1833(h)(1) of the Social Security Act (42
 24 U.S.C. 1395l(h)(1)) relating to clinical labora-
 25 tory services; and

1 (B) options for rebasing or otherwise revis-
2 ing the amounts payable for such services under
3 such fee schedule, taking into account the
4 amounts paid for such services by other large
5 volume purchasers.

6 (2) REPORT.—Not later than 1 year after the
7 date of the enactment of the Balanced Budget Rec-
8 onciliation Act of 1995, the Secretary shall submit
9 to Congress a report on the study conducted under
10 paragraph (1).

11 **SEC. 7044. DURABLE MEDICAL EQUIPMENT.**

12 (a) FREEZE IN UPDATES.—Section 1834(a)(14) (42
13 U.S.C. 1395m(a)(14)) is amended—

14 (1) in subparagraph (A), by striking “and” at
15 the end;

16 (2) by redesignating subparagraph (B) as sub-
17 paragraph (C); and

18 (3) by inserting after subparagraph (A), the fol-
19 lowing subparagraph:

20 “(B) for 1996 through 2002, the percent-
21 age increase is 0 percent; and”.

22 (b) OXYGEN EQUIPMENT.—

23 (1) IN GENERAL.—Section 1834(a)(5)(A) (42
24 U.S.C. 1395m(a)(5)(A)) is amended to read as fol-
25 lows:

1 “(A) IN GENERAL.—Subject to subpara-
2 graphs (B), (C), and (E), payment for—

3 “(i) oxygen shall be made on a month-
4 ly basis in the monthly payment amount
5 recognized under paragraph (9) for oxy-
6 gen; and

7 “(ii) oxygen equipment (other than
8 portable oxygen equipment) shall be made
9 on a monthly basis in an amount equal to
10 60 percent of the monthly payment
11 amount recognized under paragraph (9)
12 for oxygen equipment.”.

13 (2) PORTABLE OXYGEN EQUIPMENT.—Section
14 1834(a)(5)(B) (42 U.S.C. 1395m(a)(5)(B)) is
15 amended by inserting “60 percent of” after “in-
16 creased by”.

17 (3) EFFECTIVE DATE.—The amendments made
18 by this subsection shall apply to items and services
19 furnished on or after January 1, 1996.

20 (c) UPGRADED DURABLE MEDICAL EQUIPMENT.—
21 Section 1834(a) (42 U.S.C. 1395m(a)) is amended by in-
22 serting after paragraph (15) the following new paragraph:

23 “(16) CERTAIN UPGRADED ITEMS.—

24 “(A) INDIVIDUAL’S RIGHT TO CHOOSE UP-
25 GRADED ITEM.—Notwithstanding any other

1 provision of law, effective on the date on which
2 the Secretary issues regulations under subpara-
3 graph (C), an individual may purchase or rent
4 from a supplier an item of upgraded durable
5 medical equipment for which payment would be
6 made under this subsection if the item were a
7 standard item.

8 “(B) PAYMENTS TO SUPPLIER.—In the
9 case of the purchase or rental of an upgraded
10 item under subparagraph (A)—

11 “(i) the supplier shall receive payment
12 under this subsection with respect to such
13 item as if such item were a standard item;
14 and

15 “(ii) the individual purchasing or
16 renting the item shall pay the supplier an
17 amount equal to the difference between the
18 supplier’s charge and the amount under
19 clause (i).

20 In no event may the supplier’s charge for an
21 upgraded item exceed the applicable fee sched-
22 ule amount (if any) for such item.

23 “(C) CONSUMER PROTECTION SAFE-
24 GUARDS.—The Secretary shall issue regulations
25 providing for consumer protection standards

1 with respect to the furnishing of upgraded
2 equipment under subparagraph (A). Such regu-
3 lations shall provide for—

4 “(i) determination of fair market
5 prices with respect to an upgraded item;

6 “(ii) full disclosure of the availability
7 and price of standard items and proof of
8 receipt of such disclosure information by
9 the beneficiary before the furnishing of the
10 upgraded item;

11 “(iii) conditions of participation for
12 suppliers in the simplified billing arrange-
13 ment;

14 “(iv) sanctions of suppliers who are
15 determined to engage in coercive or abu-
16 sive practices, including exclusion; and

17 “(v) such other safeguards as the Sec-
18 retary determines are necessary.”.

19 **SEC. 7045. UPDATES FOR ORTHOTICS AND PROSTHETICS.**

20 (a) IN GENERAL.—Section 1834(h)(4)(A)(iii) (42
21 U.S.C. 1395m(h)(4)(A)(iii)) is amended by striking “1994
22 and 1995” and inserting “1994 through 2002”.

23 (b) EXTENSION OF FREEZE ON PARENTERAL AND
24 ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.—In
25 determining the amount of payment under part B of title

1 XVIII of the Social Security Act with respect to parenteral
 2 and enteral nutrients, supplies, and equipment during
 3 1996 through 2002, the charges determined to be reason-
 4 able with respect to such nutrients, supplies, and equip-
 5 ment may not exceed the charges determined to be reason-
 6 able with respect to such nutrients, supplies, and equip-
 7 ment during 1995 (as such charges were determined in
 8 accordance with section 13541 of OBRA—1993).

9 **SEC. 7046. PAYMENTS FOR CAPITAL-RELATED COSTS OF**
 10 **OUTPATIENT HOSPITAL SERVICES.**

11 Section 1861(v)(1)(S)(ii)(I) (42 U.S.C.
 12 1395x(v)(1)(S)(ii)(I)) is amended by striking “, and by
 13 10 percent for payments attributable to portions of cost
 14 reporting periods occurring during fiscal years 1992
 15 through 1998” and inserting “by 10 percent for payments
 16 attributable to portions of cost reporting periods occurring
 17 during fiscal years 1992 through 1995, and by 15 percent
 18 for payments attributable to portions of cost reporting pe-
 19 riods occurring during fiscal years 1996 through 2002.”.

20 **SEC. 7047. PAYMENTS FOR NON-CAPITAL COSTS OF OUT-**
 21 **PATIENT HOSPITAL SERVICES.**

22 Section 1861(v)(1)(S)(ii)(II) (42 U.S.C.
 23 1395x(v)(1)(S)(ii)(II)) is amended by striking “through
 24 1998” and inserting “through 2002”.

1 **SEC. 7048. UPDATES FOR AMBULATORY SURGICAL SERV-**
2 **ICES.**

3 Section 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)) is
4 amended—

5 (1) by striking “1996” and inserting “2003”;
6 and

7 (2) by inserting before the first sentence the
8 following new sentence: “Notwithstanding the second
9 sentence of subparagraph (A) or the second sentence
10 of subparagraph (B), the Secretary shall not update
11 amounts established under such subparagraphs for
12 fiscal years 1996 through 2002.”

13 **SEC. 7049. PAYMENTS FOR AMBULANCE SERVICES.**

14 Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as
15 amended by sections 7034 and 7035(b), is amended by
16 adding at the end the following new subparagraph:

17 “(V) In determining the reasonable cost or
18 charge of ambulance services for fiscal years 1996
19 through 2002, the Secretary shall not recognize
20 anycosts in excess of costs recognized as reasonable
21 for fiscal year 1995.”.

22 **SEC. 7050. PHYSICIAN SUPERVISION OF NURSE ANES-**
23 **THETISTS.**

24 (a) PROMULGATION OF REVISED REGULATIONS.—
25 The Secretary of Health and Human Services shall revise
26 any regulations describing the conditions under which pay-

1 ment may be made for anesthesia services under the medi-
2 care program under title XVIII of the Social Security Act
3 (42 U.S.C. 1395 et seq.) to provide that payment may
4 be made under the medicare program for anesthesia serv-
5 ices furnished in a hospital or an ambulatory surgical cen-
6 ter by a certified registered nurse anesthetist who, under
7 the law of the State in which the service is furnished, is
8 permitted to administer anesthesia services without super-
9 vision by the physician performing the operation or the
10 anesthesiologist.

11 (b) EFFECTIVE DATE.—The revisions to the regula-
12 tions referred to in subsection (a) shall apply with respect
13 to anesthesia services furnished on or after January 1,
14 1996.

15 **SEC. 7051. PART B DEDUCTIBLE.**

16 Section 1833(b) (42 U.S.C. 1395l(b)) is amended in
17 the first sentence by striking “and \$100 for 1991 and sub-
18 sequent years” and inserting “, \$100 for calendar years
19 1991 through 1995, \$150 for calendar year 1996, and for
20 calendar years after 1996, an amount equal to the deduct-
21 ible amount determined under this subsection in the prior
22 calendar year, increased by \$10.00”.

23 **SEC. 7052. PART B PREMIUM.**

24 Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is
25 amended—

1 (1) in subparagraph (A), by striking “after De-
 2 cember 1995 and prior to January 1999” and in-
 3 serting “after December 2002”; and

4 (2) in subparagraph (B)—

5 (A) by striking “and” at the end of clause

6 (iv),

7 (B) in clause (v), by striking the period
 8 and inserting a comma, and

9 (C) by adding at the end the following new

10 clauses:

11 “(vi) 1996 shall be \$53.00,

12 “(vii) 1997 shall be \$57.00,

13 “(viii) 1998 shall be \$61.00,

14 “(ix) 1999 shall be \$66.00,

15 “(x) 2000 shall be \$74.00,

16 “(xi) 2001 shall be \$80.00, and

17 “(xii) 2002 shall be \$89.00.”.

18 **SEC. 7053. INCREASE IN MEDICARE PART B PREMIUM FOR**

19 **HIGH-INCOME INDIVIDUALS.**

20 (a) IN GENERAL.—Part B of title XVIII is amended
 21 by inserting after section 1839 the following new section:

22 “INCREASE IN PREMIUM FOR HIGH-INCOME INDIVIDUALS

23 “SEC. 1839A. (a) INCREASE IN PREMIUM.—

24 “(1) IN GENERAL.—If this section applies to an

25 individual for any calendar year, the monthly pre-

26 mium otherwise applicable under section 1839 for

1 each month during the calendar year shall be in-
2 creased by an amount equal to the supplemental
3 Medicare part B premium.

4 “(2) INDIVIDUALS TO WHOM SECTION AP-
5 PLIES.—This section shall apply to any individual
6 for a calendar year if—

7 “(A) the individual is covered under this
8 part for any month during the calendar year,
9 and

10 “(B) the modified adjusted gross income of
11 the taxpayer for the taxable year beginning in
12 the calendar year exceeds the threshold amount.

13 “(b) PREMIUMS TO BE DEDUCTED BASED ON ESTI-
14 MATED AMOUNTS.—

15 “(1) IN GENERAL.—Each individual shall—

16 “(A) during the medicare open enrollment
17 period under section 1895G(b)(1), or

18 “(B) during any other medicare enrollment
19 period applicable to the individual under section
20 1895G(b)(2),

21 include with the medicare enrollment an estimate of
22 the taxpayer’s modified adjusted gross income for
23 the following calendar year.

24 “(2) INDIVIDUALS NOT FILING ENROLLMENT
25 FORM.—If an individual does not file a medicare en-

1 rollment form for any enrollment period applicable
2 to the individual and the individual's coverage under
3 this part continues without modification by reason of
4 the failure to file, the individual's modified adjusted
5 gross income shall be determined on the basis of the
6 most recent information available to the Secretary
7 from prior enrollment forms, the Secretary of the
8 Treasury under section 6103(l)(15), or otherwise.

9 “(3) INDIVIDUALS FILING INCORRECT ENROLL-
10 MENT FORMS.—If, on the basis of information ob-
11 tained from the Secretary of the Treasury under sec-
12 tion 6103(l)(15), the Secretary determines that the
13 information included with a medicare enrollment
14 form under paragraph (1) is incorrect, the individ-
15 ual's modified adjusted gross income shall be deter-
16 mined on the basis of the information obtained from
17 the Secretary of the Treasury.

18 “(4) TRANSFER OF INFORMATION.—The Sec-
19 retary shall notify the applicable agency under sec-
20 tion 1840 of—

21 “(A) the estimates received under para-
22 graph (1) or the determinations under para-
23 graph (2) or (3), and

24 “(B) the amount of the premiums to be
25 deducted under section 1840.

1 The premiums under subparagraph (B) shall be ef-
2 fective with respect to months beginning with the
3 later of the month for which the enrollment is effec-
4 tive or the month following the month in which the
5 notice is received. Such premium shall remain in ef-
6 fect until another premium takes effect under this
7 subsection or there is an increase in the premium
8 determined without regard to this section.

9 “(c) SUPPLEMENTAL MEDICARE PART B PRE-
10 MIUM.—For purposes of subsection (a)—

11 “(1) IN GENERAL.—The supplemental Medicare
12 part B premium for any month is an amount equal
13 to the excess of—

14 “(A) 200 percent of the monthly actuarial
15 rate for enrollees age 65 and over determined
16 under subsection 1839(a)(1) for such month,
17 over

18 “(B) the total monthly premium under sec-
19 tion 1839 (determined without regard to sub-
20 sections (b) and (f) of section 1839).

21 “(2) PHASEIN OF SUPPLEMENTAL PREMIUM.—

22 “(A) IN GENERAL.—If the modified ad-
23 justed gross income of the taxpayer for any tax-
24 able year exceeds the threshold amount by less
25 than \$50,000, the supplemental Medicare part

1 B premium under this section for months in the
2 calendar year in which the taxable year begins
3 shall be an amount which bears the same ratio
4 to the amount of the premium (without regard
5 to this paragraph) as such excess bears to
6 \$50,000. The preceding sentence shall not
7 apply to any individual whose threshold amount
8 is zero.

9 “(B) PHASEIN RANGE FOR JOINT RE-
10 TURNS.—In the case of a joint return under
11 section 6013 of the Internal Revenue Code of
12 1986, subparagraph (A) shall be applied by
13 substituting ‘\$75,000’ for ‘\$50,000’ each place
14 it appears.

15 “(d) VERIFICATION AND ADJUSTMENTS OF SUPPLE-
16 MENTAL PREMIUMS.—

17 “(1) VERIFICATION.—Each individual to whom
18 this section applies shall, on the basis of information
19 shown on the return of tax imposed by chapter 1 of
20 the Internal Revenue Code of 1986 for any taxable
21 year, determine the difference (if any) between—

22 “(A) the aggregate supplemental Medicare
23 part B premiums imposed by this section for
24 months during the calendar year in which the
25 taxable year begins, and

1 “(B) the aggregate amount of premiums
2 deducted and paid under section 1840 for such
3 months with respect to the individual.

4 Such determination shall be included on a form pre-
5 scribed by the Secretary and the form shall be sub-
6 mitted to the Secretary at such time and in such
7 manner as the Secretary shall prescribe.

8 “(2) DEFICIENCY ADJUSTMENTS.—

9 “(A) IN GENERAL.—If the amount under
10 paragraph (1)(A) exceeds the amount under
11 paragraph (1)(B), the individual shall include
12 with the form required to be filed under para-
13 graph (1) a separate check made payable to the
14 Secretary in an amount equal to such excess
15 plus interest determined under subparagraph
16 (B).

17 “(B) INTEREST ON UNDERPAYMENTS.—
18 For purposes of subparagraph (A)—

19 “(i) IN GENERAL.—The amount of in-
20 terest taken into account shall be the sum
21 of the amounts determined under clause
22 (ii) for each of the months in the taxable
23 year.

24 “(ii) MONTHLY INTEREST.—Interest
25 shall be computed for any month in an

1 amount determined by applying the
2 underpayment rate established under sec-
3 tion 6621 of the Internal Revenue Code of
4 1986 to any portion of the underpayment
5 for the period beginning on the first day of
6 the following month and ending on the
7 date the portion is paid. For purposes of
8 this clause, payments shall be applied to
9 months in order, beginning with the earli-
10 est.

11 “(iii) SAFE-HARBOR EXCEPTION.—No
12 interest shall be imposed for any month if
13 the individual’s estimate of modified ad-
14 justed gross income under subsection (b)
15 on which the supplemental Medicare part
16 B premium for the month was based was
17 not less than the individual’s modified ad-
18 justed gross income determined on the
19 basis of information shown on the return
20 of tax imposed by chapter 1 of such Code
21 for the taxable year ending with or within
22 the calendar year preceding the calendar
23 year in which the estimate was made.

24 “(3) OVERPAYMENT ADJUSTMENTS.—If the
25 amount under paragraph (1)(B) exceeds the amount

1 under paragraph (1)(A), the Secretary shall, at the
2 Secretary's discretion—

3 “(A) credit such excess against any supple-
4 mental premium required under this section, or

5 “(B) make a payment to the individual in
6 the amount of such excess.

7 “(4) ADJUSTMENTS BY SECRETARY.—If the
8 Secretary determines, on the basis of information re-
9 ceived from the Secretary of the Treasury under sec-
10 tion 6103(l)(15), that there was an underpayment or
11 overpayment of the aggregate supplemental Medi-
12 care part B premiums for months during any tax-
13 able year (after any other adjustment under this
14 subsection), the Secretary shall—

15 “(A) notify the individual of such
16 underpayment or overpayment,

17 “(B) in the case of an underpayment, give
18 such individual an opportunity for a hearing
19 with respect to such underpayment and a rea-
20 sonable time for payment of such underpayment
21 and interest determined under paragraph
22 (2)(B), and

23 “(C)(i) collect the amount of any
24 underpayment and interest not paid under sub-

1 paragraph (B) in such manner as the Secretary
2 may prescribe, and

3 “(ii) take the actions described in para-
4 graph (3) with respect to any overpayment.

5 “(5) TRANSFERS TO TRUST FUND.—Amounts
6 equal to amounts paid under paragraphs (2)(A),
7 (4)(B), and (4)(C)(i) shall be deposited into the
8 Federal Supplementary Medical Insurance Trust
9 Fund.

10 “(e) OTHER DEFINITIONS AND SPECIAL RULES.—
11 For purposes of this section—

12 “(1) THRESHOLD AMOUNT.—The term ‘thresh-
13 old amount’ means—

14 “(A) except as otherwise provided in this
15 paragraph, \$50,000,

16 “(B) \$75,000 in the case of a joint return,
17 and

18 “(C) zero in the case of a taxpayer who—

19 “(i) is married at the close of the tax-
20 able year but does not file a joint return
21 for such year, and

22 “(ii) does not live apart from his
23 spouse at all times during the taxable year.

24 “(2) MODIFIED ADJUSTED GROSS INCOME.—
25 The term ‘modified adjusted gross income’ means

1 adjusted gross income determined under section 62
2 of the Internal Revenue Code of 1986—

3 “(A) determined without regard to sections
4 135, 911, 931, and 933 of such Code, and

5 “(B) increased by the amount of interest
6 received or accrued by the taxpayer during the
7 taxable year which is exempt from tax.

8 “(3) JOINT RETURNS.—In the case of a joint
9 return under section 6013 of such Code, this section
10 shall be applied by taking into account the combined
11 modified adjusted gross income of the spouses.

12 “(4) MARRIED INDIVIDUAL.—The determina-
13 tion of whether an individual is married shall be
14 made in accordance with section 7703 of such Code.

15 “(5) AGREEMENTS.—In order to promote the
16 efficient administration of this section, the Secretary
17 may enter into agreements with the Commissioner of
18 the Social Security Administration or the head of
19 any other appropriate Federal agency under which
20 such agency performs administrative responsibilities
21 under this section.”

22 (b) DISCLOSURE OF INFORMATION.—Section 6103(l)
23 of the Internal Revenue Code of 1986 is amended by add-
24 ing at the end the following new paragraph:

1 “(15) DISCLOSURE OF TAXPAYER RETURN IN-
2 FORMATION TO SOCIAL SECURITY ADMINISTRATION
3 FOR PURPOSES OF COLLECTING SUPPLEMENTAL
4 PART B PREMIUMS.—

5 “(A) IN GENERAL.—The Secretary shall,
6 upon written request from the Secretary of
7 Health and Human Services, disclose to the
8 Secretary with respect to any medicare bene-
9 ficiary (as defined in paragraph (12)(E)(i))
10 identified in the request whether or not (and
11 the amount by which) the individual’s modified
12 adjusted gross income for any taxable year
13 specified in the request exceeded the threshold
14 amount.

15 “(B) RESTRICTION ON USE.—Return in-
16 formation disclosed under subparagraph (A)
17 may be used by officers and employees of the
18 Department of Health and Human Services (or
19 of any other Federal agency if an agreement
20 under section 1839A(e)(5) of the Social Secu-
21 rity Act is in effect) only for the purposes of,
22 and to the extent necessary in, establishing an
23 individual’s correct supplemental Medicare part
24 B premium under section 1839A of the such
25 Act.

1 “(C) DEFINITIONS.—For purposes of this
2 paragraph, any term used which is also used in
3 section 1839A of the Social Security Act shall
4 have the meaning given such term by such sec-
5 tion.”

6 (c) CONFORMING AMENDMENTS.—

7 (1) Paragraph (2) of section 1839(a) (42
8 U.S.C. 1395r(a)(2)) is amended by inserting “or
9 section 1839A” after “subsections (b) and (e)”.

10 (2) Paragraph (3) of section 1839(a) (42
11 U.S.C. 1395r(a)(3)) is amended by inserting “or
12 section 1839A” after “subsection (e)”.

13 (3) Section 1839(b) (42 U.S.C. 1395r(b)) is
14 amended by inserting “(and as increased under sec-
15 tion 1839A)” after “subsection (a) or (e)”.

16 (4) Section 1839(f) (42 U.S.C. 1395r(f)) is
17 amended by adding at the end the following new
18 sentence: “This subsection shall not apply to the
19 portion of the premium attributable to the supple-
20 mental premium under section 1839A.”

21 (5) Section 1840(c) (42 U.S.C. 1395r(c)) is
22 amended by inserting “or an individual determines
23 that the estimate of modified adjusted gross income
24 used in determining the supplemental premium
25 under section 1839A is too low and results in a por-

1 tion of the premium not being deducted,” before “he
2 may”.

3 (d) EFFECTIVE DATE.—

4 (1) IN GENERAL.—The amendments made by
5 this section shall apply to months after December
6 1996.

7 (2) INFORMATION FOR PRIOR YEARS.—The
8 Secretary of Health and Human Services may re-
9 quest information under section 6013(l)(15) of the
10 Social Security Act (as added by subsection (b)) for
11 taxable years beginning after December 31, 1993.

12 **CHAPTER 4—PROVISIONS RELATING TO**
13 **PARTS A AND B**

14 **Subchapter A—General Provisions Relating**
15 **to Parts A and B**

16 **SEC. 7055. SECONDARY PAYOR PROVISIONS.**

17 (a) PERMANENT EXTENSION OF APPLICATION TO
18 DISABLED BENEFICIARIES.—Section 1862(b)(1)(B)(iii)
19 (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking “,
20 and before October 1, 1998”.

21 (b) INDIVIDUALS WITH END STAGE RENAL DIS-
22 EASE.—Section 1862(b)(1)(C) (42 U.S.C.
23 1395y(b)(1)(C)) is amended—

24 (1) in the last sentence by striking “October 1,
25 1998” and inserting “the date of the enactment of

1 the Balanced Budget Reconciliation Act of 1995”;
2 and

3 (2) by adding at the end the following new sen-
4 tence: “Effective for items and services furnished on
5 or after the date of the enactment of the Balanced
6 Budget Reconciliation Act of 1995, (with respect to
7 periods beginning on or after the date that is 18
8 months prior to such date), clauses (i) and (ii) shall
9 be applied by substituting ‘30-month’ for ‘12-month’
10 each place it appears.”.

11 (c) EXTENSION OF TRANSFER OF DATA.—

12 (1) ELIMINATION OF SUNSET.—Section
13 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is
14 amended by striking clause (iii).

15 (2) ELIMINATION OF TERMINATION.—Section
16 6103(l)(12) of the Internal Revenue Code of 1986 is
17 amended by striking subparagraph (F).

18 (d) NO RETROACTIVE APPLICATION OF ESRD SEC-
19 ONDARY PAYER INTERPRETATION.—Notwithstanding any
20 other provision of law, the April 1995 interpretation of
21 section 1862(b)(1)(C) of the Social Security Act (42
22 U.S.C. 1395y(b)(1)(C)) issued by the Health Care Fi-
23 nancing Administration shall not apply retroactively to a
24 group health plan that paid benefits primary to title XVIII
25 of such Act (42 U.S.C. 1395 et seq.) (but would have paid

1 benefits secondary to such title in the absence of such sec-
2 tion) on or after August 10, 1993, and before April 24,
3 1995, on behalf of an individual who, during such pe-
4 riod—

5 (1) was entitled to benefits under such title
6 under subsection (a) or (b) of section 226 of such
7 Act (42 U.S.C. 426); and

8 (2) subsequently became entitled or eligible for
9 benefits under such title under section 226A of such
10 Act (42 U.S.C. 426–1).

11 **SEC. 7056. TREATMENT OF ASSISTED SUICIDE.**

12 (a) PROHIBITION OF PAYMENT.—Section 1862(a)
13 (42 U.S.C. 1395y(a)) is amended—

14 (1) by striking “or” at the end of paragraph
15 (14);

16 (2) by striking the period at the end of para-
17 graph (15) and inserting “; or”; and

18 (3) by inserting after paragraph (15) and be-
19 fore the flush language at the end the following new
20 paragraph:

21 “(16) where such expenses are for items and
22 services, or to assist in the purchase in whole or in
23 part of health benefit coverage that includes items or
24 services, for the purpose of causing, or assisting in

1 causing, the death, suicide, euthanasia, or mercy
2 killing of an individual.”.

3 (b) NO REQUIREMENT THAT HEALTH CARE PROVID-
4 ERS INFORM PATIENTS CONCERNING ASSISTING SUI-
5 CIDE.—Section 1866(f)(1)(A)(i) (42 U.S.C.
6 1395cc(f)(1)(A)(i)) is amended by striking “paragraph
7 (3))” and inserting “paragraph (3)), except that no health
8 care provider or employee of a health care provider be re-
9 quired under this section to inform or counsel a patient
10 regarding assisted suicide, euthanasia, mercy killing, or
11 other service which purposefully causes the death of a per-
12 son”.

13 **SEC. 7057. ADMINISTRATIVE PROVISIONS.**

14 (a) INDIAN HEALTH SERVICE FACILITIES.—Nothing
15 in this Act shall be construed to change the status under
16 title XVIII of the Social Security Act (42 U.S.C. 1395
17 et seq.) of—

18 (1) a Federally qualified health center (as de-
19 fined in section 1861(aa)(4) of such Act) which is
20 an outpatient health program or facility operated by
21 a tribe or tribal organization under the Indian Self-
22 Determination Act or by an urban Indian organiza-
23 tion receiving funds under title V of the Indian
24 Health Care Improvement Act; or

1 (2) hospitals or skilled nursing facilities of the
2 Indian Health Service, whether operated by such
3 Service or by an Indian tribe or tribal organization
4 (as those terms are defined in section 4 of the In-
5 dian Health Care Improvement Act), that are eligi-
6 ble for payments under title XVIII of the Social Se-
7 curity Act, in accordance with section 1880 of such
8 Act (42 U.S.C. 1395qq).

9 (b) CONFORMING AMENDMENT TO CERTIFICATION
10 OF CHRISTIAN SCIENCE PROVIDERS.—

11 (1) HOSPITALS.—Section 1861(e) (42 U.S.C.
12 1395x(e)) is amended in the sixth sentence by strik-
13 ing “the First Church of Christ, Scientist, Boston,
14 Massachusetts,” and inserting “the Commission for
15 Accreditation of Christian Science Nursing Organi-
16 zations/Facilities, Inc.,”.

17 (2) SKILLED NURSING FACILITIES.—Section
18 1861(y)(1) (42 U.S.C. 1395x(y)(1)) is amended by
19 striking “the First Church of Christ, Scientist, Bos-
20 ton, Massachusetts,” and inserting “the Commission
21 for Accreditation of Christian Science Nursing Orga-
22 nizations/Facilities, Inc.,”.

23 (3) GENERAL PROVISIONS.—

24 (A) UNIFORM REPORTING SYSTEMS.—Sec-
25 tion 1122(h) (42 U.S.C. 1320a–1(h)) is amend-

1 ed by striking “the First Church of Christ, Sci-
 2 entist, Boston, Massachusetts” and inserting
 3 “the Commission for Accreditation of Christian
 4 Science Nursing Organizations/Facilities, Inc.”.

5 (B) PEER REVIEW.—Section 1162 (42
 6 U.S.C. 1320e–11) is amended by striking “the
 7 First Church of Christ, Scientist, Boston, Mas-
 8 sachusetts” and inserting “the Commission for
 9 Accreditation of Christian Science Nursing Or-
 10 ganizations/Facilities, Inc.”.

11 (4) EFFECTIVE DATE.—The amendments made
 12 by this subsection shall take effect on January 1,
 13 1997.

14 **Subchapter B—Payments for Home Health**
 15 **Services**

16 **SEC. 7061. PAYMENT FOR HOME HEALTH SERVICES.**

17 (a) IN GENERAL.—Part C of title XVIII (42 U.S.C.
 18 1395x et seq.) is amended by adding at the end the follow-
 19 ing new section:

20 “PAYMENT FOR HOME HEALTH SERVICES

21 “SEC. 1893. (a) IN GENERAL.—

22 “(1) PER VISIT PAYMENTS.—Subject to sub-
 23 section (c), the Secretary shall make per visit pay-
 24 ments beginning with fiscal year 1997 to a home
 25 health agency in accordance with this section for
 26 each type of home health service described in para-

1 graph (2) furnished to an individual who at the time
2 the service is furnished is under a plan of care by
3 the home health agency under this title (without re-
4 gard to whether or not the item or service was fur-
5 nished by the agency or by others under arrange-
6 ment with them made by the agency, under any
7 other contracting or consulting arrangement, or oth-
8 erwise).

9 “(2) TYPES OF SERVICES.—The types of home
10 health services described in this paragraph are the
11 following:

12 “(A) Part-time or intermittent nursing
13 care provided by or under the supervision of a
14 registered professional nurse.

15 “(B) Physical therapy.

16 “(C) Occupational therapy.

17 “(D) Speech-language pathology services.

18 “(E) Medical social services under the di-
19 rection of a physician.

20 “(F) To the extent permitted in regula-
21 tions, part-time or intermittent services of a
22 home health aide who has successfully com-
23 pleted a training program approved by the Sec-
24 retary.

1 “(b) ESTABLISHMENT OF PER VISIT RATE FOR
2 EACH TYPE OF SERVICES.—

3 “(1) IN GENERAL.—The Secretary shall, sub-
4 ject to paragraph (3), establish a per visit payment
5 rate for a home health agency in an area (which
6 shall be the same area used to determine the area
7 wage index applicable to hospitals under section
8 1886(d)(3)(E)) for each type of home health service
9 described in subsection (a)(2). Such rate shall be
10 equal to the national per visit payment rate deter-
11 mined under paragraph (2) for each such type, ex-
12 cept that the labor-related portion of such rate shall
13 be adjusted by the area wage index applicable under
14 section 1886(d)(3)(E) for the area in which the
15 agency is located.

16 “(2) NATIONAL PER VISIT PAYMENT RATE.—
17 The national per visit payment rate for each type of
18 service described in subsection (a)(2)—

19 “(A) for fiscal year 1997, is an amount
20 equal to the national average amount paid per
21 visit under this title to home health agencies for
22 such type of service during the most recent 12-
23 month cost reporting period ending on or before
24 June 30, 1994; and

1 “(B) for each subsequent fiscal year, is an
2 amount equal to the national per visit payment
3 rate in effect for the preceding fiscal year, in-
4 creased by the greater of—

5 “(i) the home health market basket
6 percentage increase for such subsequent
7 fiscal year minus 2.5 percentage points; or

8 “(ii) 1.1 percent (1.2 percent in fiscal
9 year 1997).

10 “(3) REBASING OF RATES.—The Secretary
11 shall adjust the national per visit payment rates
12 under this subsection for cost reporting periods be-
13 ginning on or after October 1, 1999, and every 2
14 years thereafter, to reflect the most recent available
15 data.

16 “(4) HOME HEALTH MARKET BASKET PER-
17 CENTAGE INCREASE.—For purposes of this sub-
18 section, the term ‘home health market basket per-
19 centage increase’ means, with respect to a fiscal
20 year, a percentage (estimated by the Secretary be-
21 fore the beginning of the fiscal year) determined and
22 applied with respect to the types of home health
23 services described in subsection (a)(2) in the same
24 manner as the market basket percentage increase
25 under section 1886(b)(3)(B)(iii) is determined and

1 applied to inpatient hospital services for the fiscal
2 year.

3 “(c) PER EPISODE LIMIT.—

4 “(1) AGGREGATE LIMIT.—

5 “(A) IN GENERAL.—Except as provided in
6 paragraph (2), a home health agency may not
7 receive aggregate per visit payments under sub-
8 section (a) for a fiscal year in excess of an
9 amount equal to the sum of the following prod-
10 ucts determined for each case-mix category for
11 which the agency receives payments:

12 “(i) The number of episodes of each
13 such case-mix category during the fiscal
14 year; multiplied by

15 “(ii) the per episode limit determined
16 for such case-mix category for such fiscal
17 year.

18 “(B) ESTABLISHMENT OF PER EPISODE
19 LIMITS.—

20 “(i) IN GENERAL.—The per episode
21 limit for a fiscal year for any case-mix cat-
22 egory for the area in which a home health
23 agency is located (which shall be the same
24 area used to determine the area wage

1 index applicable to hospitals under section
2 1886(d)(3)(E)) is equal to—

3 “(I) the mean number of visits
4 for each type of home health service
5 described in subsection (a)(2) fur-
6 nished during an episode of such case-
7 mix category in such area during fis-
8 cal year 1994, adjusted by the case-
9 mix adjustment factor determined in
10 clause (ii) for the fiscal year involved;
11 multiplied by

12 “(II) the per visit payment rate
13 established under subsection (b) for
14 such type of home health service for
15 the fiscal year for which the deter-
16 mination is being made.

17 “(ii) CASE-MIX ADJUSTMENT FAC-
18 TOR.—For purposes of clause (i), the case-
19 mix adjustment factor for—

20 “(I) each of fiscal years 1997
21 through 2000 is the factor determined
22 by the Secretary to assure that aggre-
23 gate payments for home health serv-
24 ices under this section during the year
25 will not exceed the payment for such

1 services during the previous year as a
2 result of changes in the number and
3 type of home health visits within case-
4 mix categories over the previous year;
5 and

6 “(II) each subsequent fiscal year,
7 is the factor determined by the Sec-
8 retary to necessary remove the effects
9 of case-mix increases due to reporting
10 improvements instead of real changes
11 in patients’ resource usage.

12 “(iii) REBASING OF PER EPISODE
13 LIMITS.—Beginning with fiscal year 1999
14 and every 2 years thereafter, the Secretary
15 shall revise the mean number of home
16 health visits determined under clause (i)(I)
17 for each type of home health service visit
18 described in subsection (a)(2) furnished
19 during an episode in a case-mix category to
20 reflect the most recently available data on
21 the number of visits.

22 “(iv) DETERMINATION OF AREA.—In
23 the case of an area which the Secretary de-
24 termines has insufficient number of home
25 health agencies to establish an appropriate

1 per episode limit, the Secretary may estab-
2 lish an area other than the area used to
3 determine the area wage under section
4 1886(d)(3)(E)) for purposes of establish-
5 ing an appropriate per episode limit.

6 “(C) CASE-MIX CATEGORY.—For purposes
7 of this paragraph, the term ‘case-mix category’
8 means each of the 18 case-mix categories estab-
9 lished under the Home Health Agency Prospec-
10 tive Payment Demonstration Project conducted
11 by the Health Care Financing Administration.
12 The Secretary may develop an alternate meth-
13 odology for determining case-mix categories.

14 “(D) EPISODE.—For purposes of this
15 paragraph, the term ‘episode’ means, with re-
16 spect to a cost reporting period, the continuous
17 120-day period that—

18 “(i) begins on the date of an individ-
19 ual’s first visit for a type of home health
20 service described in subsection (a)(2) for a
21 case-mix category, and

22 “(ii) is immediately preceded by a 60-
23 day period in which the individual did not
24 receive visits for a type of home health
25 service described in subsection (a)(2).

1 “(E) EXEMPTIONS AND EXCEPTIONS.—

2 The Secretary may provide for exemptions and
3 exceptions to the limits established under this
4 paragraph for a fiscal year as the Secretary
5 deems appropriate, to the extent such exemp-
6 tions and exceptions do not result in greater
7 payments under this section than the exemp-
8 tions and exceptions provided under section
9 1861(v)(1)(L)(ii) in fiscal year 1994, increased
10 by the home health market basket percentage
11 increase for the fiscal year involved (as defined
12 in subsection (b)(4)).

13 “(2) RECONCILIATION OF AMOUNTS.—

14 “(A) PAYMENTS IN EXCESS OF LIMITS.—

15 Subject to subparagraph (B), if a home health
16 agency has received aggregate per visit pay-
17 ments under subsection (a) for a fiscal year in
18 excess of the amount determined under para-
19 graph (1) with respect to such home health
20 agency for such fiscal year, the Secretary shall,
21 in such manner as the Secretary considers ap-
22 propriate, reduce the payments under this sec-
23 tion to the home health agency in the following
24 fiscal year by the amount of such excess.

1 “(B) EXCEPTION FOR HOME HEALTH
2 SERVICES FURNISHED OVER A PERIOD GREAT-
3 ER THAN 165 DAYS.—

4 “(i) IN GENERAL.—For purposes of
5 subparagraph (A), the amount of aggregate
6 per visit payments determined under
7 subsection (a) shall not include payments
8 for home health visits furnished to an indi-
9 vidual on or after a continuous period of
10 more than 165 days after an individual be-
11 gins an episode described in subsection
12 (c)(1)(D) (if such period is not interrupted
13 by the beginning of a new episode).

14 “(ii) REQUIREMENT OF CERTIFI-
15 CATION.—Clause (i) shall not apply if the
16 agency has not obtained a physician’s cer-
17 tification with respect to the individual re-
18 quiring such visits that includes a state-
19 ment that the individual requires such con-
20 tinued visits, the reason for the need for
21 such visits, and a description of such serv-
22 ices furnished during such visits.

23 “(C) SHARE OF SAVINGS.—

24 “(i) BONUS PAYMENTS.—If a home
25 health agency has received aggregate per

1 visit payments under subsection (a) for a
2 fiscal year in an amount less than the
3 amount determined under paragraph (1)
4 with respect to such home health agency
5 for such fiscal year, the Secretary shall pay
6 such home health agency a bonus payment
7 equal to 50 percent of the difference be-
8 tween such amounts in the following fiscal
9 year, except that the bonus payment may
10 not exceed 5 percent of the aggregate per
11 visit payments made to the agency for the
12 prior year without regard to clause (ii).

13 “(ii) INSTALLMENT BONUS PAY-
14 MENTS.—The Secretary may make install-
15 ment payments during a fiscal year to a
16 home health agency based on the estimated
17 bonus payment that the agency would be
18 eligible to receive with respect to such fis-
19 cal year.

20 “(d) MEDICAL REVIEW PROCESS.—

21 “(1) IN GENERAL.—The Secretary shall imple-
22 ment a medical review process (with a particular em-
23 phasis on fiscal years 1997 and 1998) for the sys-
24 tem of payments described in this section that shall
25 provide an assessment of the pattern of care fur-

1 nished to individuals receiving home health services
2 for which payments are made under this section to
3 ensure that such individuals receive appropriate
4 home health services. Such review process shall focus
5 on low-cost cases described in subsection (e)(3) and
6 cases described in subsection (c)(2)(B) and shall re-
7 quire recertification by intermediaries at 30, 60, 90,
8 120, and 165 days into an episode described in sub-
9 section (c)(1)(D).

10 “(2) USING OF ORGANIZATIONS TO CONDUCT
11 REVIEWS.—The Secretary may use public or private
12 organizations to conduct medical reviews in accord-
13 ance with this subsection.

14 “(e) ADJUSTMENT OF PAYMENTS TO AVOID CIR-
15 CUMVENTION OF LIMITS.—

16 “(1) IN GENERAL.—The Secretary shall provide
17 for appropriate adjustments to payments to home
18 health agencies under this section to ensure that
19 agencies do not circumvent the purpose of this sec-
20 tion by—

21 “(A) discharging patients to another home
22 health agency or similar provider;

23 “(B) altering corporate structure or name
24 to avoid being subject to this section or for the

1 purpose of increasing payments under this title;
2 or

3 “(C) undertaking other actions considered
4 unnecessary for effective patient care and in-
5 tended to achieve maximum payments under
6 this title.

7 “(2) TRACKING OF PATIENTS THAT SWITCH
8 HOME HEALTH AGENCIES DURING EPISODE.—

9 “(A) DEVELOPMENT OF SYSTEM.—The
10 Secretary shall develop a system that tracks
11 home health patients that receive home health
12 services described in subsection (a)(2) from
13 more than 1 home health agency during an epi-
14 sode described in subsection (c)(1)(D).

15 “(B) ADJUSTMENT OF PAYMENTS.—The
16 Secretary shall adjust payments under this sec-
17 tion to each home health agency that furnishes
18 an individual with a type of home health service
19 described in subsection (a)(2) to ensure that
20 aggregate payments on behalf of such individual
21 during such episode do not exceed the amount
22 that would be paid under this section if the in-
23 dividual received such services from a single
24 home health agency.

25 “(3) LOW-COST CASES.—

1 “(A) IN GENERAL.—The Secretary shall
2 develop and implement a system designed to ad-
3 just payments to a home health agency for a
4 fiscal year to eliminate any increase in growth
5 of the percentage distribution of low-cost epi-
6 sodes for which home health services are fur-
7 nished by the agency over such percentage dis-
8 tribution determined for the agency under sub-
9 paragraph (B).

10 “(B) DISTRIBUTION.—The Secretary shall
11 profile each home health agency to determine
12 the distribution of all episodes by length of stay
13 for each agency during the agency’s first 12-
14 month cost reporting period beginning during
15 fiscal year 1994. The Secretary shall calculate
16 the 25th percentile distribution for each agency
17 for low-cost episodes.

18 “(C) LOW-COST EPISODE.—For purposes
19 of this paragraph, the Secretary shall define a
20 low-cost episode in a manner that provides that
21 a home health agency has an incentive to be
22 cost efficient in delivering home health services
23 and that the volume of such services does not
24 increase as a result of factors other than pa-
25 tient needs.

1 “(f) REPORT BY PROSPECTIVE PAYMENT ASSESS-
2 MENT COMMISSION.—During the first 3 years in which
3 payments are made under this section, the Prospective
4 Payment Assessment Commission shall annually submit a
5 report to Congress on the effectiveness of the payment
6 methodology established under this section that shall in-
7 clude recommendations regarding the following:

8 “(1) Case-mix and volume increases.

9 “(2) Quality monitoring of home health agency
10 practices.

11 “(3) Whether a capitated payment for home
12 care patients receiving care during a continuous pe-
13 riod exceeding 165 days is warranted.

14 “(4) Whether public providers of service are
15 adequately reimbursed.

16 “(5) On the adequacy of the exemptions and ex-
17 ceptions to the limits provided under subsection
18 (c)(1)(E).

19 “(6) The appropriateness of the methods pro-
20 vided under this section to adjust the per episode
21 limits and annual payment updates to reflect
22 changes in the mix of services, number of visits, and
23 assignment to case categories to reflect changing
24 patterns of home health care.

1 “(7) The geographic areas used to determine
2 the per episode limits.”.

3 (b) PAYMENT FOR PROSTHETICS AND ORTHOTICS
4 UNDER PART A.—Section 1814(k) (42 U.S.C. 1395f(k))
5 is amended—

6 (1) by inserting “and prosthetics and orthotics”
7 after “durable medical equipment”; and

8 (2) by inserting “and 1834(h), respectively”
9 after “1834(a)(1)”.

10 (c) CONFORMING AMENDMENTS.—

11 (1) PAYMENTS UNDER PART A.—Section
12 1814(b) (42 U.S.C. 1395f(b)), as amended by sec-
13 tion 7032(b), is amended in the matter preceding
14 paragraph (1) by striking “1888 and 1888A” and
15 inserting “1888, 1888A, and 1893”.

16 (2) TREATMENT OF ITEMS AND SERVICES PAID
17 UNDER PART B.—

18 (A) PAYMENTS UNDER PART B.—Section
19 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amend-
20 ed—

21 (i) by amending subparagraph (A) to
22 read as follows:

23 “(A) with respect to home health serv-
24 ices—

1 “(i) that are a type of home health
2 service described in section 1893(a)(2),
3 and which are furnished to an individual
4 who (at the time the item or service is fur-
5 nished) is under a plan of care of a home
6 health agency, the amount determined
7 under section 1893;

8 “(ii) that are not described in clause
9 (i) (other than a covered osteoporosis
10 drug) (as defined in section 1861(kk)), the
11 lesser of—

12 “(I) the reasonable cost of such
13 services, as determined under section
14 1861(v), or

15 “(II) the customary charges with
16 respect to such services;”.

17 (ii) by striking “and” at the end of
18 subparagraph (E);

19 (iii) by adding “and” at the end of
20 subparagraph (F); and

21 (iv) by adding at the end the following
22 new subparagraph:

23 “(G) with respect to items and services de-
24 scribed in section 1861(s)(10)(A), the lesser
25 of—

1 “(i) the reasonable cost of such serv-
2 ices, as determined under section 1861(v),
3 or

4 “(ii) the customary charges with re-
5 spect to such services,

6 or, if such services are furnished by a public
7 provider of services, or by another provider
8 which demonstrates to the satisfaction of the
9 Secretary that a significant portion of its pa-
10 tients are low-income (and requests that pay-
11 ment be made under this provision), free of
12 charge or at nominal charges to the public, the
13 amount determined in accordance with section
14 1814(b)(2);”.

15 (B) REQUIRING PAYMENT FOR ALL ITEMS
16 AND SERVICES TO BE MADE TO AGENCY.—

17 (i) IN GENERAL.—The first sentence
18 of section 1842(b)(6), as amended by sec-
19 tion 7035(a)(1), (42 U.S.C. 1395u(b)(6))
20 is amended—

21 (I) by striking “and (E)” and in-
22 serting “(E)”; and

23 (II) by striking the period at the
24 end and inserting the following: “,
25 and (F) in the case of types of home

1 health services described in section
2 1893(a)(2) furnished to an individual
3 who (at the time the item or service is
4 furnished) is under a plan of care of
5 a home health agency, payment shall
6 be made to the agency (without re-
7 gard to whether or not the item or
8 service was furnished by the agency,
9 by others under arrangement with
10 them made by the agency, or when
11 any other contracting or consulting
12 arrangement, or otherwise).”.

13 (ii) CONFORMING AMENDMENT.—Sec-
14 tion 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is
15 amended by striking “(2);” and inserting
16 “(2) and section 1842(b)(6)(F);”.

17 (C) EXCLUSIONS FROM COVERAGE.—Sec-
18 tion 1862(a) (42 U.S.C. 1395y(a)), as amended
19 by section 7035(a)(2)(C), is amended—

20 (i) by striking “or” at the end of
21 paragraph (15);

22 (ii) by striking the period at the end
23 of paragraph (16) and inserting “or”; and

24 (iii) by adding at the end the follow-
25 ing new paragraph:

1 “(17) where such expenses are for home health
2 services furnished to an individual who is under a
3 plan of care of the home health agency if the claim
4 for payment for such services is not submitted by
5 the agency.”.

6 (3) SUNSET OF REASONABLE COST LIMITA-
7 TIONS.—Section 1861(v)(1)(L) (42 U.S.C.
8 1395x(v)(1)(L)) is amended by adding at the end
9 the following new clause:

10 “(iv) This subparagraph shall apply only to services
11 furnished by home health agencies during cost reporting
12 periods ending on or before September 30, 1996.”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 subsections (a), (b), and (c) shall apply to cost reporting
15 periods beginning on or after October 1, 1996.

16 **SEC. 7062. MAINTAINING SAVINGS RESULTING FROM TEM-**
17 **PORARY FREEZE ON PAYMENT INCREASES**
18 **FOR HOME HEALTH SERVICES.**

19 (a) BASING UPDATES TO PER VISIT COST LIMITS ON
20 LIMITS FOR FISCAL YEAR 1993.—Section
21 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is
22 amended by adding at the end the following sentence: “In
23 establishing limits under this subparagraph, the Secretary
24 may not take into account any changes in the costs of
25 the provision of services furnished by home health agencies

1 with respect to cost reporting periods which began on or
 2 after July 1, 1994, and before July 1, 1996.”.

3 (b) NO EXCEPTIONS PERMITTED BASED ON AMEND-
 4 MENT.—The Secretary of Health and Human Services
 5 shall not consider the amendment made by subsection (a)
 6 in making any exemptions and exceptions pursuant to sec-
 7 tion 1861(v)(1)(L)(ii) of the Social Security Act.

8 **SEC. 7063. EXTENSION OF WAIVER OF PRESUMPTION OF**
 9 **LACK OF KNOWLEDGE OF EXCLUSION FROM**
 10 **COVERAGE FOR HOME HEALTH AGENCIES.**

11 Section 9305(g)(3) of OBRA—1986, as amended by
 12 section 426(d) of the Medicare Catastrophic Coverage Act
 13 of 1988 and section 4207(b)(3) of the OBRA—1990 (as
 14 renumbered by section 160(d)(4) of the Social Security
 15 Act Amendments of 1994), is amended by striking “De-
 16 cember 31, 1995” and inserting “September 30, 1996.”.

17 **CHAPTER 5—RURAL AREAS**

18 **SEC. 7071. MEDICARE-DEPENDENT, SMALL, RURAL HOS-**
 19 **PITAL PAYMENT EXTENSION.**

20 (a) SPECIAL TREATMENT EXTENDED.—

21 (1) PAYMENT METHODOLOGY.—Section
 22 1886(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)) is
 23 amended—

24 (A) in clause (i), by striking “October 1,
 25 1994,” and inserting “October 1, 1994, or be-

1 ginning on or after September 1, 1995, and be-
2 fore October 1, 2000,”; and

3 (B) in clause (ii)(II), by striking “October
4 1, 1994” and inserting “October 1, 1994, or
5 beginning on or after September 1, 1995, and
6 before October 1, 2000,”.

7 (2) EXTENSION OF TARGET AMOUNT.—Section
8 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is
9 amended—

10 (A) in the matter preceding clause (i), by
11 striking “September 30, 1994,” and inserting
12 “September 30, 1994, and for cost reporting
13 periods beginning on or after September 1,
14 1995, and before October 1, 2000,”;

15 (B) in clause (ii), by striking “and” at the
16 end;

17 (C) in clause (iii), by striking the period at
18 the end and inserting “, and”;

19 (D) by adding at the end the following new
20 clause:

21 “(iv) with respect to discharges occurring dur-
22 ing September 1995 through fiscal year 1999, the
23 target amount for the preceding year increased by
24 the applicable percentage increase under subpara-
25 graph (B)(iv).”.

1 limit the scope of available inpatient acute care serv-
2 ices;

3 “(2) provide more appropriate and flexible
4 staffing and licensure standards;

5 “(3) enhance the financial security of critical
6 access hospitals by requiring that medicare reim-
7 burse such facilities on a reasonable cost basis; and

8 “(4) promote linkages between critical access
9 hospitals designated by the State under this section
10 and broader programs supporting the development
11 of and transition to integrated provider networks.

12 “(b) ESTABLISHMENT.—Any State that submits an
13 application in accordance with subsection (c) may estab-
14 lish a medicare rural hospital flexibility program described
15 in subsection (d).

16 “(c) APPLICATION.—A State may establish a medi-
17 care rural hospital flexibility program described in sub-
18 section (d) if the State submits to the Secretary at such
19 time and in such form as the Secretary may require an
20 application containing—

21 “(1) assurances that the State—

22 “(A) has developed, or is in the process of
23 developing, a State rural health care plan
24 that—

1 “(i) provides for the creation of one or
2 more rural health networks (as defined in
3 subsection (e)) in the State,

4 “(ii) promotes regionalization of rural
5 health services in the State, and

6 “(iii) improves access to hospital and
7 other health services for rural residents of
8 the State;

9 “(B) has developed the rural health care
10 plan described in subparagraph (A) in consulta-
11 tion with the hospital association of the State,
12 rural hospitals located in the State, and the
13 State Office of Rural Health (or, in the case of
14 a State in the process of developing such plan,
15 that assures the Secretary that the State will
16 consult with its State hospital association, rural
17 hospitals located in the State, and the State Of-
18 fice of Rural Health in developing such plan);

19 “(2) assurances that the State has designated
20 (consistent with the rural health care plan described
21 in paragraph (1)(A)), or is in the process of so des-
22 ignating, rural nonprofit or public hospitals or facili-
23 ties located in the State as critical access hospitals;
24 and

1 “(3) such other information and assurances as
2 the Secretary may require.

3 “(d) MEDICARE RURAL HOSPITAL FLEXIBILITY
4 PROGRAM DESCRIBED.—

5 “(1) IN GENERAL.—A State that has submitted
6 an application in accordance with subsection (c),
7 may establish a medicare rural hospital flexibility
8 program that provides that—

9 “(A) the State shall develop at least one
10 rural health network (as defined in subsection
11 (e)) in the State; and

12 “(B) at least one facility in the State shall
13 be designated as a critical access hospital in ac-
14 cordance with paragraph (2).

15 “(2) STATE DESIGNATION OF FACILITIES.—

16 “(A) IN GENERAL.—A State may des-
17 ignate one or more facilities as a critical access
18 hospital in accordance with subparagraph (B).

19 “(B) CRITERIA FOR DESIGNATION AS CRIT-
20 ICAL ACCESS HOSPITAL.—A State may des-
21 ignate a facility as a critical access hospital if
22 the facility—

23 “(i) is located in a county (or equiva-
24 lent unit of local government) in a rural

1 area (as defined in section 1886(d)(2)(D))
2 that—

3 “(I) is located more than a 35-
4 mile drive from a hospital, or another
5 facility described in this subsection, or

6 “(II) is certified by the State as
7 being a necessary provider of health
8 care services to residents in the area;

9 “(ii) makes available 24-hour emer-
10 gency care services that a State determines
11 are necessary for ensuring access to emer-
12 gency care services in each area served by
13 a critical access hospital;

14 “(iii) provides not more than 6 acute
15 care inpatient beds (meeting such stand-
16 ards as the Secretary may establish) for
17 providing inpatient care for a period not to
18 exceed 72 hours (unless a longer period is
19 required because transfer to a hospital is
20 precluded because of inclement weather or
21 other emergency conditions), except that a
22 peer review organization or equivalent en-
23 tity may, on request, waive the 72-hour re-
24 striction on a case-by-case basis;

1 “(iv) meets such staffing requirements
2 as would apply under section 1861(e) to a
3 hospital located in a rural area, except
4 that—

5 “(I) the facility need not meet
6 hospital standards relating to the
7 number of hours during a day, or
8 days during a week, in which the fa-
9 cility must be open and fully staffed,
10 except insofar as the facility is re-
11 quired to make available emergency
12 care services as determined under
13 clause (ii) and must have nursing
14 services available on a 24-hour basis,
15 but need not otherwise staff the facil-
16 ity except when an inpatient is
17 present,

18 “(II) the facility may provide any
19 services otherwise required to be pro-
20 vided by a full-time, on-site dietitian,
21 pharmacist, laboratory technician,
22 medical technologist, and radiological
23 technologist on a part-time, off-site
24 basis under arrangements as defined
25 in section 1861(w)(1), and

1 “(III) the inpatient care de-
2 scribed in clause (iii) may be provided
3 by a physician’s assistant, nurse prac-
4 titioner, or clinical nurse specialist
5 subject to the oversight of a physician
6 who need not be present in the facil-
7 ity; and

8 “(v) meets the requirements of sub-
9 paragraph (I) of paragraph (2) of section
10 1861(aa).

11 “(e) RURAL HEALTH NETWORK DEFINED.—

12 “(1) IN GENERAL.—For purposes of this sec-
13 tion, the term ‘rural health network’ means, with re-
14 spect to a State, an organization consisting of—

15 “(A) at least 1 facility that the State has
16 designated or plans to designate as a critical
17 access hospital, and

18 “(B) at least 1 hospital that furnishes
19 acute care services.

20 “(2) AGREEMENTS.—

21 “(A) IN GENERAL.—Each critical access
22 hospital that is a member of a rural health net-
23 work shall have an agreement with respect to
24 each item described in subparagraph (B) with

1 at least 1 hospital that is a member of the net-
2 work.

3 “(B) ITEMS DESCRIBED.—The items de-
4 scribed in this subparagraph are the following:

5 “(i) Patient referral and transfer.

6 “(ii) The development and use of com-
7 munications systems including (where fea-
8 sible)—

9 “(I) telemetry systems, and

10 “(II) systems for electronic shar-
11 ing of patient data.

12 “(iii) The provision of emergency and
13 non-emergency transportation among the
14 facility and the hospital.

15 “(C) CREDENTIALING AND QUALITY AS-
16 SURANCE.—Each critical access hospital that is
17 a member of a rural health network shall have
18 an agreement with respect to credentialing and
19 quality assurance with at least 1—

20 “(i) hospital that is a member of the
21 network;

22 “(ii) peer review organization or
23 equivalent entity; or

1 “(iii) other appropriate and qualified
2 entity identified in the State rural health
3 care plan.

4 “(f) CERTIFICATION BY THE SECRETARY.—The Sec-
5 retary shall certify a facility as a critical access hospital
6 if the facility—

7 “(1) is located in a State that has established
8 a medicare rural hospital flexibility program in ac-
9 cordance with subsection (d);

10 “(2) is designated as a critical access hospital
11 by the State in which it is located; and

12 “(3) meets such other criteria as the Secretary
13 may require.

14 “(g) PERMITTING MAINTENANCE OF SWING BEDS.—
15 Nothing in this section shall be construed to prohibit a
16 State from designating or the Secretary from certifying
17 a facility as a critical access hospital solely because, at
18 the time the facility applies to the State for designation
19 as a critical access hospital, there is in effect an agreement
20 between the facility and the Secretary under section 1883
21 under which the facility’s inpatient hospital facilities are
22 used for the furnishing of extended care services, except
23 that the number of beds used for the furnishing of such
24 services may not exceed 12 beds (minus the number of
25 inpatient beds used for providing inpatient care in the fa-

1 cility pursuant to subsection (d)(2)(B)(iii)). For purposes
2 of the previous sentence, the number of beds of the facility
3 used for the furnishing of extended care services shall not
4 include any beds of a unit of the facility that is licensed
5 as a distinct-part skilled nursing facility at the time the
6 facility applies to the State for designation as a critical
7 access hospital.

8 “(h) GRANTS.—

9 “(1) MEDICARE RURAL HOSPITAL FLEXIBILITY
10 PROGRAM.—The Secretary may award grants to
11 States that have submitted applications in accord-
12 ance with subsection (c) for—

13 “(A) engaging in activities relating to plan-
14 ning and implementing a rural health care plan;

15 “(B) engaging in activities relating to
16 planning and implementing rural health net-
17 works; and

18 “(C) designating facilities as critical access
19 hospitals.

20 “(2) RURAL EMERGENCY MEDICAL SERVICES.—

21 “(A) IN GENERAL.—The Secretary may
22 award grants to States that have submitted ap-
23 plications in accordance with subparagraph (B)
24 for the establishment or expansion of a pro-

1 gram for the provision of rural emergency medi-
2 cal services.

3 “(B) APPLICATION.—An application is in
4 accordance with this subparagraph if the State
5 submits to the Secretary at such time and in
6 such form as the Secretary may require an ap-
7 plication containing the assurances described in
8 subparagraphs (A)(ii), (A)(iii), and (B) of sub-
9 section (c)(1) and paragraph (3) of such sub-
10 section.

11 “(i) TREATMENT OF RURAL PRIMARY CARE HOS-
12 PITALS.—A rural primary care hospital designated by the
13 Secretary under this section prior to the date of the enact-
14 ment of the Balanced Budget Reconciliation Act of 1995
15 shall receive payment under this title in the same manner
16 and amount as critical access hospital certified by the Sec-
17 retary under subsection (f) receives payment for such serv-
18 ices.

19 “(j) WAIVER OF CONFLICTING PART A PROVI-
20 SIONS.—The Secretary is authorized to waive such provi-
21 sions of this part and part C as are necessary to conduct
22 the program established under this section.

23 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated from the Federal Hos-
25 pital Insurance Trust Fund for making grants to all

1 States under subsection (h), \$25,000,000 in each of the
2 fiscal years 1996 through 2000.”.

3 (b) REPORT ON ALTERNATIVE TO 72-HOUR RULE.—

4 Not later than January 1, 1996, the Administrator of the
5 Health Care Financing Administration shall submit to the
6 Congress a report on the feasibility of, and administrative
7 requirements necessary to establish an alternative for cer-
8 tain medical diagnoses (as determined by the Adminis-
9 trator) to the 72-hour limitation for inpatient care in criti-
10 cal access hospitals required by section 1820(d)(2)(B)(iii).

11 (c) CONTINUATION OF MAF’S.—Notwithstanding
12 any other provision of law, the Secretary of Health and
13 Human Services shall extend the Montana Medical Assist-
14 ance Facility Demonstration Project until December 31,
15 2002. The demonstration project shall provide that new
16 medical assistance facilities may be designated and that
17 all medical assistance facilities shall receive reasonable
18 cost reimbursement under title XVIII of the Social Secu-
19 rity Act (42 U.S.C. 1395 et seq.) for services provided
20 to medicare beneficiaries.

21 (d) PART A AMENDMENTS RELATING TO RURAL
22 PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOS-
23 PITALS.—

24 (1) DEFINITIONS.—Section 1861(mm) (42
25 U.S.C. 1395x(mm)) is amended to read as follows:

1 (D) Section 1814 (42 U.S.C. 1395f) is amend-
2 ed—

3 (i) in subsection (a)(8) by striking “rural
4 primary care hospital” each place it appears
5 and inserting “critical access hospital”; and

6 (ii) in subsection (b), by striking “other
7 than a rural primary care hospital providing in-
8 patient rural primary care hospital services,”
9 and inserting “other than a critical access hos-
10 pital providing inpatient critical access hospital
11 services,”; and

12 (iii) by amending subsection (l) to read as
13 follows:

14 “(l) PAYMENT FOR INPATIENT CRITICAL ACCESS
15 HOSPITAL SERVICES.—The amount of payment under
16 this part for inpatient critical access hospital services is
17 the reasonable costs of the critical access hospital in pro-
18 viding such services.”.

19 (3) TREATMENT OF CRITICAL ACCESS HOS-
20 PITALS AS PROVIDERS OF SERVICES.—(A) Section
21 1861(u) (42 U.S.C. 1395x(u)) is amended by strik-
22 ing “rural primary care hospital” and inserting
23 “critical access hospital”.

24 (B) The first sentence of section 1864(a) (42
25 U.S.C. 1395aa(a)) is amended by striking “a rural

1 primary care hospital” and inserting “a critical ac-
2 cess hospital”.

3 (4) CONFORMING AMENDMENTS.—(A) Section
4 1128A(b)(1) (42 U.S.C. 1320a–7a(b)(1)) is amend-
5 ed by striking “rural primary care hospital” each
6 place it appears and inserting “critical access hos-
7 pital”.

8 (B) Section 1128B(c) (42 U.S.C. 1320a–7b(c))
9 is amended by striking “rural primary care hospital”
10 and inserting “critical access hospital”.

11 (C) Section 1134 (42 U.S.C. 1320b–4) is
12 amended by striking “rural primary care hospitals”
13 each place it appears and inserting “critical access
14 hospitals”.

15 (D) Section 1138(a)(1) (42 U.S.C. 1320b–
16 8(a)(1)) is amended—

17 (i) in the matter preceding subparagraph
18 (A), by striking “rural primary care hospital”
19 and inserting “critical access hospital”; and

20 (ii) in the matter preceding clause (i) of
21 subparagraph (A), by striking “rural primary
22 care hospital” and inserting “critical access
23 hospital”.

24 (E) Section 1816(c)(2)(C) (42 U.S.C.
25 1395h(c)(2)(C)) is amended by striking “rural pri-

1 mary care hospital” and inserting “critical access
2 hospital”.

3 (F) Section 1833 (42 U.S.C. 1395*l*) is amend-
4 ed—

5 (i) in subsection (h)(5)(A)(iii), by striking
6 “rural primary care hospital” and inserting
7 “critical access hospital”;

8 (ii) in subsection (i)(1)(A), by striking
9 “rural primary care hospital” and inserting
10 “critical access hospital”;

11 (iii) in subsection (i)(3)(A), by striking
12 “rural primary care hospital services” and in-
13 serting “critical access hospital services”;

14 (iv) in subsection (*l*)(5)(A), by striking
15 “rural primary care hospital” each place it ap-
16 pears and inserting “critical access hospital”;
17 and

18 (v) in subsection (*l*)(5)(B), by striking
19 “rural primary care hospital” each place it ap-
20 pears and inserting “critical access hospital”.

21 (G) Section 1835(c) (42 U.S.C. 1395n(c)) is
22 amended by striking “rural primary care hospital”
23 each place it appears and inserting “critical access
24 hospital”.

1 (H) Section 1842(b)(6)(A)(ii) (42 U.S.C.
2 1395u(b)(6)(A)(ii)) is amended by striking “rural
3 primary care hospital” and inserting “critical access
4 hospital”.

5 (I) Section 1861 (42 U.S.C. 1395x) is amend-
6 ed—

7 (i) in subsection (a)—

8 (I) in paragraph (1), by striking “in-
9 patient rural primary care hospital serv-
10 ices” and inserting “inpatient critical ac-
11 cess hospital services”; and

12 (II) in paragraph (2), by striking
13 “rural primary care hospital” and insert-
14 ing “critical access hospital”;

15 (ii) in the last sentence of subsection (e),
16 by striking “rural primary care hospital” and
17 inserting “critical access hospital”;

18 (iii) in subsection (v)(1)(S)(ii)(III), by
19 striking “rural primary care hospital” and in-
20 serting “critical access hospital”;

21 (iv) in subsection (w)(1), by striking “rural
22 primary care hospital” and inserting “critical
23 access hospital”; and

1 (v) in subsection (w)(2), by striking “rural
2 primary care hospital” each place it appears
3 and inserting “critical access hospital”.

4 (J) Section 1862(a)(14) (42 U.S.C.
5 1395y(a)(14)) is amended by striking “rural pri-
6 mary care hospital” each place it appears and in-
7 serting “critical access hospital”.

8 (K) Section 1866(a)(1) (42 U.S.C
9 1395cc(a)(1)) is amended—

10 (i) in subparagraph (F)(ii), by striking
11 “rural primary care hospitals” and inserting
12 “critical access hospitals”;

13 (ii) in subparagraph (H), in the matter
14 preceding clause (i), by striking “rural primary
15 care hospitals” and “rural primary care hos-
16 pital services” and inserting “critical access
17 hospitals” and “critical access hospital serv-
18 ices”, respectively;

19 (iii) in subparagraph (I), in the matter
20 preceding clause (i), by striking “rural primary
21 care hospital” and inserting “critical access
22 hospital”; and

23 (iv) in subparagraph (N)—

24 (I) in the matter preceding clause (i),
25 by striking “rural primary care hospitals”

1 and inserting “critical access hospitals”,
2 and

3 (II) in clause (i), by striking “rural
4 primary care hospital” and inserting “critical
5 access hospital”.

6 (L) Section 1866(a)(3) (42 U.S.C.
7 1395cc(a)(3)) is amended—

8 (i) by striking “rural primary care hos-
9 pital” each place it appears in subparagraphs
10 (A) and (B) and inserting “critical access hos-
11 pital”; and

12 (ii) in subparagraph (C)(ii)(II), by striking
13 “rural primary care hospitals” each place it ap-
14 pears and inserting “critical access hospitals”.

15 (M) Section 1867(e)(5) (42 U.S.C.
16 1395dd(e)(5)) is amended by striking “rural pri-
17 mary care hospital” and inserting “critical access
18 hospital”.

19 (e) PAYMENT CONTINUED TO DESIGNATED
20 EACHS.—Section 1886(d)(5)(D) (42 U.S.C.
21 1395ww(d)(5)(D)) is amended—

22 (1) in clause (iii)(III), by inserting “as in effect
23 on September 30, 1995” before the period at the
24 end; and

25 (2) in clause (v)—

1 (A) by inserting “as in effect on September
2 30, 1995” after “1820(i)(1)”; and

3 (B) by striking “1820(g)” and inserting
4 “1820(e)”.

5 (f) PART B AMENDMENTS RELATING TO CRITICAL
6 ACCESS HOSPITALS.—

7 (1) COVERAGE.—(A) Section 1861(mm) (42
8 U.S.C. 1395x(mm)) as amended by subsection
9 (d)(1), is amended by adding at the end the follow-
10 ing new paragraph:

11 “(3) The term ‘outpatient critical access hospital
12 services’ means medical and other health services fur-
13 nished by a critical access hospital on an outpatient
14 basis.”.

15 (B) Section 1832(a)(2)(H) (42 U.S.C.
16 1395k(a)(2)(H)) is amended by striking “rural pri-
17 mary care hospital services” and inserting “critical
18 access hospital services”.

19 (2) PAYMENT.—(A) Section 1833(a) (42 U.S.C.
20 1395l(a)) is amended in paragraph (6), by striking
21 “outpatient rural primary care hospital services”
22 and inserting “outpatient critical access hospital
23 services”.

24 (B) Section 1834(g) (42 U.S.C. 1395m(g)) is
25 amended to read as follows—

1 and the closure of the facility would limit the access
2 to emergency services of individuals residing in the
3 facility's service area.

4 “(D) The facility has entered into (or plans to
5 enter into) an agreement with a hospital with a par-
6 ticipation agreement in effect under section 1866(a),
7 and under such agreement the hospital shall accept
8 patients transferred to the hospital from the facility
9 and receive data from and transmit data to the facil-
10 ity.

11 “(E) There is a practitioner who is qualified to
12 provide advanced cardiac life support services (as de-
13 termined by the State in which the facility is lo-
14 cated) on-site at the facility on a 24-hour basis.

15 “(F) A physician is available on-call to provide
16 emergency medical services on a 24-hour basis.

17 “(G) The facility meets such staffing require-
18 ments as would apply under section 1861(e) to a
19 hospital located in a rural area, except that—

20 “(i) the facility need not meet hospital
21 standards relating to the number of hours dur-
22 ing a day, or days during a week, in which the
23 facility must be open, except insofar as the fa-
24 cility is required to provide emergency care on

1 a 24-hour basis under subparagraphs (E) and
2 (F); and

3 “(ii) the facility may provide any services
4 otherwise required to be provided by a full-time,
5 on-site dietitian, pharmacist, laboratory techni-
6 cian, medical technologist, or radiological tech-
7 nologist on a part-time, off-site basis.

8 “(H) The facility meets the requirements appli-
9 cable to clinics and facilities under subparagraphs
10 (C) through (J) of paragraph (2) of section
11 1861(aa) and of clauses (ii) and (iv) of the second
12 sentence of such paragraph (or, in the case of the
13 requirements of subparagraph (E), (F), or (J) of
14 such paragraph, would meet the requirements if any
15 reference in such subparagraph to a ‘nurse practi-
16 tioner’ or to ‘nurse practitioners’ were deemed to be
17 a reference to a ‘nurse practitioner or nurse’ or to
18 ‘nurse practitioners or nurses’); except that in deter-
19 mining whether a facility meets the requirements of
20 this subparagraph, subparagraphs (E) and (F) of
21 that paragraph shall be applied as if any reference
22 to a ‘physician’ is a reference to a physician as de-
23 fined in section 1861(r)(1).

24 “(2) The term ‘rural emergency access care hospital
25 services’ means the following services provided by a rural

1 emergency access care hospital and furnished to an indi-
 2 vidual over a continuous period not to exceed 24 hours
 3 (except that such services may be furnished over a longer
 4 period in the case of an individual who is unable to leave
 5 the hospital because of inclement weather):

6 “(A) An appropriate medical screening exam-
 7 ination (as described in section 1867(a)).

8 “(B) Necessary stabilizing examination and
 9 treatment services for an emergency medical condi-
 10 tion and labor (as described in section 1867(b)).”.

11 (b) REQUIRING RURAL EMERGENCY ACCESS CARE
 12 HOSPITALS TO MEET HOSPITAL ANTI-DUMPING RE-
 13 QUIREMENTS.—Section 1867(e)(5) (42 U.S.C.
 14 1395dd(e)(5)) is amended by striking “1861(mm)(1))”
 15 and inserting “1861(mm)(1)) and a rural emergency ac-
 16 cess care hospital (as defined in section 1861(oo)(1))”.

17 (c) COVERAGE AND PAYMENT FOR SERVICES.—

18 (1) COVERAGE.—Section 1832(a)(2) (42 U.S.C.
 19 1395k(a)(2)) is amended—

20 (A) by striking “and” at the end of sub-
 21 paragraph (I);

22 (B) by striking the period at the end of
 23 subparagraph (J) and inserting “; and”; and

24 (C) by adding at the end the following new
 25 subparagraph:

1 “(K) rural emergency access care hospital
2 services (as defined in section 1861(oo)(2)).”.

3 (2) PAYMENT BASED ON PAYMENT FOR OUT-
4 PATIENT CRITICAL ACCESS HOSPITAL SERVICES.—

5 (A) IN GENERAL.—Section 1833(a)(6) (42
6 U.S.C. 1395l(a)(6)), as amended by section
7 7072(f)(2), is amended by striking “services,”
8 and inserting “services and rural emergency ac-
9 cess care hospital services,”.

10 (B) PAYMENT METHODOLOGY DE-
11 SCRIBED.—Section 1834(g) (42 U.S.C.
12 1395m(g)), as amended by section
13 7072(f)(2)(B), is amended—

14 (i) in the heading, by striking “SERV-
15 ICES” and inserting “SERVICES AND
16 RURAL EMERGENCY ACCESS CARE HOS-
17 PITAL SERVICES”; and

18 (ii) by adding at the end the following
19 new sentence: “The amount of payment for
20 rural emergency access care hospital serv-
21 ices provided during a year shall be deter-
22 mined using the applicable method pro-
23 vided under this subsection for determining
24 payment for outpatient rural primary care
25 hospital services during the year.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to fiscal years beginning on or
3 after October 1, 1995.

4 **SEC. 7074. ADDITIONAL PAYMENTS FOR PHYSICIANS' SERV-**
5 **ICES FURNISHED IN SHORTAGE AREAS.**

6 (a) INCREASE IN AMOUNT OF ADDITIONAL PAY-
7 MENT.—Section 1833(m) (42 U.S.C. 1395l(m)) is amend-
8 ed by striking “10 percent” and inserting “20 percent”.

9 (b) RESTRICTION TO PRIMARY CARE SERVICES.—
10 Section 1833(m) (42 U.S.C. 1395l(m)) is amended by in-
11 serting after “physicians’ services” the following: “consist-
12 ing of primary care services (as defined in section
13 1842(i)(4))”.

14 (c) EXTENSION OF PAYMENT FOR FORMER SHORT-
15 AGE AREAS.—

16 (1) IN GENERAL.—Section 1833(m) (42 U.S.C.
17 1395l(m)) is amended by striking “area,” and in-
18 serting “area (or, in the case of an area for which
19 the designation as a health professional shortage
20 area under such section is withdrawn, in the case of
21 physicians’ services furnished to such an individual
22 during the 3-year period beginning on the effective
23 date of the withdrawal of such designation),”.

24 (2) EFFECTIVE DATE.—The amendment made
25 by paragraph (1) shall apply to physicians’ services

1 furnished in an area for which the designation as a
2 health professional shortage area under section
3 332(a)(1)(A) of the Public Health Service Act is
4 withdrawn on or after January 1, 1996.

5 (d) REQUIRING CARRIERS TO REPORT ON SERVICES
6 PROVIDED.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3))
7 is amended—

8 (1) by striking “and” at the end of subpara-
9 graph (I); and

10 (2) by inserting after subparagraph (I) the fol-
11 lowing new subparagraph:

12 “(J) will provide information to the Secretary
13 (on such periodic basis as the Secretary may re-
14 quire) on the types of providers to whom the carrier
15 makes additional payments for certain physicians’
16 services pursuant to section 1833(m), together with
17 a description of the services furnished by such pro-
18 viders; and”.

19 (e) STUDY.—

20 (1) IN GENERAL.—The Physician Payment Re-
21 view Commission shall conduct a study analyzing the
22 effectiveness of the provision of additional payments
23 under part B of the medicare program for physi-
24 cians’ services provided in health professional short-

1 age areas in recruiting physicians to provide services
2 in such areas.

3 (2) REPORT.—Not later than 1 year after the
4 date of the enactment of this Act, the Secretary
5 shall submit to Congress a report on the study con-
6 ducted under paragraph (1), and shall include in the
7 report such recommendations as the Secretary con-
8 siders appropriate.

9 (f) EFFECTIVE DATE.—The amendments made by
10 subsections (a), (b), and (d) shall apply to physicians’
11 services furnished on or after October 1, 1995.

12 **SEC. 7075. PAYMENTS TO PHYSICIAN ASSISTANTS AND**
13 **NURSE PRACTITIONERS FOR SERVICES FUR-**
14 **NISHED IN OUTPATIENT OR HOME SETTINGS.**

15 (a) COVERAGE IN OUTPATIENT OR HOME SETTINGS
16 FOR PHYSICIAN ASSISTANTS AND NURSE PRACTITION-
17 ERS.—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K))
18 is amended—

19 (1) in clause (i)—

20 (A) by striking “or” at the end of
21 subclause (II); and

22 (B) by inserting “or (IV) in an outpatient
23 or home setting as defined by the Secretary”
24 following “shortage area,”; and

25 (2) in clause (ii)—

1 (A) by striking “in a skilled” and inserting
2 “in (I) a skilled”; and

3 (B) by inserting “, or (II) in an outpatient
4 or home setting (as defined by the Secretary),”
5 after “(as defined in section 1919(a))”.

6 (b) PAYMENTS TO PHYSICIAN ASSISTANTS AND
7 NURSE PRACTITIONERS IN OUTPATIENT OR HOME SET-
8 TINGS.—

9 (1) IN GENERAL.—Section 1833(r)(1) (42
10 U.S.C. 1395l(r)(1)) is amended—

11 (A) by inserting “services described in sec-
12 tion 1861(s)(2)(K)(ii)(II) (relating to nurse
13 practitioner services furnished in outpatient or
14 home settings), and services described in section
15 1861(s)(2)(K)(i)(IV) (relating to physician as-
16 sistant services furnished in an outpatient or
17 home setting” after “rural area),”; and

18 (B) by striking “or clinical nurse special-
19 ist” and inserting “clinical nurse specialist, or
20 physician assistant”.

21 (2) CONFORMING AMENDMENT.—Section
22 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is
23 amended by striking “clauses (i), (ii), or (iv)” and
24 inserting “subclauses (I), (II), or (III) of clause (i),
25 clause (ii)(I), or clause (iv)”.

1 (c) PAYMENT UNDER THE FEE SCHEDULE TO PHY-
2 SICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUT-
3 PATIENT OR HOME SETTINGS.—

4 (1) PHYSICIAN ASSISTANTS.—Section
5 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended
6 by adding at the end the following new subpara-
7 graph:

8 “(C) With respect to services described in clauses
9 (i)(IV), (ii)(II), and (iv) of section 1861(s)(2)(K) (relating
10 to physician assistants and nurse practitioners furnishing
11 services in outpatient or home settings)—

12 “(i) payment under this part may only be made
13 on an assignment-related basis; and

14 “(ii) the amounts paid under this part shall be
15 equal to 80 percent of (I) the lesser of the actual
16 charge or 85 percent of the fee schedule amount
17 provided under section 1848 for the same service
18 provided by a physician who is not a specialist; or
19 (II) in the case of services as an assistant at sur-
20 gery, the lesser of the actual charge or 85 percent
21 of the amount that would otherwise be recognized if
22 performed by a physician who is serving as an as-
23 sistant at surgery.”.

24 (2) CONFORMING AMENDMENT.—Section
25 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is

1 amended in the matter preceding clause (i) by strik-
 2 ing “(i), (ii),” and inserting “subclauses (I), (II), or
 3 (III) of clause (i), or subclause (I) of clause (ii)”.

4 (3) TECHNICAL AMENDMENT.—Section
 5 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is
 6 amended in the matter preceding clause (i) by strik-
 7 ing “a physician assistants” and inserting “physi-
 8 cian assistants”.

9 (d) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to services furnished on or after
 11 October 1, 1995.

12 **SEC. 7076. DEMONSTRATION PROJECTS TO PROMOTE**
 13 **TELEMEDICINE.**

14 (a) DEFINITIONS.—For purposes of this section:

15 (1) RURAL HEALTH CARE PROVIDER.—The
 16 term “rural health care provider” means any public
 17 or private health care provider located in a rural
 18 area.

19 (2) NONHEALTH CARE ENTITY.—The term
 20 “nonhealth care entity” means any entity that is not
 21 involved in the provision of health care, including a
 22 business, educational institution, library, and prison.

23 (b) ESTABLISHMENT.—The Secretary, acting
 24 through the Office of Rural Health, shall award grants
 25 to eligible entities to establish demonstration projects

1 under which an eligible entity establishes a rural-based
2 consortium that enables members of the consortium to uti-
3 lize the telecommunications network—

4 (1) to strengthen the delivery of health care
5 services in the rural area through the use of
6 telemedicine;

7 (2) to provide for consultations involving trans-
8 missions of detailed data about the patient that
9 serves as a reasonable substitute for face-to-face
10 interaction between the patient and consultant; and

11 (3) to make outside resources or business inter-
12 action more available to the rural area.

13 (c) ELIGIBLE ENTITY.—To be eligible to receive a
14 grant under this section an applicant entity shall propose
15 a consortium that includes as members at least—

16 (1) one rural health care provider; and

17 (2) one nonhealth care entity located in the
18 same rural area as the rural health care provider de-
19 scribed in paragraph (1).

20 The Secretary may waive the membership requirement
21 under paragraph (2) if the members described in para-
22 graph (1) are unable to locate a nonhealth care entity lo-
23 cated in the same rural area to participate in the dem-
24 onstration project.

1 (d) APPLICATION.—To be eligible to receive a grant
2 under this section, an eligible entity described in sub-
3 section (c) shall prepare and submit to the Secretary an
4 application at such time, in such manner, and containing
5 such information as the Secretary may require, including
6 a description of the use to which the eligible entity would
7 apply any amounts received under such grant, the source
8 and amount of non-Federal funds the entity would pledge
9 for the project, and a showing of the long-term sustain-
10 ability of the project.

11 (e) GRANTS.—Grants under this section shall be dis-
12 tributed in accordance with the following requirements:

13 (1) GRANT LIMIT.—The Secretary may not
14 make a grant to an eligible entity under this section
15 in excess of \$500,000 for each fiscal year in which
16 an eligible entity conducts a project under this sec-
17 tion.

18 (2) MATCHING FUNDS.—

19 (A) IN GENERAL.—The Secretary may not
20 make a grant to an eligible entity under this
21 section unless the eligible entity agrees to pro-
22 vide non-Federal funds in an amount equal to
23 not less than 20 percent of the total amount to
24 be expended by the eligible entity in any fiscal

1 year for the purpose of conducting the project
2 under this section.

3 (B) ADJUSTMENTS.—The Secretary shall
4 make necessary adjustments to the amount that
5 an eligible entity may receive in a subsequent
6 fiscal year if the eligible entity does not meet
7 the requirements of subparagraph (A) in the
8 preceding fiscal year.

9 (f) USE OF GRANT AMOUNTS.—

10 (1) IN GENERAL.—Amounts received under a
11 grant awarded under this section shall be utilized for
12 the development and operation of telemedicine sys-
13 tems that serve rural areas. All such grant funds
14 must be used to further the provision of health serv-
15 ices to rural areas.

16 (2) RULES OF USE.—

17 (A) PERMISSIBLE USAGES.—Grant funds
18 awarded under this section—

19 (i) shall primarily be used to support
20 the costs of establishing and operating a
21 telemedicine system that provides specialty
22 consultations to rural communities;

23 (ii) may be used to demonstrate the
24 application of telemedicine for preceptor-
25 ship of medical students, residents, and

1 other health professions students in rural
2 training sites;

3 (iii) may be used for transmission
4 costs, salaries, maintenance of equipment,
5 and compensation of specialists and refer-
6 ring practitioners;

7 (iv) may be used to pay the fees of
8 consultants, but only to the extent that the
9 total of such fees does not exceed 5 percent
10 of the amount of the grant;

11 (v) may be used to demonstrate the
12 use of telemedicine to facilitate collabora-
13 tion between nonphysician primary care
14 practitioners (including physician assist-
15 ants, nurse practitioners, certified nurse-
16 midwives, and clinical nurse specialists)
17 and physicians; and

18 (vi) may be used to test reimburse-
19 ment methodologies under the medicare
20 program under title XVIII of the Social
21 Security Act for practitioners participating
22 in telemedicine activities.

23 (B) PROHIBITED USE OF FUNDS.—Grant
24 funds shall not be used by members of a rural-
25 based consortium for any of the following:

1 (i) Expenditures to purchase or lease
2 equipment.

3 (ii) In the case of a member of a con-
4 sortium that is an isolated rural facility,
5 purchase of high-cost telecommunications
6 technologies for the furnishing of
7 telemedicine services that—

8 (I) incur high cost per minute of
9 usage charges; or

10 (II) require consultants to be
11 available at the same time as the pa-
12 tient and the referring physician.

13 (iii) Purchase or installation of trans-
14 mission equipment or establishment or op-
15 eration of a telecommunications common
16 carrier network.

17 (iv) Expenditures for indirect costs
18 (as determined by the Secretary) to the ex-
19 tent the expenditures would exceed more
20 than 20 percent of the total grant funds.

21 (v) Construction (except for minor
22 renovations related to the installation of
23 equipment), or the acquisition or building
24 of real property.

1 (g) MAINTENANCE OF EFFORT.—Any funds available
2 for the activities covered by a demonstration project con-
3 ducted under this section shall supplement, and shall not
4 supplant, funds that are expended for similar purposes
5 under any State, regional, or local program.

6 (h) EVALUATIONS.—Each eligible entity that con-
7 ducts a demonstration project under this section shall sub-
8 mit to the Secretary such information and interim evalua-
9 tions as the Secretary may require.

10 (i) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to carry out this section,
12 \$10,000,000 for each of the fiscal years 1996 through
13 1998.

14 **SEC. 7077. PROPAC RECOMMENDATIONS ON URBAN MEDI-**
15 **CARE DEPENDENT HOSPITALS.**

16 Section 1886(e)(3)(A) (42 U.S.C. 1395ww(e)(3)(A))
17 is amended by adding at the end the following new sen-
18 tence: “The Commission shall, beginning in 1996, report
19 its recommendations to Congress on an appropriate up-
20 date to be used for urban hospitals with a high proportion
21 of medicare patient days and on actions to ensure that
22 medicare beneficiaries served by such hospitals retain the
23 same access and quality of care as medicare beneficiaries
24 nationwide.”.

1 **CHAPTER 6—HEALTH CARE FRAUD AND**
2 **ABUSE PREVENTION**

3 **SEC. 7100. SHORT TITLE.**

4 This chapter may be cited as the “Health Care Fraud
5 and Abuse Prevention Act of 1995”.

6 **Subchapter A—Fraud and Abuse Control**
7 **Program**

8 **SEC. 7101. FRAUD AND ABUSE CONTROL PROGRAM.**

9 (a) ESTABLISHMENT OF PROGRAM.—Title XI (42
10 U.S.C. 1301 et seq.) is amended by inserting after section
11 1128B the following new section:

12 “FRAUD AND ABUSE CONTROL PROGRAM

13 “SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

14 “(1) IN GENERAL.—Not later than January 1,
15 1996, the Secretary, acting through the Office of the
16 Inspector General of the Department of Health and
17 Human Services, and the Attorney General shall es-
18 tablish a program—

19 “(A) to coordinate Federal, State, and
20 local law enforcement programs to control fraud
21 and abuse with respect to the delivery of and
22 payment for health care in the United States,

23 “(B) to conduct investigations, audits,
24 evaluations, and inspections relating to the de-
25 livery of and payment for health care in the
26 United States,

1 “(C) to facilitate the enforcement of the
2 provisions of sections 1128, 1128A, and 1128B
3 and other statutes applicable to health care
4 fraud and abuse, and

5 “(D) to provide for the modification and
6 establishment of safe harbors and to issue in-
7 terpretative rulings and special fraud alerts
8 pursuant to section 1128D.

9 “(2) COORDINATION WITH HEALTH PLANS.—In
10 carrying out the program established under para-
11 graph (1), the Secretary and the Attorney General
12 shall consult with, and arrange for the sharing of
13 data with representatives of health plans.

14 “(3) GUIDELINES.—

15 “(A) IN GENERAL.—The Secretary and the
16 Attorney General shall issue guidelines to carry
17 out the program under paragraph (1). The pro-
18 visions of sections 553, 556, and 557 of title 5,
19 United States Code, shall not apply in the issu-
20 ance of such guidelines.

21 “(B) INFORMATION GUIDELINES.—

22 “(i) IN GENERAL.—Such guidelines
23 shall include guidelines relating to the fur-
24 nishing of information by health plans,
25 providers, and others to enable the Sec-

1 retary and the Attorney General to carry
2 out the program (including coordination
3 with health plans under paragraph (2)).

4 “(ii) CONFIDENTIALITY.—Such guide-
5 lines shall include procedures to assure
6 that such information is provided and uti-
7 lized in a manner that appropriately pro-
8 tects the confidentiality of the information
9 and the privacy of individuals receiving
10 health care services and items.

11 “(iii) QUALIFIED IMMUNITY FOR PRO-
12 VIDING INFORMATION.—The provisions of
13 section 1157(a) (relating to limitation on
14 liability) shall apply to a person providing
15 information to the Secretary or the Attor-
16 ney General in conjunction with their per-
17 formance of duties under this section.

18 “(4) ENSURING ACCESS TO DOCUMENTATION.—
19 The Inspector General of the Department of Health
20 and Human Services is authorized to exercise such
21 authority described in paragraphs (3) through (9) of
22 section 6 of the Inspector General Act of 1978 (5
23 U.S.C. App.) as necessary with respect to the activi-
24 ties under the fraud and abuse control program es-
25 tablished under this subsection.

1 “(5) AUTHORITY OF INSPECTOR GENERAL.—
2 Nothing in this Act shall be construed to diminish
3 the authority of any Inspector General, including
4 such authority as provided in the Inspector General
5 Act of 1978 (5 U.S.C. App.).

6 “(b) ADDITIONAL USE OF FUNDS BY INSPECTOR
7 GENERAL.—

8 “(1) REIMBURSEMENTS FOR INVESTIGA-
9 TIONS.—The Inspector General of the Department
10 of Health and Human Services is authorized to re-
11 ceive and retain for current use reimbursement for
12 the costs of conducting investigations and audits and
13 for monitoring compliance plans when such costs are
14 ordered by a court, voluntarily agreed to by the
15 payer, or otherwise.

16 “(2) CREDITING.—Funds received by the In-
17 spector General under paragraph (1) as reimburse-
18 ment for costs of conducting investigations shall be
19 deposited to the credit of the appropriation from
20 which initially paid, or to appropriations for similar
21 purposes currently available at the time of deposit,
22 and shall remain available for obligation for 1 year
23 from the date of the deposit of such funds.

24 “(c) HEALTH PLAN DEFINED.—For purposes of this
25 section, the term ‘health plan’ means a plan or program

1 that provides health benefits, whether directly, through in-
 2 surance, or otherwise, and includes—

3 “(1) a policy of health insurance;

4 “(2) a contract of a service benefit organiza-
 5 tion; and

6 “(3) a membership agreement with a health
 7 maintenance organization or other prepaid health
 8 plan.”.

9 (b) ESTABLISHMENT OF HEALTH CARE FRAUD AND
 10 ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL IN-
 11 SURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i)
 12 is amended by adding at the end the following new sub-
 13 section:

14 “(k) HEALTH CARE FRAUD AND ABUSE CONTROL
 15 ACCOUNT.—

16 “(1) ESTABLISHMENT.—There is hereby estab-
 17 lished in the Trust Fund an expenditure account to
 18 be known as the ‘Health Care Fraud and Abuse
 19 Control Account’ (in this subsection referred to as
 20 the ‘Account’).

21 “(2) APPROPRIATED AMOUNTS TO TRUST
 22 FUND.—

23 “(A) IN GENERAL.—There are hereby ap-
 24 propriated to the Trust Fund—

1 “(i) such gifts and bequests as may be
2 made as provided in subparagraph (B);

3 “(ii) such amounts as may be depos-
4 ited in the Trust Fund as provided in sec-
5 tions 7141(b) and 7142(c) of the Balanced
6 Budget Reconciliation Act of 1995, and
7 title XI; and

8 “(iii) such amounts as are transferred
9 to the Trust Fund under subparagraph
10 (C).

11 “(B) AUTHORIZATION TO ACCEPT GIFTS.—
12 The Trust Fund is authorized to accept on be-
13 half of the United States money gifts and be-
14 quests made unconditionally to the Trust Fund,
15 for the benefit of the Account or any activity fi-
16 nanced through the Account.

17 “(C) TRANSFER OF AMOUNTS.—The Man-
18 aging Trustee shall transfer to the Trust Fund,
19 under rules similar to the rules in section 9601
20 of the Internal Revenue Code of 1986, an
21 amount equal to the sum of the following:

22 “(i) Criminal fines recovered in cases
23 involving a Federal health care offense (as
24 defined in section 982(a)(6)(B) of title 18,
25 United States Code).

1 “(ii) Civil monetary penalties and as-
2 sessments imposed in health care cases, in-
3 cluding amounts recovered under titles XI,
4 XVIII, and XXI, and chapter 38 of title
5 31, United States Code (except as other-
6 wise provided by law).

7 “(iii) Amounts resulting from the for-
8 feiture of property by reason of a Federal
9 health care offense.

10 “(iv) Penalties and damages obtained
11 and otherwise creditable to miscellaneous
12 receipts of the general fund of the Treas-
13 ury obtained under sections 3729 through
14 3733 of title 31, United States Code
15 (known as the False Claims Act), in cases
16 involving claims related to the provision of
17 health care items and services (other than
18 funds awarded to a relator, for restitution
19 or otherwise authorized by law).

20 “(3) APPROPRIATED AMOUNTS TO ACCOUNT.—

21 “(A) IN GENERAL.—There are hereby ap-
22 propriated to the Account from the Trust Fund
23 such sums as the Secretary and the Attorney
24 General certify are necessary to carry out the
25 purposes described in subparagraph (B), to be

1 available without further appropriation, in an
2 amount—

3 “(i) with respect to activities of the
4 Office of the Inspector General of the De-
5 partment of Health and Human Services
6 and the Federal Bureau of Investigations
7 in carrying out such purposes, not less
8 than—

9 “(I) for fiscal year 1996,
10 \$110,000,000,

11 “(II) for fiscal year 1997,
12 \$140,000,000,

13 “(III) for fiscal year 1998,
14 \$160,000,000,

15 “(IV) for fiscal year 1999,
16 \$185,000,000,

17 “(V) for fiscal year 2000,
18 \$215,000,000,

19 “(VI) for fiscal year 2001,
20 \$240,000,000, and

21 “(VII) for fiscal year 2002,
22 \$270,000,000; and

23 “(ii) with respect to all activities (in-
24 cluding the activities described in clause

1 (i) in carrying out such purposes, not
2 more than—

3 “(I) for fiscal year 1996,
4 \$200,000,000, and

5 “(II) for each of the fiscal years
6 1997 through 2002, the limit for the
7 preceding fiscal year, increased by 15
8 percent; and

9 “(iii) for each fiscal year after fiscal
10 year 2002, within the limits for fiscal year
11 2002 as determined under clauses (i) and
12 (ii).

13 “(B) USE OF FUNDS.—The purposes de-
14 scribed in this subparagraph are as follows:

15 “(i) GENERAL USE.—To cover the
16 costs (including equipment, salaries and
17 benefits, and travel and training) of the
18 administration and operation of the health
19 care fraud and abuse control program es-
20 tablished under section 1128C(a), includ-
21 ing the costs of—

22 “(I) prosecuting health care mat-
23 ters (through criminal, civil, and ad-
24 ministrative proceedings);

25 “(II) investigations;

1 “(III) financial and performance
2 audits of health care programs and
3 operations;

4 “(IV) inspections and other eval-
5 uations; and

6 “(V) provider and consumer edu-
7 cation regarding compliance with the
8 provisions of title XI.

9 “(ii) USE BY STATE MEDICAID FRAUD
10 CONTROL UNITS FOR INVESTIGATION REIM-
11 BURSEMENTS.—To reimburse the various State
12 medicaid fraud control units upon request to
13 the Secretary for the costs of the activities au-
14 thorized under section 2134(b).

15 “(4) ANNUAL REPORT.—The Secretary and the
16 Attorney General shall submit jointly an annual re-
17 port to Congress on the amount of revenue which is
18 generated and disbursed, and the justification for
19 such disbursements, by the Account in each fiscal
20 year.”.

21 **SEC. 7102. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD**
22 **AND ABUSE SANCTIONS TO FRAUD AND**
23 **ABUSE AGAINST FEDERAL HEALTH PRO-**
24 **GRAMS.**

25 (a) CRIMES.—

1 (1) SOCIAL SECURITY ACT.—Section 1128B (42
2 U.S.C. 1320a–7b) is amended as follows:

3 (A) In the heading, by striking “MEDICARE
4 OR STATE HEALTH CARE PROGRAMS” and in-
5 serting “FEDERAL HEALTH CARE PROGRAMS”.

6 (B) In subsection (a)(1), by striking “a
7 program under title XVIII or a State health
8 care program (as defined in section 1128(h))”
9 and inserting “a Federal health care program”.

10 (C) In subsection (a)(5), by striking “a
11 program under title XVIII or a State health
12 care program” and inserting “a Federal health
13 care program”.

14 (D) In the second sentence of subsection
15 (a)—

16 (i) by striking “a State plan approved
17 under title XIX” and inserting “a Federal
18 health care program”, and

19 (ii) by striking “the State may at its
20 option (notwithstanding any other provi-
21 sion of that title or of such plan)” and in-
22 serting “the administrator of such program
23 may at its option (notwithstanding any
24 other provision of such program)”.

1 (E) In subsection (b), by striking “title
2 XVIII or a State health care program” each
3 place it appears and inserting “a Federal health
4 care program”.

5 (F) In subsection (c), by inserting “(as de-
6 fined in section 1128(h))” after “a State health
7 care program”.

8 (G) By adding at the end the following
9 new subsection:

10 “(f) For purposes of this section, the term ‘Federal
11 health care program’ means—

12 “(1) any plan or program that provides health
13 benefits, whether directly, through insurance, or oth-
14 erwise, which is funded, in whole or in part, by the
15 United States Government; or

16 “(2) any State health care program, as defined
17 in section 1128(h).”.

18 (2) IDENTIFICATION OF COMMUNITY SERVICE
19 OPPORTUNITIES.—Section 1128B (42 U.S.C.
20 1320a-7b) is further amended by adding at the end
21 the following new subsection:

22 “(g) The Secretary may—

23 “(1) in consultation with State and local health
24 care officials, identify opportunities for the satisfac-
25 tion of community service obligations that a court

1 may impose upon the conviction of an offense under
2 this section, and

3 “(2) make information concerning such oppor-
4 tunities available to Federal and State law enforce-
5 ment officers and State and local health care offi-
6 cials.”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on January 1, 1996.

9 **SEC. 7103. HEALTH CARE FRAUD AND ABUSE GUIDANCE.**

10 Title XI (42 U.S.C. 1301 et seq.), as amended by
11 section 7101, is amended by inserting after section 1128C
12 the following new section:

13 “HEALTH CARE FRAUD AND ABUSE GUIDANCE

14 “SEC. 1128D. (a) SOLICITATION AND PUBLICATION
15 OF MODIFICATIONS TO EXISTING SAFE HARBORS AND
16 NEW SAFE HARBORS.—

17 “(1) IN GENERAL.—

18 “(A) SOLICITATION OF PROPOSALS FOR
19 SAFE HARBORS.—Not later than January 1,
20 1996, and not less than annually thereafter, the
21 Secretary shall publish a notice in the Federal
22 Register soliciting proposals, which will be ac-
23 cepted during a 60-day period, for—

24 “(i) modifications to existing safe har-
25 bors issued pursuant to section 14(a) of
26 the Medicare and Medicaid Patient and

1 Program Protection Act of 1987 (42
2 U.S.C. 1320a–7b note);

3 “(ii) additional safe harbors specifying
4 payment practices that shall not be treated
5 as a criminal offense under section
6 1128B(b) and shall not serve as the basis
7 for an exclusion under section 1128(b)(7);

8 “(iii) interpretive rulings to be issued
9 pursuant to subsection (b); and

10 “(iv) special fraud alerts to be issued
11 pursuant to subsection (c).

12 “(B) PUBLICATION OF PROPOSED MODI-
13 FICATIONS AND PROPOSED ADDITIONAL SAFE
14 HARBORS.—After considering the proposals de-
15 scribed in clauses (i) and (ii) of subparagraph
16 (A), the Secretary, in consultation with the At-
17 torney General, shall publish in the Federal
18 Register proposed modifications to existing safe
19 harbors and proposed additional safe harbors, if
20 appropriate, with a 60-day comment period.
21 After considering any public comments received
22 during this period, the Secretary shall issue
23 final rules modifying the existing safe harbors
24 and establishing new safe harbors, as appro-
25 priate.

1 “(C) REPORT.—The Inspector General of
2 the Department of Health and Human Services
3 (in this section referred to as the ‘Inspector
4 General’) shall, in an annual report to Congress
5 or as part of the year-end semiannual report re-
6 quired by section 5 of the Inspector General
7 Act of 1978 (5 U.S.C. App.), describe the pro-
8 posals received under clauses (i) and (ii) of sub-
9 paragraph (A) and explain which proposals
10 were included in the publication described in
11 subparagraph (B), which proposals were not in-
12 cluded in that publication, and the reasons for
13 the rejection of the proposals that were not in-
14 cluded.

15 “(2) CRITERIA FOR MODIFYING AND ESTAB-
16 LISHING SAFE HARBORS.—In modifying and estab-
17 lishing safe harbors under paragraph (1)(B), the
18 Secretary may consider the extent to which provid-
19 ing a safe harbor for the specified payment practice
20 may result in any of the following:

21 “(A) An increase or decrease in access to
22 health care services.

23 “(B) An increase or decrease in the quality
24 of health care services.

1 “(C) An increase or decrease in patient
2 freedom of choice among health care providers.

3 “(D) An increase or decrease in competi-
4 tion among health care providers.

5 “(E) An increase or decrease in the ability
6 of health care facilities to provide services in
7 medically underserved areas or to medically un-
8 derserved populations.

9 “(F) An increase or decrease in the cost to
10 Federal health care programs (as defined in
11 section 1128B(f)).

12 “(G) An increase or decrease in the poten-
13 tial overutilization of health care services.

14 “(H) The existence or nonexistence of any
15 potential financial benefit to a health care pro-
16 fessional or provider which may vary based on
17 their decisions of—

18 “(i) whether to order a health care
19 item or service; or

20 “(ii) whether to arrange for a referral
21 of health care items or services to a par-
22 ticular practitioner or provider.

23 “(I) Any other factors the Secretary deems
24 appropriate in the interest of preventing fraud

1 and abuse in Federal health care programs (as
2 so defined).

3 “(b) INTERPRETIVE RULINGS.—

4 “(1) IN GENERAL.—

5 “(A) REQUEST FOR INTERPRETIVE RUL-
6 ING.—Any person may present, at any time, a
7 request to the Inspector General for a state-
8 ment of the Inspector General’s current inter-
9 pretation of the meaning of a specific aspect of
10 the application of sections 1128A and 1128B
11 (in this section referred to as an ‘interpretive
12 ruling’).

13 “(B) ISSUANCE AND EFFECT OF INTER-
14 PRETIVE RULING.—

15 “(i) IN GENERAL.—If appropriate, the
16 Inspector General shall in consultation
17 with the Attorney General, issue an inter-
18 pretive ruling not later than 90 days after
19 receiving a request described in subpara-
20 graph (A). Interpretive rulings shall not
21 have the force of law and shall be treated
22 as an interpretive rule within the meaning
23 of section 553(b) of title 5, United States
24 Code. All interpretive rulings issued pursu-
25 ant to this clause shall be published in the

1 Federal Register or otherwise made avail-
2 able for public inspection.

3 “(ii) REASONS FOR DENIAL.—If the
4 Inspector General does not issue an inter-
5 pretive ruling in response to a request de-
6 scribed in subparagraph (A), the Inspector
7 General shall notify the requesting party of
8 such decision not later than 60 days after
9 receiving such a request and shall identify
10 the reasons for such decision.

11 “(2) CRITERIA FOR INTERPRETIVE RULINGS.—

12 “(A) IN GENERAL.—In determining wheth-
13 er to issue an interpretive ruling under para-
14 graph (1)(B), the Inspector General may con-
15 sider—

16 “(i) whether and to what extent the
17 request identifies an ambiguity within the
18 language of the statute, the existing safe
19 harbors, or previous interpretive rulings;
20 and

21 “(ii) whether the subject of the re-
22 quested interpretive ruling can be ade-
23 quately addressed by interpretation of the
24 language of the statute, the existing safe
25 harbor rules, or previous interpretive rul-

1 ings, or whether the request would require
2 a substantive ruling (as defined in section
3 552 of title 5, United States Code) not au-
4 thorized under this subsection.

5 “(B) NO RULINGS ON FACTUAL ISSUES.—

6 The Inspector General shall not give an inter-
7 pretive ruling on any factual issue, including
8 the intent of the parties or the fair market
9 value of particular leased space or equipment.

10 “(c) SPECIAL FRAUD ALERTS.—

11 “(1) IN GENERAL.—

12 “(A) REQUEST FOR SPECIAL FRAUD
13 ALERTS.—Any person may present, at any
14 time, a request to the Inspector General for a
15 notice which informs the public of practices
16 which the Inspector General considers to be
17 suspect or of particular concern under section
18 1128B(b) (in this subsection referred to as a
19 ‘special fraud alert’).

20 “(B) ISSUANCE AND PUBLICATION OF SPE-
21 CIAL FRAUD ALERTS.—Upon receipt of a re-
22 quest described in subparagraph (A), the In-
23 spector General shall investigate the subject
24 matter of the request to determine whether a
25 special fraud alert should be issued. If appro-

1 appropriate, the Inspector General shall issue a spe-
 2 cial fraud alert in response to the request. All
 3 special fraud alerts issued pursuant to this sub-
 4 paragraph shall be published in the Federal
 5 Register.

6 “(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—
 7 In determining whether to issue a special fraud alert
 8 upon a request described in paragraph (1), the In-
 9 spector General may consider—

10 “(A) whether and to what extent the prac-
 11 tices that would be identified in the special
 12 fraud alert may result in any of the con-
 13 sequences described in subsection (a)(2); and

14 “(B) the volume and frequency of the con-
 15 duct that would be identified in the special
 16 fraud alert.”.

17 **Subchapter B—Revisions to Current**
 18 **Sanctions for Fraud and Abuse**

19 **SEC. 7111. MANDATORY EXCLUSION FROM PARTICIPATION**
 20 **IN MEDICARE AND STATE HEALTH CARE PRO-**
 21 **GRAMS.**

22 (a) INDIVIDUAL CONVICTED OF FELONY RELATING
 23 TO HEALTH CARE FRAUD.—

1 (1) IN GENERAL.—Section 1128(a) (42 U.S.C.
2 1320a–7(a)) is amended by adding at the end the
3 following new paragraph:

4 “(3) FELONY CONVICTION RELATING TO
5 HEALTH CARE FRAUD.—Any individual or entity
6 that has been convicted after the date of the enact-
7 ment of the Health Care Fraud and Abuse Preven-
8 tion Act of 1995, under Federal or State law, in
9 connection with the delivery of a health care item or
10 service or with respect to any act or omission in a
11 health care program (other than those specifically
12 described in paragraph (1)) operated by or financed
13 in whole or in part by any Federal, State, or local
14 government agency, of a criminal offense consisting
15 of a felony relating to fraud, theft, embezzlement,
16 breach of fiduciary responsibility, or other financial
17 misconduct.”.

18 (2) CONFORMING AMENDMENT.—Paragraph (1)
19 of section 1128(b) (42 U.S.C. 1320a–7(b)) is
20 amended to read as follows:

21 “(1) CONVICTION RELATING TO FRAUD.—Any
22 individual or entity that has been convicted after the
23 date of the enactment of the Health Care Fraud and
24 Abuse Prevention Act of 1995, under Federal or
25 State law—

1 “(A) of a criminal offense consisting of a
2 misdemeanor relating to fraud, theft, embezzle-
3 ment, breach of fiduciary responsibility, or
4 other financial misconduct—

5 “(i) in connection with the delivery of
6 a health care item or service, or

7 “(ii) with respect to any act or omis-
8 sion in a health care program (other than
9 those specifically described in subsection
10 (a)(1)) operated by or financed in whole or
11 in part by any Federal, State, or local gov-
12 ernment agency; or

13 “(B) of a criminal offense relating to
14 fraud, theft, embezzlement, breach of fiduciary
15 responsibility, or other financial misconduct
16 with respect to any act or omission in a pro-
17 gram (other than a health care program) oper-
18 ated by or financed in whole or in part by any
19 Federal, State, or local government agency.”.

20 (b) INDIVIDUAL CONVICTED OF FELONY RELATING
21 TO CONTROLLED SUBSTANCE.—

22 (1) IN GENERAL.—Section 1128(a) (42 U.S.C.
23 1320a-7(a)), as amended by subsection (a), is
24 amended by adding at the end the following new
25 paragraph:

1 “(4) FELONY CONVICTION RELATING TO CON-
2 TROLLED SUBSTANCE.—Any individual or entity
3 that has been convicted after the date of the enact-
4 ment of the Health Care Fraud and Abuse Preven-
5 tion Act of 1995, under Federal or State law, of a
6 criminal offense consisting of a felony relating to the
7 unlawful manufacture, distribution, prescription, or
8 dispensing of a controlled substance.”.

9 (2) CONFORMING AMENDMENT.—Section
10 1128(b)(3) (42 U.S.C. 1320a–7(b)(3)) is amended—

11 (A) in the heading, by striking “CONVIC-
12 TION” and inserting “MISDEMEANOR CONVIC-
13 TION”; and

14 (B) by striking “criminal offense” and in-
15 serting “criminal offense consisting of a mis-
16 demeanor”.

17 **SEC. 7112. ESTABLISHMENT OF MINIMUM PERIOD OF EX-**
18 **CLUSION FOR CERTAIN INDIVIDUALS AND**
19 **ENTITIES SUBJECT TO PERMISSIVE EXCLU-**
20 **SION FROM MEDICARE AND STATE HEALTH**
21 **CARE PROGRAMS.**

22 Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is
23 amended by adding at the end the following new subpara-
24 graphs:

1 “(D) In the case of an exclusion of an individual or
2 entity under paragraph (1), (2), or (3) of subsection (b),
3 the period of the exclusion shall be 3 years, unless the
4 Secretary determines in accordance with published regula-
5 tions that a shorter period is appropriate because of miti-
6 gating circumstances or that a longer period is appro-
7 priate because of aggravating circumstances.

8 “(E) In the case of an exclusion of an individual or
9 entity under subsection (b)(4) or (b)(5), the period of the
10 exclusion shall not be less than the period during which
11 the individual’s or entity’s license to provide health care
12 is revoked, suspended, or surrendered, or the individual
13 or the entity is excluded or suspended from a Federal or
14 State health care program.

15 “(F) In the case of an exclusion of an individual or
16 entity under subsection (b)(6)(B), the period of the exclu-
17 sion shall be not less than 1 year.”.

18 **SEC. 7113. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH**
19 **OWNERSHIP OR CONTROL INTEREST IN**
20 **SANCTIONED ENTITIES.**

21 Section 1128(b) (42 U.S.C. 1320a–7(b)) is amended
22 by adding at the end the following new paragraph:

23 “(15) INDIVIDUALS CONTROLLING A SANC-
24 TIONED ENTITY.—Any individual who has a direct
25 or indirect ownership or control interest of 5 percent

1 or more, or an ownership or control interest (as de-
 2 fined in section 1124(a)(3)) in, or who is an officer
 3 or managing employee (as defined in section
 4 1126(b)) of, an entity—

5 “(A) that has been convicted of any of-
 6 fense described in subsection (a) or in para-
 7 graph (1), (2), or (3) of this subsection; or

8 “(B) that has been excluded from partici-
 9 pation under a program under title XVIII or
 10 under a State health care program.”.

11 **SEC. 7114. SANCTIONS AGAINST PRACTITIONERS AND PER-**
 12 **SONS FOR FAILURE TO COMPLY WITH STATU-**
 13 **TORY OBLIGATIONS.**

14 (a) MINIMUM PERIOD OF EXCLUSION FOR PRACTI-
 15 TIONERS AND PERSONS FAILING TO MEET STATUTORY
 16 OBLIGATIONS.—

17 (1) IN GENERAL.—The second sentence of sec-
 18 tion 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is
 19 amended by striking “may prescribe)” and inserting
 20 “may prescribe, except that such period may not be
 21 less than 1 year)”.

22 (2) CONFORMING AMENDMENT.—Section
 23 1156(b)(2) (42 U.S.C. 1320c-5(b)(2)) is amended
 24 by striking “shall remain” and inserting “shall (sub-

1 ject to the minimum period specified in the second
2 sentence of paragraph (1)) remain”.

3 (b) REPEAL OF “UNWILLING OR UNABLE” CONDI-
4 TION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1)
5 (42 U.S.C. 1320c–5(b)(1)) is amended—

6 (1) in the second sentence, by striking “and de-
7 termines” and all that follows through “such obliga-
8 tions,”; and

9 (2) by striking the third sentence.

10 **SEC. 7115. INTERMEDIATE SANCTIONS FOR MEDICARE**
11 **HEALTH MAINTENANCE ORGANIZATIONS.**

12 (a) APPLICATION OF INTERMEDIATE SANCTIONS FOR
13 ANY PROGRAM VIOLATIONS.—

14 (1) IN GENERAL.—Section 1876(i)(1) (42
15 U.S.C. 1395mm(i)(1)) is amended by striking “the
16 Secretary may terminate” and all that follows and
17 inserting “in accordance with procedures established
18 under paragraph (9), the Secretary may at any time
19 terminate any such contract or may impose the in-
20 termediate sanctions described in paragraph (6)(B)
21 or (6)(C) (whichever is applicable) on the eligible or-
22 ganization if the Secretary determines that the orga-
23 nization—

24 “(A) has failed substantially to carry out
25 the contract;

1 “(B) is carrying out the contract in a man-
2 ner substantially inconsistent with the efficient
3 and effective administration of this section; or

4 “(C) no longer substantially meets the ap-
5 plicable conditions of subsections (b), (c), (e),
6 and (f).”.

7 (2) OTHER INTERMEDIATE SANCTIONS FOR
8 MISCELLANEOUS PROGRAM VIOLATIONS.—Section
9 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by
10 adding at the end the following new subparagraph:

11 “(C) In the case of an eligible organization for which
12 the Secretary makes a determination under paragraph (1)
13 the basis of which is not described in subparagraph (A),
14 the Secretary may apply the following intermediate sanc-
15 tions:

16 “(i) Civil money penalties of not more than
17 \$25,000 for each determination under paragraph (1)
18 if the deficiency that is the basis of the determina-
19 tion has directly adversely affected (or has the sub-
20 stantial likelihood of adversely affecting) an individ-
21 ual covered under the organization’s contract.

22 “(ii) Civil money penalties of not more than
23 \$10,000 for each week beginning after the initiation
24 of procedures by the Secretary under paragraph (9)

1 during which the deficiency that is the basis of a de-
2 termination under paragraph (1) exists.

3 “(iii) Suspension of enrollment of individuals
4 under this section after the date the Secretary noti-
5 fies the organization of a determination under para-
6 graph (1) and until the Secretary is satisfied that
7 the deficiency that is the basis for the determination
8 has been corrected and is not likely to recur.”.

9 (3) PROCEDURES FOR IMPOSING SANCTIONS.—

10 Section 1876(i) (42 U.S.C. 1395mm(i)) is amended
11 by adding at the end the following new paragraph:

12 “(9) The Secretary may terminate a contract with an
13 eligible organization under this section or may impose the
14 intermediate sanctions described in paragraph (6) on the
15 organization in accordance with formal investigation and
16 compliance procedures established by the Secretary under
17 which—

18 “(A) the Secretary first provides the organiza-
19 tion with the reasonable opportunity to develop and
20 implement a corrective action plan to correct the de-
21 ficiencies that were the basis of the Secretary’s de-
22 termination under paragraph (1) and the organiza-
23 tion fails to develop or implement such a plan;

24 “(B) in deciding whether to impose sanctions,
25 the Secretary considers aggravating factors such as

1 whether an organization has a history of deficiencies
2 or has not taken action to correct deficiencies the
3 Secretary has brought to the organization's atten-
4 tion;

5 “(C) there are no unreasonable or unnecessary
6 delays between the finding of a deficiency and the
7 imposition of sanctions; and

8 “(D) the Secretary provides the organization
9 with reasonable notice and opportunity for hearing
10 (including the right to appeal an initial decision) be-
11 fore imposing any sanction or terminating the con-
12 tract.”.

13 (4) CONFORMING AMENDMENTS.—Section
14 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is
15 amended by striking the second sentence.

16 (b) AGREEMENTS WITH PEER REVIEW ORGANIZA-
17 TIONS.—Section 1876(i)(7)(A) (42 U.S.C.
18 1395mm(i)(7)(A)) is amended by striking “an agreement”
19 and inserting “a written agreement”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply with respect to contract years be-
22 ginning on or after January 1, 1996.

1 **SEC. 7116. CLARIFICATION OF AND ADDITIONS TO EXCEP-**
2 **TIONS TO ANTI-KICKBACK PENALTIES.**

3 (a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C.
4 1320a–7b(b)(3)) is amended—

5 (1) by striking “and” at the end of subpara-
6 graph (D);

7 (2) by striking the period at the end of sub-
8 paragraph (E) and inserting “; and”; and

9 (3) by adding at the end the following new
10 subparagraph:

11 “(F) any amounts paid to a provider in
12 connection with an item or service furnished to
13 an individual, any discount or reduction in price
14 given by the provider for such an item or serv-
15 ice, or any other remuneration if the item or
16 service is provided through a medicare choice
17 plan.”.

18 (b) VOLUME AND COMBINATION DISCOUNTS.—

19 (1) STUDY.—The Secretary of Health and
20 Human Services (in this subsection referred to as
21 the “Secretary”) shall conduct a study evaluating
22 the benefits of volume and combination discounts to
23 the medicare program under title XVIII of the So-
24 cial Security Act.

25 (2) CONTENTS OF STUDY.—

1 (A) IN GENERAL.—The Secretary, in con-
2 sultation with health care providers and manu-
3 facturers, shall specifically examine the issues
4 associated with the discounting or other reduc-
5 tions in price (including reductions in price ap-
6 plied to combinations of items or services or
7 both, and reductions made available as part of
8 capitation, risk sharing, decrease management
9 or similar programs) obtained by a provider of
10 services or other entity under title XVIII of the
11 Social Security Act or a State health care pro-
12 gram (as defined in section 1128(h) of such
13 Act).

14 (B) SPECIFIC EVALUATION AND IDENTI-
15 FICATION.—The Secretary shall evaluate the
16 provision of discounts on the medicare program
17 under title XVIII of the Social Security Act and
18 specifically identify mechanisms to assure that
19 the medicare program benefits from such dis-
20 counts.

21 (3) REPORT.—Not later than 6 months after
22 the date of the enactment of this Act, the Secretary
23 shall report the findings of the study to the Commit-
24 tees on Finance and the Judiciary of the Senate and

1 the Committees on Ways and Means, Commerce,
2 and the Judiciary of the House of Representatives.

3 (4) REGULATIONS.—The Secretary shall de-
4 velop regulations regarding the acceptability of such
5 discounts based on the findings of the study de-
6 scribed in this subsection. Such regulations shall not
7 become effective unless such regulations are budget
8 neutral.

9 **SEC. 7117. EFFECTIVE DATE.**

10 The amendments made by this subchapter shall take
11 effect January 1, 1996.

12 **Subchapter C—Administrative and**
13 **Miscellaneous Provisions**

14 **SEC. 7121. ESTABLISHMENT OF THE HEALTH CARE FRAUD**
15 **AND ABUSE DATA COLLECTION PROGRAM.**

16 (a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.),
17 as amended by sections 7101 and 7103, is amended by
18 inserting after section 1128D the following new section:

19 “HEALTH CARE FRAUD AND ABUSE DATA COLLECTION
20 PROGRAM

21 “SEC. 1128E. (a) GENERAL PURPOSE.—Not later
22 than January 1, 1996, the Secretary shall establish a na-
23 tional health care fraud and abuse data collection program
24 for the reporting of final adverse actions (not including
25 settlements in which no findings of liability have been
26 made) against health care providers, suppliers, or practi-

1 tioners as required by subsection (b), with access as set
2 forth in subsection (c).

3 “(b) REPORTING OF INFORMATION.—

4 “(1) IN GENERAL.—Each government agency
5 and health plan shall report any final adverse action
6 (not including settlements in which no findings of li-
7 ability have been made) taken against a health care
8 provider, supplier, or practitioner.

9 “(2) INFORMATION TO BE REPORTED.—The in-
10 formation to be reported under paragraph (1) in-
11 cludes:

12 “(A) The name and TIN (as defined in
13 section 7701(a)(41) of the Internal Revenue
14 Code of 1986) of any health care provider, sup-
15 plier, or practitioner who is the subject of a
16 final adverse action.

17 “(B) The name (if known) of any health
18 care entity with which a health care provider,
19 supplier, or practitioner is affiliated or associ-
20 ated.

21 “(C) The nature of the final adverse action
22 and whether such action is on appeal.

23 “(D) A description of the acts or omissions
24 and injuries upon which the final adverse action
25 was based, and such other information as the

1 Secretary determines by regulation is required
2 for appropriate interpretation of information re-
3 ported under this section.

4 “(3) CONFIDENTIALITY.—In determining what
5 information is required, the Secretary shall include
6 procedures to assure that the privacy of individuals
7 receiving health care services is appropriately pro-
8 tected.

9 “(4) TIMING AND FORM OF REPORTING.—The
10 information required to be reported under this sub-
11 section shall be reported regularly (but not less often
12 than monthly) and in such form and manner as the
13 Secretary prescribes. Such information shall first be
14 required to be reported on a date specified by the
15 Secretary.

16 “(5) TO WHOM REPORTED.—The information
17 required to be reported under this subsection shall
18 be reported to the Secretary.

19 “(c) DISCLOSURE AND CORRECTION OF INFORMA-
20 TION.—

21 “(1) DISCLOSURE.—With respect to the infor-
22 mation about final adverse actions (not including
23 settlements in which no findings of liability have
24 been made) reported to the Secretary under this sec-
25 tion respecting a health care provider, supplier, or

1 practitioner, the Secretary shall, by regulation, pro-
2 vide for—

3 “(A) disclosure of the information, upon
4 request, to the health care provider, supplier, or
5 licensed practitioner, and

6 “(B) procedures in the case of disputed ac-
7 curacy of the information.

8 “(2) CORRECTIONS.—Each Government agency
9 and health plan shall report corrections of informa-
10 tion already reported about any final adverse action
11 taken against a health care provider, supplier, or
12 practitioner, in such form and manner that the Sec-
13 retary prescribes by regulation.

14 “(d) ACCESS TO REPORTED INFORMATION.—

15 “(1) AVAILABILITY.—The information in this
16 database shall be available to Federal and State gov-
17 ernment agencies and health plans pursuant to pro-
18 cedures that the Secretary shall provide by regula-
19 tion.

20 “(2) FEES FOR DISCLOSURE.—The Secretary
21 may establish or approve reasonable fees for the dis-
22 closure of information in this database (other than
23 with respect to requests by Federal agencies). The
24 amount of such a fee shall be sufficient to recover
25 the full costs of operating the database. Such fees

1 shall be available to the Secretary or, in the Sec-
2 retary's discretion to the agency designated under
3 this section to cover such costs.

4 “(e) PROTECTION FROM LIABILITY FOR REPORT-
5 ING.—No person or entity, including the agency des-
6 ignated by the Secretary in subsection (b)(5) shall be held
7 liable in any civil action with respect to any report made
8 as required by this section, without knowledge of the fal-
9 sity of the information contained in the report.

10 “(f) DEFINITIONS AND SPECIAL RULES.—For pur-
11 poses of this section:

12 “(1) FINAL ADVERSE ACTION.—

13 “(A) IN GENERAL.—The term ‘final ad-
14 verse action’ includes:

15 “(i) Civil judgments against a health
16 care provider, supplier, or practitioner in
17 Federal or State court related to the deliv-
18 ery of a health care item or service.

19 “(ii) Federal or State criminal convic-
20 tions related to the delivery of a health
21 care item or service.

22 “(iii) Actions by Federal or State
23 agencies responsible for the licensing and
24 certification of health care providers, sup-

1 pliers, and licensed health care practition-
2 ers, including—

3 “(I) formal or official actions,
4 such as revocation or suspension of a
5 license (and the length of any such
6 suspension), reprimand, censure or
7 probation,

8 “(II) any other loss of license or
9 the right to apply for, or renew, a li-
10 cense of the provider, supplier, or
11 practitioner, whether by operation of
12 law, voluntary surrender, non-renew-
13 ability, or otherwise, or

14 “(III) any other negative action
15 or finding by such Federal or State
16 agency that is publicly available infor-
17 mation.

18 “(iv) Exclusion from participation in
19 Federal or State health care programs.

20 “(v) Any other adjudicated actions or
21 decisions that the Secretary shall establish
22 by regulation.

23 “(B) EXCEPTION.—The term does not in-
24 clude any action with respect to a malpractice
25 claim.

1 “(2) PRACTITIONER.—The terms ‘licensed
2 health care practitioner’, ‘licensed practitioner’, and
3 ‘practitioner’ mean, with respect to a State, an indi-
4 vidual who is licensed or otherwise authorized by the
5 State to provide health care services (or any individ-
6 ual who, without authority holds himself or herself
7 out to be so licensed or authorized).

8 “(3) HEALTH CARE PROVIDER.—The term
9 ‘health care provider’ means a provider of services as
10 defined in section 1861(u), and any entity, including
11 a health maintenance organization, group medical
12 practice, or any other individual or entity listed by
13 the Secretary in regulation, that provides health care
14 services.

15 “(4) SUPPLIER.—The term ‘supplier’ means a
16 supplier of health care items and services described
17 in subsections (a) and (b) of section 1819 and sec-
18 tion 1861.

19 “(5) GOVERNMENT AGENCY.—The term ‘Gov-
20 ernment agency’ shall include:

21 “(A) The Department of Justice.

22 “(B) The Department of Health and
23 Human Services.

24 “(C) Any other Federal agency that either
25 administers or provides payment for the deliv-

1 ery of health care services, including, but not
2 limited to the Department of Defense and the
3 Veterans' Administration.

4 “(D) State law enforcement agencies.

5 “(E) State medicaid fraud control units.

6 “(F) Federal or State agencies responsible
7 for the licensing and certification of health care
8 providers and licensed health care practitioners.

9 “(6) HEALTH PLAN.—The term ‘health plan’
10 has the meaning given such term by section
11 1128C(c).

12 “(7) DETERMINATION OF CONVICTION.—For
13 purposes of paragraph (1), the existence of a convic-
14 tion shall be determined under paragraph (4) of sec-
15 tion 1128(j).”.

16 (b) IMPROVED PREVENTION IN ISSUANCE OF MEDI-
17 CARE PROVIDER NUMBERS.—Section 1842(r) (42 U.S.C.
18 1395u(r)) is amended by adding at the end the following
19 new sentence: “Under such system, the Secretary may im-
20 pose appropriate fees on such physicians to cover the costs
21 of investigation and recertification activities with respect
22 to the issuance of the identifiers.”.

1 **Subchapter D—Civil Monetary Penalties**

2 **SEC. 7131. SOCIAL SECURITY ACT CIVIL MONETARY PEN-**
3 **ALTIES.**

4 (a) GENERAL CIVIL MONETARY PENALTIES.—Sec-
5 tion 1128A (42 U.S.C. 1320a–7a) is amended as follows:

6 (1) In the third sentence of subsection (a), by
7 striking “programs under title XVIII” and inserting
8 “Federal health care programs (as defined in section
9 1128B(f)(1))”.

10 (2) In subsection (f)—

11 (A) by redesignating paragraph (3) as
12 paragraph (4); and

13 (B) by inserting after paragraph (2) the
14 following new paragraph:

15 “(3) With respect to amounts recovered arising
16 out of a claim under a Federal health care program
17 (as defined in section 1128B(f)), the portion of such
18 amounts as is determined to have been paid by the
19 program shall be repaid to the program, and the
20 portion of such amounts attributable to the amounts
21 recovered under this section by reason of the amend-
22 ments made by the Health Care Fraud and Abuse
23 Prevention Act of 1995 (as estimated by the Sec-
24 retary) shall be deposited into the Federal Hospital

1 Insurance Trust Fund pursuant to section
2 1817(k)(2)(C).”.

3 (3) In subsection (i)—

4 (A) in paragraph (2), by striking “title V,
5 XVIII, XIX, or XX of this Act” and inserting
6 “a Federal health care program (as defined in
7 section 1128B(f))”,

8 (B) in paragraph (4), by striking “a health
9 insurance or medical services program under
10 title XVIII or XIX of this Act” and inserting
11 “a Federal health care program (as so de-
12 fined)”, and

13 (C) in paragraph (5), by striking “title V,
14 XVIII, XIX, or XX” and inserting “a Federal
15 health care program (as so defined)”.

16 (4) By adding at the end the following new sub-
17 section:

18 “(m)(1) For purposes of this section, with respect to
19 a Federal health care program not contained in this Act,
20 references to the Secretary in this section shall be deemed
21 to be references to the Secretary or Administrator of the
22 department or agency with jurisdiction over such program
23 and references to the Inspector General of the Department
24 of Health and Human Services in this section shall be

1 deemed to be references to the Inspector General of the
2 applicable department or agency.

3 “(2)(A) The Secretary and Administrator of the de-
4 partments and agencies referred to in paragraph (1) may
5 include in any action pursuant to this section, claims with-
6 in the jurisdiction of other Federal departments or agen-
7 cies as long as the following conditions are satisfied:

8 “(i) The case involves primarily claims submit-
9 ted to the Federal health care programs of the de-
10 partment or agency initiating the action.

11 “(ii) The Secretary or Administrator of the de-
12 partment or agency initiating the action gives notice
13 and an opportunity to participate in the investiga-
14 tion to the Inspector General of the department or
15 agency with primary jurisdiction over the Federal
16 health care programs to which the claims were sub-
17 mitted.

18 “(B) If the conditions specified in subparagraph (A)
19 are fulfilled, the Inspector General of the department or
20 agency initiating the action is authorized to exercise all
21 powers granted under the Inspector General Act of 1978
22 with respect to the claims submitted to the other depart-
23 ments or agencies to the same manner and extent as pro-
24 vided in that Act with respect to claims submitted to such
25 departments or agencies.”.

1 (b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP
2 OR CONTROL INTEREST IN PARTICIPATING ENTITY.—

3 Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

4 (1) by striking “or” at the end of paragraph
5 (1)(D);

6 (2) by striking “, or” at the end of paragraph
7 (2) and inserting a semicolon;

8 (3) by striking the semicolon at the end of
9 paragraph (3) and inserting “; or”; and

10 (4) by inserting after paragraph (3) the follow-
11 ing new paragraph:

12 “(4) in the case of a person who is not an orga-
13 nization, agency, or other entity, is excluded from
14 participating in a program under title XVIII or a
15 State health care program in accordance with this
16 subsection or under section 1128 and who, at the
17 time of a violation of this subsection, retains a direct
18 or indirect ownership or control interest of 5 percent
19 or more, or an ownership or control interest (as de-
20 fined in section 1124(a)(3)) in, or who is an officer
21 or managing employee (as defined in section
22 1126(b)) of, an entity that is participating in a pro-
23 gram under title XVIII or a State health care pro-
24 gram;”.

1 (c) MODIFICATIONS OF AMOUNTS OF PENALTIES
2 AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C.
3 1320a–7a(a)), as amended by subsection (b), is amended
4 in the matter following paragraph (4)—

5 (1) by striking “\$2,000” and inserting
6 “\$10,000”;

7 (2) by inserting “; in cases under paragraph
8 (4), \$10,000 for each day the prohibited relationship
9 occurs” after “false or misleading information was
10 given”; and

11 (3) by striking “twice the amount” and insert-
12 ing “3 times the amount”.

13 (d) CLAIM FOR ITEM OR SERVICE BASED ON INCOR-
14 RECT CODING OR MEDICALLY UNNECESSARY SERV-
15 ICES.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1))
16 is amended—

17 (1) in subparagraph (A) by striking “claimed,”
18 and inserting “claimed, including any person who
19 engages in a pattern or practice of presenting or
20 causing to be presented a claim for an item or serv-
21 ice that is based on a code that the person knows
22 or has reason to know will result in a greater pay-
23 ment to the person than the code the person knows
24 or has reason to know is applicable to the item or
25 service actually provided,”;

1 (2) in subparagraph (C), by striking “or” at
2 the end;

3 (3) in subparagraph (D), by striking “; or” and
4 inserting “, or”; and

5 (4) by inserting after subparagraph (D) the fol-
6 lowing new subparagraph:

7 “(E) is for a medical or other item or serv-
8 ice that a person knows or has reason to know
9 is not medically necessary; or”.

10 (e) PERMITTING SECRETARY TO IMPOSE CIVIL MON-
11 ETARY PENALTY.—Section 1128A(b) (42 U.S.C. 1320a-
12 7a(a)) is amended by adding the following new paragraph:

13 “(3) Any person (including any organization,
14 agency, or other entity, but excluding a beneficiary
15 as defined in subsection (i)(5)) who the Secretary
16 determines has violated section 1128B(b) of this
17 title shall be subject to a civil monetary penalty of
18 not more than \$10,000 for each such violation. In
19 addition, such person shall be subject to an assess-
20 ment of not more than twice the total amount of the
21 remuneration offered, paid, solicited, or received in
22 violation of section 1128B(b). The total amount of
23 remuneration subject to an assessment shall be cal-
24 culated without regard to whether some portion
25 thereof also may have been intended to serve a pur-

1 pose other than one proscribed by section
2 1128B(b).”.

3 (f) SANCTIONS AGAINST PRACTITIONERS AND PER-
4 SONS FOR FAILURE TO COMPLY WITH STATUTORY OBLI-
5 GATIONS.—Section 1156(b)(3) (42 U.S.C. 1320c-5(b)(3))
6 is amended by striking “the actual or estimated cost” and
7 inserting “up to \$10,000 for each instance”.

8 (g) PROCEDURAL PROVISIONS.—Section 1876(i)(6)
9 (42 U.S.C. 1395mm(i)(6)), as amended by section
10 7115(a)(2), is amended by adding at the end the following
11 new subparagraph:

12 “(D) The provisions of section 1128A (other than
13 subsections (a) and (b)) shall apply to a civil money pen-
14 alty under subparagraph (B)(i) or (C)(i) in the same man-
15 ner as such provisions apply to a civil money penalty or
16 proceeding under section 1128A(a).”.

17 (h) PROHIBITION AGAINST OFFERING INDUCEMENTS
18 TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR
19 PLANS.—

20 (1) OFFER OF REMUNERATION.—Section
21 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

22 (A) by striking “or” at the end of para-
23 graph (1)(D);

24 (B) by striking “, or” at the end of para-
25 graph (2) and inserting a semicolon;

1 (C) by striking the semicolon at the end of
2 paragraph (3) and inserting “; or”; and

3 (D) by inserting after paragraph (3) the
4 following new paragraph:

5 “(4) offers to or transfers remuneration to any
6 individual eligible for benefits under title XVIII of
7 this Act, or under a State health care program (as
8 defined in section 1128(h)) that such person knows
9 or should know is likely to influence such individual
10 to order or receive from a particular provider, practi-
11 tioner, or supplier any item or service for which pay-
12 ment may be made, in whole or in part, under title
13 XVIII, or a State health care program;”.

14 (2) REMUNERATION DEFINED.—Section
15 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by
16 adding the following new paragraph:

17 “(6) The term ‘remuneration’ includes the waiv-
18 er of coinsurance and deductible amounts (or any
19 part thereof), and transfers of items or services for
20 free or for other than fair market value. The term
21 ‘remuneration’ does not include—

22 “(A) the waiver of coinsurance and deduct-
23 ible amounts by a person, if—

24 “(i) the waiver is not offered as part
25 of any advertisement or solicitation;

1 “(ii) the person does not routinely
2 waive coinsurance or deductible amounts;
3 and

4 “(iii) the person—

5 “(I) waives the coinsurance and
6 deductible amounts after determining
7 in good faith that the individual is in
8 financial need;

9 “(II) fails to collect coinsurance
10 or deductible amounts after making
11 reasonable collection efforts; or

12 “(III) provides for any permis-
13 sible waiver as specified in section
14 1128B(b)(3) or in regulations issued
15 by the Secretary;

16 “(B) differentials in coinsurance and de-
17 ductible amounts as part of a benefit plan de-
18 sign as long as the differentials have been dis-
19 closed in writing to all beneficiaries, third party
20 payers, and providers, to whom claims are pre-
21 sented and as long as the differentials meet the
22 standards as defined in regulations promulgated
23 by the Secretary not later than 180 days after
24 the date of the enactment of the Health Care
25 Fraud and Abuse Prevention Act of 1995; or

1 “(C) incentives given to individuals to pro-
2 mote the delivery of preventive care as deter-
3 mined by the Secretary in regulations so pro-
4 mulgated.”.

5 (i) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect January 1, 1996.

7 **Subchapter E—Amendments to Criminal Law**

8 **SEC. 7141. HEALTH CARE FRAUD.**

9 (a) IN GENERAL.—

10 (1) FINES AND IMPRISONMENT FOR HEALTH
11 CARE FRAUD VIOLATIONS.—Chapter 63 of title 18,
12 United States Code, is amended by adding at the
13 end the following new section:

14 **“§ 1347. Health care fraud**

15 “(a) Whoever knowingly and willfully executes, or at-
16 tempts to execute, a scheme or artifice—

17 “(1) to defraud any health plan or other per-
18 son, in connection with the delivery of or payment
19 for health care benefits, items, or services; or

20 “(2) to obtain, by means of false or fraudulent
21 pretenses, representations, or promises, any of the
22 money or property owned by, or under the custody
23 or control of, any health plan, or person in connec-
24 tion with the delivery of or payment for health care
25 benefits, items, or services;

1 shall be fined under this title or imprisoned not more than
 2 10 years, or both. If the violation results in serious bodily
 3 injury (as defined in section 1365(g)(3) of this title), such
 4 person may be imprisoned for any term of years.

5 “(b) For purposes of this section, the term ‘health
 6 plan’ has the same meaning given such term in section
 7 1128C(c) of the Social Security Act.”.

8 (2) CLERICAL AMENDMENT.—The table of sec-
 9 tions at the beginning of chapter 63 of title 18,
 10 United States Code, is amended by adding at the
 11 end the following:

“1347. Health care fraud.”.

12 (b) CRIMINAL FINES DEPOSITED IN FEDERAL HOS-
 13 PITAL INSURANCE TRUST FUND.—The Secretary of the
 14 Treasury shall deposit into the Federal Hospital Insurance
 15 Trust Fund pursuant to section 1817(k)(2)(C) of the So-
 16 cial Security Act, as added by section 7101(b), an amount
 17 equal to the criminal fines imposed under section 1347
 18 of title 18, United States Code (relating to health care
 19 fraud).

20 **SEC. 7142. FORFEITURES FOR FEDERAL HEALTH CARE OF-**
 21 **FENSES.**

22 (a) IN GENERAL.—Section 982(a) of title 18, United
 23 States Code, is amended by adding after paragraph (5)
 24 the following new paragraph:

1 “(6)(A) The court, in imposing sentence on a person
2 convicted of a Federal health care offense, shall order the
3 person to forfeit property, real or personal, that con-
4 stitutes or is derived, directly or indirectly, from gross pro-
5 ceeds traceable to the commission of the offense.

6 “(B) For purposes of this paragraph, the term ‘Fed-
7 eral health care offense’ means a violation of, or a criminal
8 conspiracy to violate—

9 “(i) section 1347 of this title;

10 “(ii) section 1128B of the Social Security Act;

11 and

12 “(iii) sections 287, 371, 664, 666, 669, 1001,
13 1027, 1341, 1343, 1920, or 1954 of this title if the
14 violation or conspiracy relates to health care fraud.”.

15 (b) CONFORMING AMENDMENT.—Section
16 982(b)(1)(A) of title 18, United States Code, is amended
17 by inserting “or (a)(6)” after “(a)(1)”.

18 (c) PROPERTY FORFEITED DEPOSITED IN FEDERAL
19 HOSPITAL INSURANCE TRUST FUND.—

20 (1) IN GENERAL.—After the payment of the
21 costs of asset forfeiture has been made, and notwith-
22 standing any other provision of law, the Secretary of
23 the Treasury shall deposit into the Federal Hospital
24 Insurance Trust Fund pursuant to section
25 1817(k)(2)(C) of the Social Security Act, as added

1 by section 7101(b), an amount equal to the net
2 amount realized from the forfeiture of property by
3 reason of a Federal health care offense pursuant to
4 section 982(a)(6) of title 18, United States Code.

5 (2) COSTS OF ASSET FORFEITURE.—For pur-
6 poses of paragraph (1), the term “payment of the
7 costs of asset forfeiture” means—

8 (A) the payment, at the discretion of the
9 Attorney General, of any expenses necessary to
10 seize, detain, inventory, safeguard, maintain,
11 advertise, sell, or dispose of property under sei-
12 zure, detention, or forfeited, or of any other
13 necessary expenses incident to the seizure, de-
14 tention, forfeiture, or disposal of such property,
15 including payment for—

16 (i) contract services,

17 (ii) the employment of outside con-
18 tractors to operate and manage properties
19 or provide other specialized services nec-
20 essary to dispose of such properties in an
21 effort to maximize the return from such
22 properties; and

23 (iii) reimbursement of any Federal,
24 State, or local agency for any expenditures

1 made to perform the functions described in
2 this subparagraph;

3 (B) at the discretion of the Attorney Gen-
4 eral, the payment of awards for information or
5 assistance leading to a civil or criminal forfeit-
6 ure involving any Federal agency participating
7 in the Health Care Fraud and Abuse Control
8 Account;

9 (C) the compromise and payment of valid
10 liens and mortgages against property that has
11 been forfeited, subject to the discretion of the
12 Attorney General to determine the validity of
13 any such lien or mortgage and the amount of
14 payment to be made, and the employment of at-
15 torneys and other personnel skilled in State real
16 estate law as necessary;

17 (D) payment authorized in connection with
18 remission or mitigation procedures relating to
19 property forfeited; and

20 (E) the payment of State and local prop-
21 erty taxes on forfeited real property that ac-
22 crued between the date of the violation giving
23 rise to the forfeiture and the date of the forfeit-
24 ure order.

1 **SEC. 7143. INJUNCTIVE RELIEF RELATING TO FEDERAL**
2 **HEALTH CARE OFFENSES.**

3 (a) IN GENERAL.—Section 1345(a)(1) of title 18,
4 United States Code, is amended—

5 (1) by striking “or” at the end of subparagraph
6 (A);

7 (2) by inserting “or” at the end of subpara-
8 graph (B); and

9 (3) by adding at the end the following new sub-
10 paragraph:

11 “(C) committing or about to commit a
12 Federal health care offense (as defined in sec-
13 tion 982(a)(6)(B) of this title);”.

14 (b) FREEZING OF ASSETS.—Section 1345(a)(2) of
15 title 18, United States Code, is amended by inserting “or
16 a Federal health care offense (as defined in section
17 982(a)(6)(B))” after “title”.

18 **SEC. 7144. GRAND JURY DISCLOSURE.**

19 Section 3322 of title 18, United States Code, is
20 amended—

21 (1) by redesignating subsections (c) and (d) as
22 subsections (d) and (e), respectively; and

23 (2) by inserting after subsection (b) the follow-
24 ing new subsection:

1 “(c) A person who is privy to grand jury information
2 concerning a Federal health care offense (as defined in
3 section 982(a)(6)(B))—

4 “(1) received in the course of duty as an attor-
5 ney for the Government; or

6 “(2) disclosed under rule 6(e)(3)(A)(ii) of the
7 Federal Rules of Criminal Procedure;

8 may disclose that information to an attorney for the Gov-
9 ernment to use in any investigation or civil proceeding re-
10 lating to health care fraud.”.

11 **SEC. 7145. FALSE STATEMENTS.**

12 (a) IN GENERAL.—Chapter 47 of title 18, United
13 States Code, is amended by adding at the end the follow-
14 ing new section:

15 **“§ 1033. False statements relating to health care mat-
16 ters**

17 “(a) Whoever, in any matter involving a health plan,
18 knowingly and willfully falsifies, conceals, or covers up by
19 any trick, scheme, or device a material fact, or makes any
20 false, fictitious, or fraudulent statements or representa-
21 tions, or makes or uses any false writing or document
22 knowing the same to contain any false, fictitious, or fraud-
23 ulent statement or entry, shall be fined under this title
24 or imprisoned not more than 5 years, or both.

1 “(b) For purposes of this section, the term ‘health
2 plan’ has the same meaning given such term in section
3 1128C(c) of the Social Security Act.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 at the beginning of chapter 47 of title 18, United States
6 Code, is amended by adding at the end the following:

“1033. False statements relating to health care matters.”.

7 **SEC. 7146. OBSTRUCTION OF CRIMINAL INVESTIGATIONS**
8 **OF FEDERAL HEALTH CARE OFFENSES.**

9 (a) IN GENERAL.—Chapter 73 of title 18, United
10 States Code, is amended by adding at the end the follow-
11 ing new section:

12 **“§1518. Obstruction of criminal investigations of**
13 **Federal health care offenses**

14 “(a) Whoever willfully prevents, obstructs, misleads,
15 delays or attempts to prevent, obstruct, mislead, or delay
16 the communication of information or records relating to
17 a Federal health care offense to a criminal investigator
18 shall be fined under this title or imprisoned not more than
19 5 years, or both.

20 “(b) As used in this section the term ‘Federal health
21 care offense’ has the same meaning given such term in
22 section 982(a)(6)(B) of this title.

23 “(c) As used in this section the term ‘criminal inves-
24 tigator’ means any individual duly authorized by a depart-
25 ment, agency, or armed force of the United States to con-

1 duct or engage in investigations for prosecutions for viola-
2 tions of health care offenses.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 at the beginning of chapter 73 of title 18, United States
5 Code, is amended by adding at the end the following:

“1518. Obstruction of Criminal Investigations of Federal Health Care Of-
fenses.”.

6 **SEC. 7147. THEFT OR EMBEZZLEMENT.**

7 (a) IN GENERAL.—Chapter 31 of title 18, United
8 States Code, is amended by adding at the end the follow-
9 ing new section:

10 **“§ 669. Theft or embezzlement in connection with**
11 **health care**

12 “(a) Whoever willfully embezzles, steals, or otherwise
13 willfully and unlawfully converts to the use of any person
14 other than the rightful owner, or intentionally misapplies
15 any of the moneys, funds, securities, premiums, credits,
16 property, or other assets of a health plan, shall be fined
17 under this title or imprisoned not more than 10 years, or
18 both.

19 “(b) As used in this section the term ‘health plan’
20 has the same meaning given such term in section
21 1128C(e) of the Social Security Act.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 at the beginning of chapter 31 of title 18, United States
 3 Code, is amended by adding at the end the following:

“669. Theft or Embezzlement in Connection with Health Care.”.

4 **SEC. 7148. LAUNDERING OF MONETARY INSTRUMENTS.**

5 Section 1956(c)(7) of title 18, United States Code,
 6 is amended by adding at the end the following new sub-
 7 paragraph:

8 “(F) Any act or activity constituting an of-
 9 fense involving a Federal health care offense as
 10 that term is defined in section 982(a)(6)(B) of
 11 this title.”.

12 **SEC. 7149. AUTHORIZED INVESTIGATIVE DEMAND PROCE-**
 13 **DURES.**

14 (a) IN GENERAL.—Chapter 233 of title 18, United
 15 States Code, is amended by adding after section 3485 the
 16 following new section:

17 **“§ 3486. Authorized investigative demand procedures**

18 “(a)(1)(A) In any investigation relating to functions
 19 set forth in paragraph (2), the Attorney General or des-
 20 ignee may issue in writing and cause to be served a sub-
 21 poena compelling production of any records (including any
 22 books, papers, documents, electronic media, or other ob-
 23 jects or tangible things), which may be relevant to an au-
 24 thorized law enforcement inquiry, that a person or legal
 25 entity may possess or have care, custody, or control.

1 “(B) A custodian of records may be required to give
2 testimony concerning the production and authentication of
3 such records.

4 “(C) The production of records may be required from
5 any place in any State or in any territory or other place
6 subject to the jurisdiction of the United States at any des-
7 ignated place; except that such production shall not be re-
8 quired more than 500 miles distant from the place where
9 the subpoena is served.

10 “(D) Witnesses summoned under this section shall be
11 paid the same fees and mileage that are paid witnesses
12 in the courts of the United States.

13 “(E) A subpoena requiring the production of records
14 shall describe the objects required to be produced and pre-
15 scribe a return date within a reasonable period of time
16 within which the objects can be assembled and made avail-
17 able.

18 “(2) Investigative demands utilizing an administra-
19 tive subpoena are authorized for any investigation with re-
20 spect to any act or activity constituting or involving health
21 care fraud, including a scheme or artifice—

22 “(A) to defraud any health plan or other per-
23 son, in connection with the delivery of or payment
24 for health care benefits, items, or services; or

1 “(B) to obtain, by means of false or fraudulent
2 pretenses, representations, or promises, any of the
3 money or property owned by, or under the custody
4 or control or, any health plan, or person in connec-
5 tion with the delivery of or payment for health care
6 benefits, items, or services.

7 “(b)(1) A subpoena issued under this section may be
8 served by any person designated in the subpoena to serve
9 it.

10 “(2) Service upon a natural person may be made by
11 personal delivery of the subpoena to such person.

12 “(3) Service may be made upon a domestic or foreign
13 association which is subject to suit under a common name,
14 by delivering the subpoena to an officer, to a managing
15 or general agent, or to any other agent authorized by ap-
16 pointment or by law to receive service of process.

17 “(4) The affidavit of the person serving the subpoena
18 entered on a true copy thereof by the person serving it
19 shall be proof of service.

20 “(c)(1) In the case of contumacy by or refusal to obey
21 a subpoena issued to any person, the Attorney General
22 may invoke the aid of any court of the United States with-
23 in the jurisdiction of which the investigation is carried on
24 or of which the subpoenaed person is an inhabitant, or

1 in which such person carries on business or may be found,
2 to compel compliance with the subpoena.

3 “(2) The court may issue an order requiring the sub-
4 poenaed person to appear before the Attorney General to
5 produce records, if so ordered, or to give testimony re-
6 quired under subsection (a)(1)(B).

7 “(3) Any failure to obey the order of the court may
8 be punished by the court as a contempt thereof.

9 “(4) All process in any such case may be served in
10 any judicial district in which such person may be found.

11 “(d) Notwithstanding any Federal, State, or local
12 law, any person, including officers, agents, and employees,
13 receiving a subpoena under this section, who complies in
14 good faith with the subpoena and thus produces the mate-
15 rials sought, shall not be liable in any court of any State
16 or the United States to any customer or other person for
17 such production or for nondisclosure of that production
18 to the customer.

19 “(e)(1) Health information about an individual that
20 is disclosed under this section may not be used in, or dis-
21 closed to any person for use in, any administrative, civil,
22 or criminal action or investigation directed against the in-
23 dividual who is the subject of the information unless the
24 action or investigation arises out of and is directly related
25 to receipt of health care or payment for health care or

1 action involving a fraudulent claim related to health; or
2 if authorized by an appropriate order of a court of com-
3 petent jurisdiction, granted after application showing good
4 cause therefore.

5 “(2) In assessing good cause, the court shall weigh
6 the public interest and the need for disclosure against the
7 injury to the patient, to the physician-patient relationship,
8 and to the treatment services.

9 “(3) Upon the granting of such order, the court, in
10 determining the extent to which any disclosure of all or
11 any part of any record is necessary, shall impose appro-
12 priate safeguards against unauthorized disclosure.

13 “(f) As used in this section the term ‘health plan’
14 has the same meaning given such term in section
15 1128C(c) of the Social Security Act.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for chapter 223 of title 18, United States Code, is amend-
18 ed by inserting after the item relating to section 3405 the
19 following new item:

20 **“§ 3486. Authorized investigative demand proce-**
21 **dures”.**

22 (c) CONFORMING AMENDMENT.—Section
23 1510(b)(3)(B) of title 18, United States Code, is amended
24 by inserting “or a Department of Justice subpoena (issued
25 under section 3486),” after “subpoena”.

1 “(ii) at the option of the entity, procedures
2 for reviewing complaints of abuse or neglect of
3 patients residing in board and care facilities;
4 and

5 “(iii) where appropriate, procedures for
6 acting upon such complaints under the criminal
7 laws of the State or for referring such com-
8 plaints to other State agencies for action.

9 “(B) For purposes of this paragraph, the term
10 ‘board and care facility’ means a residential setting
11 which receives payment from or on behalf of two or
12 more unrelated adults who reside in such facility,
13 and for whom one or both of the following is pro-
14 vided:

15 “(i) Nursing care services provided by, or
16 under the supervision of, a registered nurse, li-
17 censed practical nurse, or licensed nursing as-
18 sistant.

19 “(ii) Personal care services that assist resi-
20 dents with the activities of daily living, includ-
21 ing personal hygiene, dressing, bathing, eating,
22 toileting, ambulation, transfer, positioning, self-
23 medication, body care, travel to medical serv-
24 ices, essential shopping, meal preparation, laun-
25 dry, and housework.”.

1 **CHAPTER 7—OTHER PROVISIONS FOR**
2 **TRUST FUND SOLVENCY**
3 **Subchapter A—General Provisions**

4 **SEC. 7171. CONFORMING AGE FOR ELIGIBILITY UNDER**
5 **MEDICARE TO RETIREMENT AGE FOR SOCIAL**
6 **SECURITY BENEFITS.**

7 (a) ENTITLEMENT TO HOSPITAL INSURANCE BENE-
8 FITS.—Section 226 (42 U.S.C. 426) is amended by strik-
9 ing “age 65” each place such term appears and inserting
10 “retirement age”.

11 (b) HOSPITAL INSURANCE BENEFITS FOR THE
12 AGED.—Section 1811 (42 U.S.C. 1395c) is amended by
13 striking “age 65” each place such term appears and in-
14 serting “retirement age (as such term is defined in section
15 216(l)(1))”.

16 (c) HOSPITAL INSURANCE BENEFITS FOR UNIN-
17 SURED ELDERLY INDIVIDUALS NOT OTHERWISE ELIGI-
18 BLE.—Section 1818 (42 U.S.C. 1395i-2) is amended—

19 (1) in subsection (a)(1), by striking “age of 65”
20 and inserting “retirement age (as such term is de-
21 fined in section 216(l)(1))”;

22 (2) in subsection (d)(1), by striking “age 65”
23 and inserting “retirement age (as such term is de-
24 fined in section 216(l)(1))”; and

1 (3) in subsection (d)(3), by striking “65” and
2 inserting “retirement age (as such term is defined in
3 section 216(l)(1))”.

4 (d) HOSPITAL INSURANCE BENEFITS FOR DISABLED
5 INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLED-
6 MENT.—Section 1818A(a)(1) (42 U.S.C. 1395i–2a(a)(1))
7 is amended by striking “the age of 65” and inserting “re-
8 tirement age (as such term is defined in section
9 216(l)(1))”.

10 (e) ELIGIBILITY FOR PART B BENEFITS.—

11 (1) IN GENERAL.—Section 1836 (42 U.S.C.
12 1395o) is amended by striking “age 65” each place
13 such term appears and inserting “retirement age (as
14 such term is defined in section 216(l)(1))”.

15 (2) ENROLLMENT PERIODS.—Section 1837 (42
16 U.S.C. 1395p) is amended by striking “age 65” and
17 “the age of 65” each place such terms appear and
18 inserting “retirement age (as such term is defined in
19 section 216(l)(1))”.

20 (3) COVERAGE PERIOD.—Section 1838(c) (42
21 U.S.C. 1395q(c)) is amended by striking “the age of
22 65” and inserting “retirement age (as such term is
23 defined in section 216(l)(1))”.

24 (4) AMOUNTS OF PREMIUMS.—Section 1839
25 (42 U.S.C. 1395r) is amended by striking “age 65”

1 and “the age of 65” each place such terms appear
2 and inserting “retirement age (as such term is de-
3 fined in section 216(l)(1))”.

4 (f) APPROPRIATIONS TO COVER GOVERNMENT CON-
5 TRIBUTIONS AND CONTINGENCY RESERVE.—Section
6 1844(a)(1) (42 U.S.C. 1395w) is amended by striking
7 “age 65” each place such term appears and inserting “re-
8 tirement age”.

9 (g) MEDICARE SECONDARY PAYER.—Section
10 1862(b) (42 U.S.C. 1395y(b)) is amended by striking
11 “age 65” each place such term appears and inserting “re-
12 tirement age (as such term is defined in section
13 216(l)(1))”.

14 (h) MEDICARE SUPPLEMENTAL POLICIES.—Section
15 1882(s)(2)(A) (42 U.S.C. 1395ss(s)(2)(A)) is amended by
16 striking “65 years of age” and inserting “retirement age
17 (as such term is defined in section 216(l)(1))”.

18 **SEC. 7172. NONDISCHARGEABILITY OF CERTAIN MEDICARE**

19 **DEBTS.**

20 Section 523(a) of title 11, United States Code, is
21 amended—

22 (1) by striking “; or” at the end of paragraph

23 (12);

24 (2) by inserting “or” at the end of paragraph

25 (15)(B);

1 (3) by striking the period at the end of para-
2 graph (16) and inserting “or”; and

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

5 “(17) for an overpayment to a provider or sup-
6 plier made from the Federal Hospital Insurance
7 Trust Fund or the Federal Supplementary Medical
8 Insurance Trust Fund.”.

9 **SEC. 7173. TRANSFERS OF CERTAIN PART B SAVINGS TO**
10 **HOSPITAL INSURANCE TRUST FUND.**

11 Section 1841 (42 U.S.C. 1395t) is amended by add-
12 ing at the end the following new subsection:

13 “(j) There are hereby appropriated for each fiscal
14 year to the Federal Hospital Insurance Trust Fund
15 amounts equal to the estimated savings to the general
16 fund of the Treasury for such year resulting from the
17 amendments made by sections 7051 (relating to the part
18 B deductible), 7052 (relating to the part B premium), and
19 7053 (relating to the part B premium for high-income in-
20 dividuals) of the Balanced Budget Reconciliation Act of
21 1995. The Secretary of the Treasury shall from time to
22 time transfer from the general fund of the Treasury to
23 the Federal Hospital Insurance Trust Fund amounts
24 equal to such estimated savings in the form of public-debt

1 obligations issued exclusively to the Federal Hospital In-
 2 surance Trust Fund.”.

3 **Subchapter B—Budget Expenditure Limiting**
 4 **Tool**

5 **SEC. 7175. BUDGET EXPENDITURE LIMITING TOOL.**

6 (a) IN GENERAL.—Title XVIII is amended by adding
 7 at the end the following new section:

8 “BUDGET EXPENDITURE LIMITING TOOL

9 “SEC. 1893. (a) IMPLEMENTATION OF MEDICARE
 10 BUDGET COMPLIANCE ORDERS.—

11 “(1) IN GENERAL.—If a medicare budget com-
 12 pliance order is issued with respect to a fiscal year,
 13 then, notwithstanding any other provision of this
 14 title, the Secretary shall make the adjustments to
 15 applicable payment rates specified in the order.

16 “(2) EFFECT OF ADJUSTMENTS.—

17 “(A) ITEMS ADJUSTED.—Any adjustment
 18 under paragraph (1) shall apply solely for pur-
 19 poses of determining—

20 “(i) the applicable payment rates ac-
 21 tually paid during the fiscal year, and

22 “(ii) the amount of any premium or
 23 coinsurance an individual is required to
 24 pay under this title.

25 “(B) ADJUSTMENTS NOT TO OTHERWISE
 26 APPLY.—Any adjustment under paragraph (1)

1 shall not apply for any other purpose not de-
2 scribed in subparagraph (A), including for pur-
3 poses of determining—

4 “(i) in the case of a scheduled rate in-
5 crease described in subsection (c)(3), the
6 rate in effect for a fiscal year in determin-
7 ing the amount of the increase for any
8 subsequent fiscal year, and

9 “(ii) the rate to which an adjustment
10 under this section applies for a subsequent
11 fiscal year.

12 “(b) MEDICARE BUDGET COMPLIANCE ORDERS.—In
13 this section—

14 “(1) DOWNWARD ADJUSTMENTS IN RATES.—A
15 medicare budget compliance order is an order issued
16 by the President under subsection (e)(5) or
17 (e)(6)(B) which sets forth (in the manner described
18 in subsection (c)) the adjustments in applicable pay-
19 ment rates for fee-for-service expenditures as are
20 necessary—

21 “(A) in the case of an order under sub-
22 section (e)(5), to eliminate the medicare outlay
23 deficit estimated for the fiscal year in the OMB
24 final report under subsection (e)(4), and

1 “(B) in the case of an order under sub-
2 section (e)(6)(B), to eliminate any increase in
3 such deficit in the OMB updated report under
4 subsection (e)(6)(A).

5 “(2) UPWARD ADJUSTMENT IN RATES.—A
6 medicare budget compliance order is an order issued
7 by the President under subsection (e)(6)(C) which
8 sets forth (in the manner described in subsection
9 (e)) increases in the applicable payment rates for
10 fee-for-service expenditures for the portion of the fis-
11 cal year specified in the order as are necessary to
12 correct any reduction of the medicare outlay deficit
13 estimated for the fiscal year in the OMB updated re-
14 port under subsection (e)(6)(A).

15 “(3) APPLICABLE PAYMENT RATES.—The term
16 ‘applicable payment rate’ means the rate (deter-
17 mined without regard to this section) at which pay-
18 ment is made under parts A and B for fee-for-serv-
19 ice expenditures for items and services covered under
20 parts A and B.

21 “(c) METHODS FOR MAKING ADJUSTMENTS.—

22 “(1) RATE REDUCTIONS.—Except as provided
23 in paragraph (3), a medicare budget compliance
24 order described in subsection (b)(1) shall provide the
25 following adjustments in the following order:

1 “(A) First, a uniform percentage reduction
2 in each of the scheduled rate increases specified
3 in paragraph (4) as is necessary to reduce med-
4 icare outlays by the amount of the medicare
5 outlay deficit for the fiscal year.

6 “(B) Second, if the medicare outlay deficit
7 exceeds the reduction in outlays resulting from
8 an elimination of the scheduled rate increases,
9 a uniform percentage reduction in each of the
10 applicable payment rates as is necessary to re-
11 duce medicare outlays by the amount of that
12 excess.

13 “(2) RATE INCREASES.—Except as provided in
14 paragraph (3), a medicare budget compliance order
15 described in subsection (b)(2) shall provide—

16 “(A) a uniform percentage increase in each
17 of the applicable payment rates described in
18 paragraph (1)(B) as is necessary to increase
19 medicare outlays for such payments by the less-
20 er of the estimated reduction in the medicare
21 outlay deficit or the amount of reductions under
22 paragraph (1)(B), and

23 “(B) a uniform percentage increase in
24 rates for which scheduled increases were re-
25 duced under paragraph (1)(B) to the extent of

1 the lesser of the remainder of the reduction in
2 the medicare outlay deficit or the amount of the
3 reduction in such scheduled increases.

4 “(3) GEOGRAPHICAL ADJUSTMENTS.—

5 “(A) ADJUSTMENTS TO PERCENTAGES.—

6 “(i) IN GENERAL.—Unless Congress
7 provides otherwise, beginning with fiscal
8 years on or after October 1, 1999, the Sec-
9 retary may, based on the analysis under
10 subparagraph (B) and to the extent the
11 Secretary determines necessary, adjust the
12 percentage changes to the applicable pay-
13 ment rates required by this section in a
14 manner designed to reflect an appropriate
15 and equitable variation in rates of growth
16 in per capita spending across medicare
17 payment areas. Such variation shall be rea-
18 sonably related to measurable geographic
19 differences in medicare payment areas and
20 the degree to which such patterns of rates
21 of growth in per capita spending contribute
22 to a medicare outlay deficit.

23 “(ii) BUDGET NEUTRALITY.—If the
24 Secretary takes action under clause (i), the
25 Secretary shall adjust the applicable pay-

1 ment rates in a manner that ensures that
2 total outlays for a fiscal year are not
3 greater or less than total outlays under
4 this section would have been but for the
5 application of clause (i).

6 “(B) ANALYSIS.—The Secretary, in con-
7 sultation with interested parties, shall conduct
8 an analysis of the measurable differences in
9 rates of growth of spending across medicare
10 payment areas using measurable variables as
11 identified by the Secretary.

12 “(C) NOTICE.—If the Secretary decides to
13 take action under subparagraph (A), the Sec-
14 retary shall provide notice to Congress 1 year
15 before the effective date of the action as to the
16 variables the Secretary will use to determine
17 variations in rates of growth in per capita
18 spending and a preliminary assessment regard-
19 ing how these variations may impact a medicare
20 budget compliance order.

21 “(4) SCHEDULED RATE INCREASES.—For pur-
22 poses of paragraph (1), a scheduled rate increase is
23 any increase in an applicable payment which is made
24 pursuant to an automatic adjustment required by
25 part A or part B.

1 “(5) SPECIAL RULES FOR TIMING OF REDUC-
2 TIONS.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), any reduction in applicable
5 payment rates pursuant to a medicare budget
6 compliance order shall be applied to payments
7 for services furnished during the fiscal year.
8 For purposes of the preceding sentence, in the
9 case of inpatient services furnished for an indi-
10 vidual, the services shall be considered to be
11 furnished on the date of the individual’s dis-
12 charge from the inpatient facility.

13 “(B) PAYMENT ON THE BASIS OF COST
14 REPORTING PERIODS.—In applying subsection
15 (a) for a fiscal year with respect to items and
16 services for which payment is made under part
17 A or B on the basis of costs incurred for items
18 and services in a cost reporting period, the
19 medicare budget compliance order shall provide
20 for the payment adjustment under such sub-
21 section for a fiscal year through the appropriate
22 percentage reduction in the payment for costs
23 for such items and services incurred at any
24 time during each cost reporting period any part
25 of which occurs during the fiscal year involved,

1 but only (for each such cost reporting period)
2 in the same proportion as the fraction of the
3 cost reporting period that occurs during the fis-
4 cal year involved.

5 “(6) TIMING OF UPDATED ADJUSTMENTS.—
6 Any increase or decrease in applicable payment rates
7 pursuant to a medicare budget compliance order
8 under subsection (e)(6) shall be made in the same
9 manner as provided under paragraph (5), but shall
10 only apply for the portion of the fiscal year occur-
11 ring on and after March 1.

12 “(7) NO INCREASE IN BENEFICIARY CHARGES
13 IN ASSIGNMENT-RELATED CASES.—If a reduction in
14 payment amounts is made under subsection (a) for
15 services for which payment under part B of title
16 XVIII of the Social Security Act is made on the
17 basis of an assignment described in section
18 1842(b)(3)(B)(ii), in accordance with section
19 1842(b)(6)(B), or under the procedure described in
20 section 1870(f)(1), of such Act, the person furnish-
21 ing the services shall be considered to have accepted
22 payment of the reasonable charge for the services,
23 less any reduction in payment amount made pursu-
24 ant to a sequestration order, as payment in full.

1 “(d) MEDICARE OUTLAY DEFICITS AND RELATED
2 TERMS.—In this section:

3 “(1) MEDICARE OUTLAY DEFICIT.—

4 “(A) IN GENERAL.—The term ‘medicare
5 outlay deficit’ means the excess (if any) of—

6 “(i) the outlays with respect to items
7 and services for which payment is made
8 under part A or B, over

9 “(ii) the baseline medicare outlays.

10 “(B) SPECIFIC FISCAL YEAR.—The medi-
11 care outlay deficit for any fiscal year is the sum
12 of—

13 “(i) the amount determined under
14 subparagraph (A) for the fiscal year (with-
15 out regard to this section), plus

16 “(ii) the amount determined under
17 subparagraph (A) for the preceding fiscal
18 year (determined after application of this
19 section).

20 “(C) AMOUNTS BASED ON ESTIMATES.—
21 The medicare outlay deficit for any fiscal year
22 shall be determined on the basis of the OMB
23 final and updated reports under subsection (e).

1 “(2) MEDICARE BASELINE OUTLAYS.—The
 2 medicare baseline outlays shall be determined in ac-
 3 cordance 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

4 “(3) OUTLAYS.—The term ‘outlays’ has the
 5 meaning given such term by section 3 of the Con-
 6 gressional Budget and Impoundment Control Act of
 7 1974.

8 “(4) OMB.—The term ‘OMB’ means the Direc-
 9 tor of the Office of Management and Budget.

10 “(5) CBO.—The term ‘CBO’ means the Direc-
 11 tor of the Congressional Budget Office.

12 “(e) REPORTS AND ORDERS.—

13 “(1) TIMETABLE.—The timetable for the cal-
 14 endar year in which a fiscal year begins is as fol-
 15 lows:

“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.

16 “(2) SUBMISSION AND AVAILABILITY.—Each
 17 report required by this section shall be submitted to

1 the Committee on Ways and Means of the House
2 of Representatives, the Committee on Finance of the
3 Senate, and the President, and in the case of OMB
4 and CBO, to each other. On the following day, a
5 notice of the report shall be printed in the Federal
6 Register.

7 “(3) SNAPSHOT.—CBO and OMB shall each
8 prepare an estimate of the medicare outlay deficit
9 for the fiscal year beginning October 1.

10 “(4) FINAL REPORTS.—

11 “(A) IN GENERAL.—The final reports of
12 CBO and OMB shall each include—

13 “(i) an estimate of the medicare out-
14 lay deficit (if any) for the fiscal year begin-
15 ning October 1, and

16 “(ii) the percentage reductions de-
17 scribed in subsection (c)(1) necessary to
18 offset the deficit.

19 “(B) DIFFERENCES.—Each OMB report
20 shall explain any differences between the CBO
21 and OMB estimates of the medicare outlay defi-
22 cit and any required percentage reduction.

23 “(5) PRESIDENTIAL ORDER.—On the date spec-
24 ified in paragraph (1), if in its final report OMB es-
25 timates a medicare outlay deficit for the fiscal year

1 beginning October 1, the President shall issue an
2 order fully implementing without change all percent-
3 age reductions required by the OMB calculations set
4 forth in the report. The order shall be effective on
5 issuance.

6 “(6) OMB AND CBO UPDATED REPORTS;
7 ORDER.—

8 “(A) REPORTS.—The updated reports of
9 OMB and CBO shall include—

10 “(i) an estimate of the differences be-
11 tween its current estimate of the medicare
12 outlay deficit for the fiscal year and the es-
13 timate included in its final report,

14 “(ii) if a medicare budget compliance
15 order is in effect for the fiscal year and if
16 the estimate finds the deficit to be greater
17 than that included in the OMB or CBO
18 final report, the percentage decreases spec-
19 ified in subsection (c)(1) or (c)(3) nec-
20 essary to offset the increase over the re-
21 mainder of the fiscal year, and

22 “(iii) if the estimate finds the deficit
23 to be less than that included in the final
24 report, the percentage increases described

1 in subsection (c)(2) or (c)(3) necessary to
2 offset the reduction.

3 “(B) ORDER IMPLEMENTING DE-
4 CREASES.—The President shall issue an order
5 fully implementing without change the percent-
6 age decreases described in the OMB updated
7 report under subparagraph (A)(ii).

8 “(C) ORDER IMPLEMENTING INCREASES.—
9 The President shall issue an order fully imple-
10 menting without change the percentage in-
11 creases described in the OMB updated report
12 under subparagraph (A)(iii).

13 “(7) REPORTS BASED ON CBO.—Any report re-
14 quired by this subsection shall be based on the eco-
15 nomic and technical assumptions used by the CBO
16 in its initial snapshot under paragraph (3).

17 “(8) GAO COMPLIANCE REPORTS.—On the
18 dates specified in paragraph (1), the Comptroller
19 General shall submit to the Congress and the Presi-
20 dent a report on—

21 “(A) the extent to which each order issued
22 by the President under this section complies
23 with all of the requirements contained in this
24 section, either certifying that the order fully
25 and accurately complies with such requirements

1 or indicating the respects in which it does not;
2 and

3 “(B) the extent to which each report is-
4 sued by OMB or CBO under this section com-
5 plies with all of the requirements contained in
6 this section, either certifying that the report
7 fully and accurately complies with such require-
8 ments or indicating the respects in which it
9 does not.

10 “(f) MODIFICATION OF PRESIDENTIAL ORDER.—

11 “(1) IN GENERAL.—At any time after the OMB
12 final report or updated report is issued under sub-
13 section (e), but before the close of the 20th calendar
14 day of the session of Congress beginning after the
15 issuance of either such report, the Majority Leader
16 of either House of Congress may introduce a joint
17 resolution, which contains provisions directing the
18 President to modify the Presidential order issued
19 under subsection (e)(5) or (e)(6)(B) in connection
20 with either such report or to provide an alternative
21 to reduce the medicare outlay deficit for the fiscal
22 year for which such order was issued. After the in-
23 troduction of the first such joint resolution in either
24 House of Congress with respect to any final report
25 or updated report, then no other joint resolution is-

1 sued with respect to such order shall be subject to
2 the procedures set forth in this subsection.

3 “(2) PROCEDURES.—Except as provided in
4 paragraph (3), the procedures under section 258A of
5 the Balanced Budget and Emergency Deficit Control
6 Act of 1985 shall apply to a joint resolution under
7 paragraph (1).

8 “(3) DECREASE IN AMOUNT OF MEDICARE OUT-
9 LAY DEFICIT REDUCTION REQUIRES THREE-FIFTHS
10 VOTE.—It shall not be in order in either the House
11 of Representatives or the Senate to consider any
12 provision which would have the effect of—

13 “(A) decreasing the medicare baseline out-
14 lay for any fiscal year, or

15 “(B) decreasing medicare outlay reductions
16 for any fiscal year below the amount of the
17 medicare outlay deficit specified in the OMB
18 final or updated report,

19 unless at least three-fifths of the Members of that
20 House agree to the consideration of the joint resolu-
21 tion, amendment, or conference report.

22 “(4) RULEMAKING AUTHORITY.—The provi-
23 sions of paragraphs (2) and (3) are enacted by the
24 Congress—

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.

1 **“SEC. 2100. PURPOSE; STATE MEDICAID PLANS.**

2 “(a) PURPOSE.—The purpose of this title is to pro-
3 vide funds to States to enable them to provide medical
4 assistance to low-income individuals and families in a
5 more effective, efficient, and responsive manner.

6 “(b) STATE PLAN REQUIRED.—A State is not eligible
7 for payment under section 2122 of this title unless the
8 State has submitted to the Secretary under part E a plan
9 (in this title referred to as a ‘medicaid plan’) that—

10 “(1) sets forth how the State intends to use the
11 funds provided under this title to provide medical as-
12 sistance to needy individuals and families consistent
13 with the provisions of this title; and

14 “(2) is approved under such part.

15 “(c) CONTINUED APPROVAL.—An approved medicaid
16 plan shall continue in effect unless and until—

17 “(1) the State amends the plan under section
18 2152;

19 “(2) the State terminates participation under
20 this title; or

1 “(3) standards of care and access to services
2 for children with special health care needs as defined
3 by the State.

4 “(c) CONSIDERATIONS.—In specifying these objec-
5 tives and goals the State may consider factors such as the
6 following:

7 “(1) The State’s priorities with respect to pro-
8 viding assistance to low-income populations.

9 “(2) The State’s priorities with respect to the
10 general public health and the health status of indi-
11 viduals eligible for assistance under the medicaid
12 plan.

13 “(3) The State’s financial resources, the par-
14 ticular economic conditions in the State, and relative
15 adequacy of the health care infrastructure in dif-
16 ferent regions of the State.

17 “(d) PERFORMANCE MEASURES.—To the extent
18 practicable—

19 “(1) one or more performance goals shall be es-
20 tablished by the State for each strategic objective
21 identified in the medicaid plan; and

22 “(2) the medicaid plan shall describe how pro-
23 gram performance will be—

24 “(A) measured through objective, inde-
25 pendently verifiable means, and

1 “(B) compared against performance goals,
2 in order to determine the State’s performance
3 under this title.

4 “(e) PERIOD COVERED.—

5 “(1) STRATEGIC OBJECTIVES.—The strategic
6 objectives shall cover a period of not less than 5
7 years and shall be updated and revised at least every
8 3 years.

9 “(2) PERFORMANCE GOALS.—The performance
10 goals shall be established for dates that are not more
11 than 3 years apart.

12 **“SEC. 2102. ANNUAL REPORTS.**

13 “(a) IN GENERAL.—In the case of a State with a
14 medicaid plan that is in effect for part or all of a fiscal
15 year, no later than March 31 following such fiscal year
16 (or March 31, 1998, in the case of fiscal year 1996) the
17 State shall prepare and submit to the Secretary and the
18 Congress a report on program activities and performance
19 under this title for such fiscal year.

20 “(b) CONTENTS.—Each annual report under this sec-
21 tion for a fiscal year shall include the following:

22 “(1) EXPENDITURE AND BENEFICIARY SUM-
23 MARY.—

24 “(A) INITIAL SUMMARY.—For the report
25 for fiscal year 1997 (and, if applicable, fiscal

1 year 1996), a summary of all expenditures
2 under the medicaid plan during the fiscal year
3 (and during any portions of fiscal year 1996
4 during which the medicaid plan was in effect
5 under this title) as follows:

6 “(i) Aggregate medical assistance ex-
7 penditures, disaggregated to the extent re-
8 quired to determine compliance with the
9 set-aside requirements of subsections (a)
10 through (c) of section 2112 and to com-
11 pute the case mix index under section
12 2121(d)(3).

13 “(ii) For each general category of eli-
14 gible individuals specified in subsection
15 (c)(1), aggregate medical assistance ex-
16 penditures and the total and average num-
17 ber of eligible individuals under the medic-
18 aid plan.

19 “(iii) By each general category of eli-
20 gible individuals, total expenditures for
21 each of the categories of health care items
22 and services specified in subsection (c)(2)
23 which are covered under the medicaid plan
24 and provided on a fee-for-service basis.

1 “(iv) By each general category of eli-
2 gible individuals, total expenditures for
3 payments to capitated health care organi-
4 zations (as defined in section 2114(c)(1)).

5 “(v) Total administrative expendi-
6 tures.

7 “(B) SUBSEQUENT SUMMARIES.—For re-
8 ports for each succeeding fiscal year, a sum-
9 mary of—

10 “(i) all expenditures under the medic-
11 aid plan consistent with the reporting for-
12 mat specified by the Medicaid Task Force
13 under section 2106(d)(1); and

14 “(ii) the total and average number of
15 eligible individuals under the medicaid plan
16 for each general category of eligible indi-
17 viduals.

18 “(2) UTILIZATION SUMMARY.—

19 “(A) INITIAL SUMMARY.—For the report
20 for fiscal year 1997 (and, if applicable, fiscal
21 year 1996), summary statistics on the utiliza-
22 tion of health care services under the medicaid
23 plan during the year (and during any portions
24 of fiscal year 1996 during which the medicaid
25 plan was in effect under this title) as follows:

1 “(i) For each general category of eli-
2 gible individuals and for each of the cat-
3 egories of health care items and services
4 which are covered under the medicaid plan
5 and provided on a fee-for-service basis, the
6 number and percentage of persons who re-
7 ceived such a type of service or item dur-
8 ing the period covered by the report.

9 “(ii) Summary of health care utiliza-
10 tion data reported to the State by
11 capitated health care organizations.

12 “(B) SUBSEQUENT SUMMARIES.—For re-
13 ports for each succeeding fiscal year, summary
14 statistics on the utilization of health care serv-
15 ices under the medicaid plan consistent with the
16 reporting format specified by the Medicaid Task
17 Force under section 2106(d)(1).

18 “(3) ACHIEVEMENT OF PERFORMANCE
19 GOALS.—With respect to each performance goal es-
20 tablished under section 2101 and applicable to the
21 year involved—

22 “(A) a brief description of the goal;

23 “(B) a description of the methods to be
24 used to measure the attainment of such goal;

1 “(C) data on the actual performance with
2 respect to the goal;

3 “(D) a review of the extent to which the
4 goal was achieved, based on such data; and

5 “(E) if a performance goal has not been
6 met—

7 “(i) why the goal was not met, and

8 “(ii) actions to be taken in response
9 to such performance, including adjust-
10 ments in performance goals or program ac-
11 tivities for subsequent years.

12 “(4) PROGRAM EVALUATIONS.—A summary of
13 the findings of evaluations under section 2103 com-
14 pleted during the fiscal year covered by the report.

15 “(5) FRAUD AND ABUSE AND QUALITY CON-
16 TROL ACTIVITIES.—A general description of the
17 State’s activities under part D to detect and deter
18 fraud and abuse and to assure quality of services
19 provided under the program.

20 “(6) PLAN ADMINISTRATION.—

21 “(A) A description of the administrative
22 roles and responsibilities of entities in the State
23 responsible for administration of this title.

1 “(B) Organizational charts for each entity
2 in the State primarily responsible for activities
3 under this title.

4 “(C) An estimate of the percentage of ex-
5 penditures to be used for plan administration.

6 “(D) A brief description of each interstate
7 compact (if any) the State has entered into
8 with other States with respect to activities
9 under this title.

10 “(E) General citations to the State stat-
11 utes and administrative rules governing the
12 State’s activities under this title.

13 “(7) INPATIENT HOSPITAL PAYMENTS.—With
14 respect to inpatient hospital services provided under
15 the medicaid plan on a fee-for-service basis, a de-
16 scription of the average amount paid per discharge
17 in the fiscal year compared either to the average
18 charge for such services or to the State’s estimate
19 of the average amount paid per discharge by com-
20 mercial health insurers in the State.

21 “(c) SPECIAL RULES.—For purposes of this section:

22 “(1) IDENTIFICATION OF GENERAL CAT-
23 EGORIES OF INDIVIDUALS.—Each of the following is
24 a general category of eligible individuals:

25 “(A) Pregnant women.

1 “(B) Children.

2 “(C) Blind or disabled adults under retire-
3 ment age.

4 “(D) Persons who have attained retirement
5 age.

6 “(E) Other adults.

7 “(2) TREATMENT OF HEALTH CARE ITEMS AND
8 SERVICES.—The health care items and services de-
9 scribed in each subparagraph of section 2171(a)(1)
10 shall be considered a separate category of health
11 care items and services.

12 **“SEC. 2103. PERIODIC, INDEPENDENT EVALUATIONS.**

13 “(a) IN GENERAL.—During fiscal year 1998 and
14 every third fiscal year thereafter, each State shall provide
15 for an evaluation of the operation of its medicaid plan ap-
16 proved under this title.

17 “(b) INDEPENDENT.—Each such evaluation with re-
18 spect to an activity under the medicaid plan shall be con-
19 ducted by an entity that is neither responsible under State
20 law for the submission of the State plan (or part thereof)
21 nor responsible for administering (or supervising the ad-
22 ministration of) the activity. If consistent with the pre-
23 vious sentence, such an entity may be a college or univer-
24 sity, a State agency, a legislative branch agency in a State,
25 or an independent contractor.

1 “(c) RESEARCH DESIGN.—Each such evaluation
2 shall be conducted in accordance with a research design
3 that is based on generally accepted models of survey de-
4 sign and sampling and statistical analysis.

5 **“SEC. 2104. DESCRIPTION OF PROCESS FOR MEDICAID**
6 **PLAN DEVELOPMENT.**

7 “Each medicaid plan shall include a description of
8 the process under which the plan shall be developed and
9 implemented in the State (consistent with section 2105).

10 **“SEC. 2105. CONSULTATION IN MEDICAID PLAN DEVELOP-**
11 **MENT.**

12 “(a) PUBLIC PROCESS.—

13 “(1) IN GENERAL.—Before submitting a medic-
14 aid plan or a plan amendment described in para-
15 graph (3) to the Secretary under part E, a State
16 shall provide—

17 “(A) public notice respecting the submittal
18 of the proposed plan or amendment, including
19 a general description of the plan or amendment;

20 “(B) a means for the public to inspect or
21 obtain a copy (at reasonable charge) of the pro-
22 posed plan or amendment; and

23 “(C) an opportunity for submittal and con-
24 sideration of public comments on the proposed
25 plan or amendment.

1 The previous sentence shall not apply to a revision
2 of a medicaid plan (or revision of an amendment to
3 a plan) made by a State under section 2153(c)(1) or
4 to a plan amendment withdrawal described in sec-
5 tion 2153(c)(4).

6 “(2) CONTENTS OF NOTICE.—A notice under
7 paragraph (1)(A) for a proposed plan or amendment
8 shall include a description of—

9 “(A) the general purpose of the proposed
10 plan or amendment, including applicable effec-
11 tive dates;

12 “(B) where the public may inspect the pro-
13 posed plan or amendment;

14 “(C) how the public may obtain a copy of
15 the proposed plan or amendment and the appli-
16 cable charge (if any) for the copy; and

17 “(D) how the public may submit comments
18 on the proposed plan or amendment, including
19 any deadlines applicable to consideration of
20 such comments.

21 “(3) AMENDMENTS DESCRIBED.—An amend-
22 ment to a medicaid plan described in this paragraph
23 is an amendment which makes a material and sub-
24 stantial change in eligibility under the medicaid plan
25 or the benefits provided under the plan.

1 “(4) PUBLICATION.—Notices under this sub-
2 section may be published (as selected by the State)
3 in one or more daily newspapers of general circula-
4 tion in the State or in any publication used by the
5 State to publish State statutes or rules.

6 “(5) COMPARABLE PROCESS.—A separate no-
7 tice, or notices, shall not be required under this sub-
8 section for a State if notice of the medicaid plan or
9 an amendment to the plan will be provided under a
10 process specified in State law that is substantially
11 equivalent to the notice process specified in this sub-
12 section.

13 “(b) ADVISORY COMMITTEE.—

14 “(1) IN GENERAL.—Each State with a medicaid
15 plan shall establish and maintain an advisory com-
16 mittee.

17 “(2) CONSULTATION.—The State shall periodi-
18 cally consult with the advisory committee in the de-
19 velopment, revision, and monitoring the performance
20 of the medicaid plan, including—

21 “(A) the development of strategic objec-
22 tives and performance goals under section
23 2101;

24 “(B) the annual report under section
25 2102; and

1 “(C) the research design under section
2 2103(c).

3 “(3) GEOGRAPHIC DIVERSITY.—The composi-
4 tion of the advisory committee shall be chosen in a
5 manner that assures some representation on the ad-
6 visory committee of the different general geographic
7 regions of the State. Nothing in the previous sen-
8 tence shall be construed as requiring proportional
9 representation of geographic areas in a State.

10 “(4) CONSTRUCTION.—Nothing in this title
11 shall be construed as preventing a State from estab-
12 lishing more than 1 advisory committee, including
13 specialized advisory committees that focus on spe-
14 cific population groups, provider groups, or geo-
15 graphic areas.

16 **“SEC. 2106. MEDICAID TASK FORCE.**

17 “(a) IN GENERAL.—The Secretary shall provide for
18 the establishment of a Medicaid Task Force (in this sec-
19 tion referred to as the ‘Task Force’).

20 “(b) COMPOSITION.—The Task Force shall consist of
21 6 members appointed by the chair of the National Gov-
22 ernors Association and 6 members appointed by the vice
23 chair of the National Governors Association.

24 “(c) ADVISORY GROUP FOR TASK FORCE.—The Sec-
25 retary shall provide for the establishment of an advisory

1 group to assist the Task Force in carrying out its duties
2 under this section, consisting of 1 representative ap-
3 pointed by each of the following associations:

4 “(1) National Committee for Quality Assur-
5 ance.

6 “(2) Joint Commission for the Accreditation of
7 Healthcare Organizations.

8 “(3) Group Health Association of America.

9 “(4) American Managed Care and Review Asso-
10 ciation.

11 “(5) Association of State and Territorial Health
12 Officers.

13 “(6) American Medical Association.

14 “(7) American Hospital Association.

15 “(8) American College of Gerontology.

16 “(9) American Health Care Association.

17 “(10) National Healthcare Anti-Fraud Associa-
18 tion.

19 “(11) National Association of Health Data Or-
20 ganizations.

21 “(12) American Academy of Actuaries.

22 “(13) National Association of State Medicaid
23 Directors.

24 “(14) An association identified by the Secretary
25 as representing the interests of disabled individuals.

1 “(15) An association identified by the Secretary
2 as representing the interests of children.

3 “(16) An association identified by the Secretary
4 as representing the interests of the elderly.

5 “(17) An association identified by the Secretary
6 as representing the interests of mentally ill individ-
7 uals.

8 Any reference in this subsection to a particular group shall
9 be deemed a reference to any successor to such group.

10 “(d) DUTIES.—

11 “(1) FORMAT FOR EXPENDITURE AND UTILIZA-
12 TION SUMMARIES.—The Task Force shall specify, by
13 not later than December 31, 1996, the format of ex-
14 penditure summaries and utilization summaries re-
15 quired under section 2102. Such format may provide
16 for the reporting of different information from that
17 required under section 2102(b), but shall include the
18 reporting of at least the information described in
19 section 2102(b)(1)(A)(i).

20 “(2) MODELS AND SUGGESTIONS.—The Task
21 Force shall study and report to Congress and the
22 States, by not later than April 1, 1997, rec-
23 ommendations on the following:

24 “(A) Recommended models for strategic
25 objectives and performance goals for consider-

1 ation by States in the development of such ob-
2 jectives and goals under section 2102, including
3 alternative models for each of the objectives and
4 goals described in section 2101(b).

5 “(B) For each suggested model for a stra-
6 tegic objective or performance goal suggested
7 methodologies for States to consider in measur-
8 ing and verifying the objective or goal.

9 “(C) An assessment of the potential useful-
10 ness to States of quality assurance safeguards,
11 utilization data sets, and accreditation pro-
12 grams that are used or under development in
13 the private sector.

14 “(D) Recommended designs and evaluation
15 methodologies for consideration by States in
16 providing for independent evaluations under
17 section 2103.

18 “(3) CONSTRUCTION.—Nothing in this sub-
19 section shall be construed as requiring a State to
20 adopt any of the strategic objectives or performance
21 goals suggested under paragraph (2).

22 “(e) ADMINISTRATIVE ASSISTANCE.—Administrative
23 support for the Task Force shall be provided by the Agen-
24 cy for Health Care Policy and Research (or, in the absence
25 of such Agency, the Secretary).

1 “PART B—ELIGIBILITY, BENEFITS, AND SET-ASIDES

2 **“SEC. 2111. ELIGIBILITY AND BENEFITS.**

3 “(a) IN GENERAL.—Each medicaid plan shall—

4 “(1) be designed to serve all political subdivi-
5 sions in the State;

6 “(2) provide for making medical assistance
7 available (subject to the State flexibility described in
8 section 2115) to any pregnant woman or child under
9 the age of 13 whose family income does not exceed
10 100 percent of the poverty line applicable to a family
11 of the size involved;

12 “(3) provide for making medical assistance
13 available (subject to the State flexibility described in
14 section 2115) to any individual with a disability (as
15 defined by the State); and

16 “(4) describe how the State will provide medical
17 assistance to any other population group.

18 “(b) DESCRIPTION OF GENERAL ELEMENTS.—Each
19 medicaid plan shall include a description (consistent with
20 this title) of the following:

21 “(1) ELEMENTS RELATING TO ELIGIBILITY.—

22 The general eligibility standards of the plan, includ-
23 ing—

24 “(A) any limitations as to the duration of
25 eligibility;

1 “(B) any eligibility standards relating to
2 age, income and resources (including any stand-
3 ards relating to spenddowns), residency, disabil-
4 ity status, immigration status, or employment
5 status of individuals;

6 “(C) methods of establishing and continu-
7 ing eligibility and enrollment, including the
8 methodology for computing family income;

9 “(D) the eligibility standards in the plan
10 that protect the income and resources of a mar-
11 ried individual who is living in the community
12 and whose spouse is residing in an institution
13 in order to prevent the impoverishment of the
14 community spouse; and

15 “(E) any other standards relating to eligi-
16 bility for medical assistance under the plan.

17 “(2) SCOPE OF ASSISTANCE.—The amount, du-
18 ration, and scope of health care services and items
19 covered under the plan, including differences among
20 different eligible population groups.

21 “(3) DELIVERY METHOD.—The State’s ap-
22 proach to delivery of medical assistance, including a
23 general description of—

24 “(A) the use (or intended use) of vouchers,
25 fee-for-service, or managed care arrangements

1 (such as capitated health care plans, case man-
2 agement, and case coordination); and

3 “(B) utilization control systems.

4 “(4) FEE-FOR-SERVICE BENEFITS.—To the ex-
5 tent that medical assistance is furnished on a fee-
6 for-service basis—

7 “(A) how the State determines the quali-
8 fications of health care providers eligible to pro-
9 vide such assistance; and

10 “(B) how the State determines rates of re-
11 imbursement for providing such assistance.

12 “(5) COST-SHARING.—Beneficiary cost-sharing
13 (if any), including variations in such cost-sharing by
14 population group or type of service and financial re-
15 sponsibilities of parents of recipients under 19 years
16 of age and the spouses of recipients.

17 “(6) UTILIZATION INCENTIVES.—Incentives or
18 requirements (if any) to encourage the appropriate
19 utilization of services.

20 “(7) SUPPORT FOR CERTAIN HOSPITALS.—

21 “(A) IN GENERAL.—With respect to hos-
22 pitals described in subparagraph (B) located in
23 the State, as reported to the State by the Sec-
24 retary, the medicaid plan shall include a de-
25 scription of the extent to which provisions have

1 been made for expenditures for items and serv-
2 ices furnished by such hospitals and covered
3 under the plan.

4 “(B) HOSPITALS DESCRIBED.—

5 “(i) IN GENERAL.—Except as pro-
6 vided in clause (iii), a hospital described in
7 this subparagraph is a hospital determined
8 to be eligible for purposes of this title in
9 accordance with the criteria described in
10 clause (ii) and such procedures as the Sec-
11 retary may require, including such report-
12 ing requirements as the Secretary deter-
13 mines necessary to ensure continuing eligi-
14 bility.

15 “(ii) CRITERIA FOR ELIGIBILITY.—A
16 hospital meets the criteria described in this
17 clause if the hospital is a short-term acute
18 care general hospital or a children’s hos-
19 pital and the hospital’s low-income utiliza-
20 tion rate exceeds the lesser of—

21 “(I) 1 standard deviation above
22 the mean low-income utilization rate
23 for hospitals receiving payments under
24 a medicaid plan in the State in which
25 such hospital is located; or

1 “(II) $1\frac{1}{4}$ standard deviation
2 above the mean low-income utilization
3 rate for hospitals receiving such pay-
4 ments in all States.

5 “(iii) SPECIAL ELIGIBILITY.—A hos-
6 pital not described in clause (i) may be eli-
7 gible for purposes of this title, if upon ap-
8 plication to the Secretary, such hospital is
9 determined by the Secretary to be a hos-
10 pital which provides essential access to vul-
11 nerable populations, offers special services
12 to such populations, or meets other criteria
13 consistent with this title as determined by
14 the Secretary.

15 “(iv) LOW-INCOME UTILIZATION
16 RATE.—For purposes of clause (i), the
17 term ‘low-income utilization rate’ means,
18 for a hospital, a fraction (expressed as a
19 percentage), the numerator of which is the
20 hospital’s number of patient days attrib-
21 utable to patients who (for such days) were
22 eligible for medical assistance under a
23 medicaid plan or were uninsured in a pe-
24 riod, and the denominator of which is the

1 total number of the hospital's patient days
2 in that period.

3 “(v) PATIENT DAYS.—For purposes of
4 clause (iv), the term ‘patient day’ includes
5 each day in which—

6 “(I) an individual, including a
7 newborn, is an inpatient in the hos-
8 pital, whether or not the individual is
9 in a specialized ward and whether or
10 not the individual remains in the hos-
11 pital for lack of suitable placement
12 elsewhere; or

13 “(II) an individual makes one or
14 more outpatient visits to the hospital.

15 “(c) IMMUNIZATIONS FOR CHILDREN.—The medicaid
16 plan shall provide medical assistance for immunizations
17 for children eligible for any medical assistance under the
18 medicaid plan, in accordance with a schedule for immuni-
19 zations established by the Health Department of the State
20 in consultation with the individuals and entities in the
21 State responsible for the administration of the plan.

22 “(d) FAMILY PLANNING SERVICES.—The medicaid
23 plan shall provide pre-pregnancy planning services and
24 supplies as specified by the State.

1 “(e) PREEXISTING CONDITION EXCLUSIONS.—Not-
2 withstanding any other provision of this title—

3 “(1) a medicaid plan may not deny or exclude
4 coverage of any item or service for an eligible indi-
5 vidual for benefits under the medicaid plan for such
6 item or service on the basis of a preexisting condi-
7 tion; and

8 “(2) if a State contracts or makes other ar-
9 rangements (through the eligible individual or
10 through another entity) with a capitated health care
11 organization, insurer, or other entity, for the provi-
12 sion of items or services to eligible individuals under
13 the medicaid plan and the State permits such orga-
14 nization, insurer, or other entity to exclude coverage
15 of a covered item or service on the basis of a pre-
16 existing condition, the State shall provide, through
17 its medicaid plan, for such coverage (through direct
18 payment or otherwise) for any such covered item or
19 service denied or excluded on the basis of a preexist-
20 ing condition.

21 “(f) MENTAL HEALTH SERVICES.—A medicaid plan
22 shall not impose treatment limits or financial require-
23 ments on mental illness services which are not imposed
24 on services for other illnesses or diseases. The plan may
25 require pre-admission screening, prior authorization of

1 services, or other mechanisms limiting coverage of mental
 2 illness services to services that are medically necessary.

3 **“SEC. 2112. SET-ASIDES OF FUNDS FOR POPULATION**
 4 **GROUPS.**

5 “(a) FOR TARGETED LOW-INCOME FAMILIES.—

6 “(1) IN GENERAL.—Subject to subsection (e), a
 7 medicaid plan shall provide that the amount of
 8 funds expended under the plan for medical assist-
 9 ance for targeted low-income families (as defined in
 10 paragraph (3)) for a fiscal year shall be not less
 11 than the minimum low-income-family amount speci-
 12 fied in paragraph (2).

13 “(2) MINIMUM LOW-INCOME-FAMILY
 14 AMOUNT.—The minimum low-income-family amount
 15 specified in this paragraph for a State is equal to 85
 16 percent of the expenditures under title XIX for med-
 17 ical assistance in the State during Federal fiscal
 18 year 1995 which were attributable to expenditures
 19 for medical assistance for mandated benefits (as de-
 20 fined in subsection (h)) furnished to individuals—

21 “(A) who (at the time of furnishing the as-
 22 sistance) were under 65 years of age;

23 “(B) whose coverage (at such time) under
 24 a State plan under title XIX was required
 25 under Federal law; and

1 “(C) whose eligibility for such coverage (at
2 such time) was not on a basis directly related
3 to disability status, including being blind.

4 “(3) TARGETED LOW-INCOME FAMILY DE-
5 FINED.—For purposes of this subsection, the term
6 ‘targeted low-income family’ means a family (which
7 may be an individual)—

8 “(A) which includes a child or a pregnant
9 woman; and

10 “(B) the income of which does not exceed
11 185 percent of the poverty line applicable to a
12 family of the size involved.

13 “(b) FOR LOW-INCOME ELDERLY.—

14 “(1) IN GENERAL.—Subject to subsection (e), a
15 medicaid plan shall provide that the amount of
16 funds expended under the plan for medical assist-
17 ance for eligible low-income individuals who have at-
18 tained retirement age for a fiscal year shall be not
19 less than the minimum low-income-elderly amount
20 specified in paragraph (2).

21 “(2) MINIMUM LOW-INCOME-ELDERLY
22 AMOUNT.—The minimum low-income-elderly amount
23 specified in this subparagraph for a State is equal
24 to 85 percent of the expenditures under title XIX
25 for medical assistance in the State during Federal

1 fiscal year 1995 which were attributable to expendi-
2 tures for medical assistance for mandated benefits
3 furnished to individuals—

4 “(A) whose eligibility for such assistance
5 was based on their being 65 years of age or
6 older; and

7 “(B)(i) whose coverage (at such time)
8 under a State plan under title XIX was re-
9 quired under Federal law, or (ii) who (at such
10 time) were residents of a nursing facility.

11 “(c) FOR LOW-INCOME DISABLED PERSONS.—

12 “(1) IN GENERAL.—Subject to subsection (e), a
13 medicaid plan shall provide that the amount of
14 funds expended under the plan for medical assist-
15 ance for eligible low-income individuals who have not
16 attained retirement age and are eligible for such as-
17 sistance on the basis of a disability, including being
18 blind, for a fiscal year is not less than the minimum
19 low-income-disabled amount specified in paragraph
20 (2).

21 “(2) MINIMUM LOW-INCOME-DISABLED
22 AMOUNT.—The minimum low-income-disabled
23 amount specified in this paragraph for a State is
24 equal to 85 percent of the expenditures under title
25 XIX for medical assistance in the State during Fed-

1 eral fiscal year 1995 which were attributable to ex-
2 penditures for medical assistance for mandated ben-
3 efits furnished to individuals—

4 “(A) whose coverage (at such time) under
5 a State plan under title XIX was required
6 under Federal law; and

7 “(B) whose coverage (at such time) was on
8 a basis directly related to disability status, in-
9 cluding being blind, and not to age status.

10 “(d) USE OF RESIDUAL FUNDS.—

11 “(1) IN GENERAL.—Subject to limitations on
12 payment under section 2123, any funds not required
13 to be expended under the set-asides under the pre-
14 vious subsections may only be expended under the
15 medicaid plan for any of the following:

16 “(A) ADDITIONAL MEDICAL ASSISTANCE.—
17 Medical assistance for eligible low-income indi-
18 viduals (as defined in section 2171(b)), in addi-
19 tion to any medical assistance made available
20 under a previous subsection.

21 “(B) MEDICALLY-RELATED SERVICES.—
22 Payment for medically-related services (as de-
23 fined in paragraph (2)).

24 “(C) ADMINISTRATION.—Payment for the
25 administration of the medicaid plan.

1 “(2) MEDICALLY-RELATED SERVICES DE-
2 FINED.—For purposes of this title, the term ‘medi-
3 cally-related services’ means services reasonably re-
4 lated to, or in direct support of, the State’s attain-
5 ment of one or more of the strategic objectives and
6 performance goals established under section 2101,
7 but does not include items and services included on
8 the list under section 2171(a)(1) (relating to the
9 definition of medical assistance).

10 “(e) COMPUTATIONS.—

11 “(1) MINIMUM AMOUNTS.—States shall cal-
12 culate the minimum amounts under subsections
13 (a)(2), (b)(2), and (c)(2) in a reasonable manner
14 consistent with reports submitted to the Secretary
15 for the fiscal years involved.

16 “(2) EXCLUSION OF PAYMENTS FOR CERTAIN
17 ALIENS.—For purposes of this section, medical as-
18 sistance attributable to the exception provided under
19 section 1903(v)(2) shall not be considered to be ex-
20 penditures for medical assistance.

21 “(f) BENEFITS INCLUDED FOR PURPOSES OF COM-
22 PUTING SET ASIDES.—For purposes of this section, the
23 term ‘mandated benefits’—

24 “(1) means medical assistance for items and
25 services described in section 1905(a) to the extent

1 such assistance with respect to such items and serv-
2 ices was required to be provided under title XIX;
3 and

4 “(2) does not include expenditures attributable
5 to disproportionate share payment adjustments de-
6 scribed in section 1923.

7 **“SEC. 2113. PREMIUMS AND COST-SHARING.**

8 “(a) IN GENERAL.—Subject to subsection (b), if any
9 charges are imposed under the medicaid plan for cost-
10 sharing (as defined in subsection (d)), such cost-sharing
11 shall be pursuant to a public cost-sharing schedule.

12 “(b) LIMITATION ON PREMIUM AND CERTAIN COST-
13 SHARING FOR LOW-INCOME FAMILIES INCLUDING CHIL-
14 DREN OR PREGNANT WOMEN.—

15 “(1) IN GENERAL.—In the case of a family de-
16 scribed in paragraph (2)—

17 “(A) the plan shall not impose any pre-
18 mium; and

19 “(B) the plan shall not (except as provided
20 in subsection (c)(1)) impose any cost-sharing
21 with respect to primary and preventive care
22 services (as defined by the State) covered under
23 the medicaid plan for children or pregnant
24 women unless such cost-sharing is nominal in
25 nature.

1 “(2) FAMILY DESCRIBED.—A family described
2 in this paragraph is a family (which may be an indi-
3 vidual) which—

4 “(A) includes a child or a pregnant
5 woman;

6 “(B) is made eligible for medical assistance
7 under the medicaid plan; and

8 “(C) the income of which does not exceed
9 100 percent of the poverty line applicable to a
10 family of the size involved.

11 “(c) CERTAIN COST-SHARING PERMITTED.—Nothing
12 in this section shall be construed as preventing a medicaid
13 plan (consistent with subsection (b))—

14 “(1) from imposing cost-sharing to discourage
15 the inappropriate use of emergency medical services
16 delivered through a hospital emergency room, a med-
17 ical transportation provider, or otherwise;

18 “(2) from imposing premiums and cost-sharing
19 differentially in order to encourage the use of pri-
20 mary and preventive care and discourage unneces-
21 sary or less economical care;

22 “(3) from scaling cost-sharing in a manner that
23 reflects economic factors, employment status, and
24 family size;

1 “(A) to analyze and project health care ex-
2 penditures and utilization for individuals en-
3 rolled (or to be enrolled) in such an organiza-
4 tion under the medicaid plan; and

5 “(B) to develop capitation payment rates,
6 including a brief description of the general
7 methodologies used by actuaries.

8 “(2) QUALIFICATIONS OF ORGANIZATIONS.—
9 The general qualifications, including any accredita-
10 tion, State licensure or certification, or provider net-
11 work standards, required by the State for participa-
12 tion of capitated health care organizations under the
13 medicaid plan.

14 “(3) DISSEMINATION PROCESS.—The process
15 used by the State under subsection (b) and other-
16 wise to disseminate, before entering into contracts
17 with capitated health care organizations, actuarial
18 information to such organizations on the historical
19 fee-for-service costs (or, if not available, other recent
20 financial data associated with providing covered
21 services) and utilization associated with individuals
22 described in paragraph (1)(A).

23 “(4) IDENTIFICATION OF ENROLLEES IN
24 CAPITATED HEALTH CARE ORGANIZATIONS.—The
25 method used by the State by which hospitals may

1 identify enrollees in capitated health care organiza-
2 tions for the purposes of qualifying and billing for
3 disproportionate share payments under the medicaid
4 plan approved under this title as described in section
5 2111(b)(7).

6 “(b) PUBLIC NOTICE AND COMMENT.—Under the
7 medicaid plan the State shall provide a process for provid-
8 ing, before the beginning of each contract year—

9 “(1) public notice of—

10 “(A) the amounts of the capitation pay-
11 ments (if any) made under the plan for the con-
12 tract year preceding the public notice, and

13 “(B)(i) the information described under
14 subsection (a)(1) with respect to capitation pay-
15 ments for the contract year involved or (ii) the
16 amounts of the capitation payments the State
17 expects to make for the contract year involved,
18 unless such information is designated as proprietary
19 and not subject to public disclosure under State law;
20 and

21 “(2) an opportunity for receiving public com-
22 ment on the amounts and information for which no-
23 tice is provided under paragraph (1).

24 “(c) DEFINITIONS.—For purposes of this title:

1 “(1) CAPITATED HEALTH CARE ORGANIZA-
2 TION.—The term ‘capitated health care organiza-
3 tion’ means a health maintenance organization or
4 any other entity (including a health insuring organi-
5 zation, managed care organization, prepaid health
6 plan, integrated service network, or similar entity)
7 which under State law is permitted to accept capita-
8 tion payments for providing (or arranging for the
9 provision of) a group of items and services including
10 at least inpatient hospital services and physicians’
11 services.

12 “(2) CAPITATION PAYMENT.—The term ‘capita-
13 tion payment’ means, with respect to payment, pay-
14 ment on a prepaid capitation basis or any other risk
15 basis to an entity for the entity’s provision (or ar-
16 ranging for the provision) of a group of items and
17 services, including at least inpatient hospital services
18 and physicians’ services.

19 **“SEC. 2115. CONSTRUCTION.**

20 “(a) STATE FLEXIBILITY IN BENEFITS, PROVIDER
21 PAYMENTS, GEOGRAPHICAL COVERAGE AREA, AND SE-
22 LECTION OF PROVIDERS.—Nothing in this title (other
23 than subsections (c) and (d) of section 2111) shall be con-
24 strued as requiring a State—

1 “(1) to provide medical assistance for any par-
2 ticular items or services;

3 “(2) to provide for any payments with respect
4 to any specific health care providers or any level of
5 payments for any services;

6 “(3) to provide for the same medical assistance
7 in all geographical areas or political subdivisions of
8 the State;

9 “(4) to provide that the medical assistance
10 made available to any individual eligible for medical
11 assistance must not be less in amount, duration, or
12 scope than the medical assistance made available to
13 any other such individual; or

14 “(5) to provide that any individual eligible for
15 medical assistance with respect to an item or service
16 may choose to obtain such assistance from any insti-
17 tution, agency, or person qualified to provide the
18 item or service.

19 “(b) STATE FLEXIBILITY WITH RESPECT TO MAN-
20 AGED CARE.—Nothing in this title shall be construed—

21 “(1) to limit a State’s ability to contract with,
22 on a capitated basis or otherwise, health care plans
23 or individual health care providers for the provision
24 or arrangement of medical assistance;

1 “(2) to limit a State’s ability to contract with
2 health care plans or other entities for case manage-
3 ment services or for coordination of medical assist-
4 ance; or

5 “(3) to restrict a State from establishing capi-
6 tation rates on the basis of competition among
7 health care plans or negotiations between the State
8 and one or more health care plans.

9 **“SEC. 2116. CAUSES OF ACTION.**

10 “(a) IN GENERAL.—No person, including an appli-
11 cant, beneficiary, provider, or health plan, shall have a
12 cause of action under this title against a State in relation
13 to a State’s compliance or failure to comply with the provi-
14 sions of this title or with the provisions of a medicaid plan.
15 Nothing in this title shall affect any cause of action under
16 any other provision of Federal law in relation to a State’s
17 compliance (or failure to comply) with this title or with
18 the provisions of a medicaid plan.

19 “(b) APPLICATION OF CERTAIN LAWS.—

20 “(1) IN GENERAL.—No person shall on the
21 ground of sex or religion be excluded from participa-
22 tion in, be denied the benefits of, or be subjected to
23 discrimination under, any program or activity fund-
24 ed in whole or in part with funds made available
25 under this title.

1 “(2) FINDING OF NONCOMPLIANCE; REFER-
2 RAL.—

3 “(A) IN GENERAL.—Whenever the Sec-
4 retary finds that a State, or an entity that has
5 received a payment from an allotment to a
6 State under this title, has failed to comply with
7 paragraph (1), the Secretary shall notify the
8 chief executive officer of the State and shall re-
9 quest such officer to secure compliance. If with-
10 in a reasonable period of time, not to exceed 60
11 days, the chief executive officer fails or refuses
12 to secure compliance, the Secretary may—

13 “(i) refer the matter to the Attorney
14 General of the United States with a rec-
15 ommendation that an appropriate civil ac-
16 tion be instituted; or

17 “(ii) take such other action as may be
18 provided by law.

19 “(B) AUTHORITY OF ATTORNEY GENERAL;
20 CIVIL ACTIONS.—When a matter is referred to
21 the Attorney General pursuant to this para-
22 graph, or whenever the Attorney General has
23 reason to believe that the entity is engaged in
24 a pattern or practice in violation of paragraph
25 (1), the Attorney General may bring a civil ac-

1 “(B) the methodology and standards for
2 determining and evaluating income and re-
3 sources.

4 “(b) RULES FOR TREATMENT OF INCOME.—

5 “(1) SEPARATE TREATMENT OF INCOME.—Dur-
6 ing any month in which an institutionalized spouse
7 is in the institution, except as provided in paragraph
8 (2), no income of the community spouse shall be
9 deemed available to the institutionalized spouse.

10 “(2) ATTRIBUTION OF INCOME.—In determin-
11 ing the income of an institutionalized spouse or com-
12 munity spouse for purposes of the post-eligibility in-
13 come determination described in subsection (d), ex-
14 cept as otherwise provided in this section and re-
15 gardless of any State laws relating to community
16 property or the division of marital property, the fol-
17 lowing rules apply:

18 “(A) NON-TRUST PROPERTY.—Subject to
19 subparagraphs (C) and (D), in the case of in-
20 come not from a trust, unless the instrument
21 providing the income otherwise specifically pro-
22 vides—

23 “(i) if payment of income is made
24 solely in the name of the institutionalized
25 spouse or the community spouse, the in-

1 come shall be considered available only to
2 that respective spouse;

3 “(ii) if payment of income is made in
4 the names of the institutionalized spouse
5 and the community spouse, $\frac{1}{2}$ of the in-
6 come shall be considered available to each
7 of them; and

8 “(iii) if payment of income is made in
9 the names of the institutionalized spouse
10 or the community spouse, or both, and to
11 another person or persons, the income
12 shall be considered available to each spouse
13 in proportion to the spouse’s interest (or,
14 if payment is made with respect to both
15 spouses and no such interest is specified,
16 $\frac{1}{2}$ of the joint interest shall be considered
17 available to each spouse).

18 “(B) TRUST PROPERTY.—In the case of a
19 trust—

20 “(i) except as provided in clause (ii),
21 income shall be attributed in accordance
22 with the provisions of this title; and

23 “(ii) income shall be considered avail-
24 able to each spouse as provided in the

1 trust, or, in the absence of a specific provi-
2 sion in the trust—

3 “(I) if payment of income is
4 made solely to the institutionalized
5 spouse or the community spouse, the
6 income shall be considered available
7 only to that respective spouse,

8 “(II) if payment of income is
9 made to both the institutionalized
10 spouse and the community spouse, $\frac{1}{2}$
11 of the income shall be considered
12 available to each of them, and

13 “(III) if payment of income is
14 made to the institutionalized spouse
15 or the community spouse, or both,
16 and to another person or persons, the
17 income shall be considered available to
18 each spouse in proportion to the
19 spouse’s interest (or, if payment is
20 made with respect to both spouses
21 and no such interest is specified, $\frac{1}{2}$ of
22 the joint interest shall be considered
23 available to each spouse).

24 “(C) PROPERTY WITH NO INSTRUMENT.—

25 In the case of income not from a trust in which

1 there is no instrument establishing ownership,
2 subject to subparagraph (D), $\frac{1}{2}$ of the income
3 shall be considered to be available to the insti-
4 tutionalized spouse and $\frac{1}{2}$ to the community
5 spouse.

6 “(D) REBUTTING OWNERSHIP.—The rules
7 of subparagraphs (A) and (C) are superseded to
8 the extent that an institutionalized spouse can
9 establish, by a preponderance of the evidence,
10 that the ownership interests in income are other
11 than as provided under such subparagraphs.

12 “(c) RULES FOR TREATMENT OF RESOURCES.—

13 “(1) COMPUTATION OF SPOUSAL SHARE AT
14 TIME OF INSTITUTIONALIZATION.—

15 “(A) TOTAL JOINT RESOURCES.—There
16 shall be computed (as of the beginning of the
17 first continuous period of institutionalization
18 (beginning on or after September 30, 1989) of
19 the institutionalized spouse)—

20 “(i) the total value of the resources to
21 the extent either the institutionalized
22 spouse or the community spouse has an
23 ownership interest; and

24 “(ii) a spousal share which is equal to
25 $\frac{1}{2}$ of such total value.

1 “(B) ASSESSMENT.—At the request of an
2 institutionalized spouse or community spouse,
3 at the beginning of the first continuous period
4 of institutionalization (beginning on or after
5 September 30, 1989) of the institutionalized
6 spouse and upon the receipt of relevant docu-
7 mentation of resources, the State shall promptly
8 assess and document the total value described
9 in subparagraph (A)(i) and shall provide a copy
10 of such assessment and documentation to each
11 spouse and shall retain a copy of the assess-
12 ment for use under this section. If the request
13 is not part of an application for medical assist-
14 ance under a medicaid plan approved under this
15 title, the State may, at its option as a condition
16 of providing the assessment, require payment of
17 a fee not exceeding the reasonable expenses of
18 providing and documenting the assessment. At
19 the time of providing the copy of the assess-
20 ment, the State shall include a notice indicating
21 that the spouse will have a right to a fair hear-
22 ing under subsection (e)(2).

23 “(2) ATTRIBUTION OF RESOURCES AT TIME OF
24 INITIAL ELIGIBILITY DETERMINATION.—In deter-
25 mining the resources of an institutionalized spouse

1 at the time of application for benefits under a med-
2 icaid plan approved under this title, regardless of
3 any State laws relating to community property or
4 the division of marital property—

5 “(A) except as provided in subparagraph
6 (B), all the resources held by either the institu-
7 tionalized spouse, community spouse, or both,
8 shall be considered to be available to the insti-
9 tutionalized spouse; and

10 “(B) resources shall be considered to be
11 available to an institutionalized spouse, but only
12 to the extent that the amount of such resources
13 exceeds the amount computed under subsection
14 (f)(2)(A) (as of the time of application for bene-
15 fits).

16 “(3) ASSIGNMENT OF SUPPORT RIGHTS.—The
17 institutionalized spouse shall not be ineligible by rea-
18 son of resources determined under paragraph (2) to
19 be available for the cost of care where—

20 “(A) the institutionalized spouse has as-
21 signed to the State any rights to support from
22 the community spouse;

23 “(B) the institutionalized spouse lacks the
24 ability to execute an assignment due to physical
25 or mental impairment but the State has the

1 right to bring a support proceeding against a
 2 community spouse without such assignment; or

3 “(C) the State determines that denial of
 4 eligibility would work an undue hardship.

5 “(4) SEPARATE TREATMENT OF RESOURCES
 6 AFTER ELIGIBILITY FOR BENEFITS ESTABLISHED.—
 7 During the continuous period in which an institu-
 8 tionalized spouse is in an institution and after the
 9 month in which an institutionalized spouse is deter-
 10 mined to be eligible for benefits under a medicaid
 11 plan approved under this title, no resources of the
 12 community spouse shall be deemed available to the
 13 institutionalized spouse.

14 “(5) RESOURCES DEFINED.—For purposes of
 15 this section, the term ‘resources’ does not include—

16 “(A) resources excluded under subsection
 17 (a) or (d) of section 1613; and

18 “(B) resources that would be excluded
 19 under section 1613(a)(2)(A) but for the limita-
 20 tion on total value described in such section.

21 “(d) PROTECTING INCOME FOR COMMUNITY
 22 SPOUSE.—

23 “(1) ALLOWANCES TO BE OFFSET FROM IN-
 24 COME OF INSTITUTIONALIZED SPOUSE.—After an
 25 institutionalized spouse is determined or redeter-

1 mined to be eligible for medical assistance under a
2 medicaid plan approved under this title, in determin-
3 ing the amount of the spouse's income that is to be
4 applied monthly to payment for the costs of care in
5 the institution, there shall be deducted from the
6 spouse's monthly income the following amounts in
7 the following order:

8 “(A) A personal needs allowance (described
9 in paragraph (2)(A)), in an amount not less
10 than the amount specified in paragraph (2)(B).

11 “(B) A community spouse monthly income
12 allowance (as defined in subparagraph (3)), but
13 only to the extent income of the institutional-
14 ized spouse is made available to, or for the ben-
15 efit of, the community spouse.

16 “(C) A family allowance, for each family
17 member, equal to at least $\frac{1}{3}$ of the amount by
18 which the amount described in paragraph
19 (4)(A)(i) exceeds the amount of the monthly in-
20 come of that family member.

21 “(D) Amounts for incurred expenses for
22 medical or remedial care for the institutional-
23 ized spouse as provided under paragraph (6).

24 For purposes of subparagraph (C), the term ‘family
25 member’ only includes minor or dependent children,

1 dependent parents, or dependent siblings of the in-
2 stitutionalized or community spouse who are resid-
3 ing with the community spouse.

4 “(2) PERSONAL NEEDS ALLOWANCE.—

5 “(A) IN GENERAL.—For purposes of this
6 section, the term ‘personal needs allowance’
7 means an allowance—

8 “(i) which is reasonable in amount for
9 clothing and other personal needs of the
10 individual (or couple) while in an institu-
11 tion; and

12 “(ii) which is not less (and may be
13 greater) than the minimum monthly per-
14 sonal needs allowance described in sub-
15 paragraph (B).

16 “(B) MINIMUM MONTHLY PERSONAL
17 NEEDS ALLOWANCE.—The minimum monthly
18 personal needs allowance described in this sub-
19 paragraph is \$30 for an institutionalized indi-
20 vidual and \$60 for an institutionalized couple
21 (if both are aged, blind, or disabled, and their
22 incomes are considered available to each other
23 in determining eligibility).

24 “(3) COMMUNITY SPOUSE MONTHLY INCOME
25 ALLOWANCE DEFINED.—

1 “(A) IN GENERAL.—For purposes of this
2 section (except as provided in subparagraph
3 (B)), the community spouse monthly income al-
4 lowance for a community spouse is an amount
5 by which—

6 “(i) except as provided in subsection
7 (e), the minimum monthly maintenance
8 needs allowance (established under and in
9 accordance with paragraph (4)) for the
10 spouse; exceeds

11 “(ii) the amount of monthly income
12 otherwise available to the community
13 spouse (determined without regard to such
14 an allowance).

15 “(B) COURT ORDERED SUPPORT.—If a
16 court has entered an order against an institu-
17 tionalized spouse for monthly income for the
18 support of the community spouse, the commu-
19 nity spouse monthly income allowance for the
20 spouse shall be not less than the amount of the
21 monthly income so ordered.

22 “(4) ESTABLISHMENT OF MINIMUM MONTHLY
23 MAINTENANCE NEEDS ALLOWANCE.—

24 “(A) IN GENERAL.—Each State shall es-
25 tablish a minimum monthly maintenance needs

1 allowance for each community spouse which,
2 subject to subparagraph (C), is equal to or ex-
3 ceeds—

4 “(i) the applicable percent (described
5 in subparagraph (B)) of $\frac{1}{12}$ of the poverty
6 line applicable to a family unit of 2 mem-
7 bers); plus

8 “(ii) an excess shelter allowance (as
9 defined in paragraph (5)).

10 A revision of the poverty line referred to in
11 clause (i) shall apply to medical assistance fur-
12 nished during and after the second calendar
13 quarter that begins after the date of publication
14 of the revision.

15 “(B) APPLICABLE PERCENT.—For pur-
16 poses of subparagraph (A)(i), the applicable
17 percent described in this paragraph, effective as
18 of July 1, 1992, is 150 percent.

19 “(C) CAP ON MINIMUM MONTHLY MAINTEN-
20 NANCE NEEDS ALLOWANCE.—The minimum
21 monthly maintenance needs allowance estab-
22 lished under subparagraph (A) may not exceed
23 \$1,500 (subject to adjustment under sub-
24 sections (e) and (g)).

1 “(5) EXCESS SHELTER ALLOWANCE DE-
2 FINED.—For purposes of paragraph (4)(A)(ii), the
3 term ‘excess shelter allowance’ means, for a commu-
4 nity spouse, the amount by which the sum of—

5 “(A) the spouse’s expenses for rent or
6 mortgage payment (including principal and in-
7 terest), taxes and insurance and, in the case of
8 a condominium or cooperative, required mainte-
9 nance charge, for the community spouse’s prin-
10 cipal residence; and

11 “(B) the standard utility allowance (used
12 by the State under section 5(e) of the Food
13 Stamp Act of 1977) or, if the State does not
14 use such an allowance, the spouse’s actual util-
15 ity expenses,

16 exceeds 30 percent of the amount described in para-
17 graph (4)(A)(i), except that, in the case of a con-
18 dominium or cooperative, for which a maintenance
19 charge is included under subparagraph (A), any al-
20 lowance under subparagraph (B) shall be reduced to
21 the extent the maintenance charge includes utility
22 expenses.

23 “(6) INCURRED EXPENSES.—For purposes of
24 this section, with respect to the post-eligibility treat-
25 ment of income of individuals who are institutional-

1 ized or who would otherwise require institutionaliza-
2 tion but for the provision of home or community-
3 based services, there shall be disregarded reparation
4 payments made by the Federal Republic of Germany
5 and, there shall be taken into account amounts for
6 incurred expenses for medical or remedial care that
7 are not subject to payment by a third party, includ-
8 ing—

9 “(A) medicare and other health insurance
10 premiums, deductibles, or coinsurance; and

11 “(B) necessary medical or remedial care
12 recognized under State law but not covered
13 under the medicaid plan approved under this
14 title, subject to reasonable limits the State may
15 establish on the amount of these expenses.

16 “(e) NOTICE AND FAIR HEARING.—

17 “(1) NOTICE.—Upon—

18 “(A) a determination of eligibility for med-
19 ical assistance under a medicaid plan approved
20 under this title of an institutionalized spouse; or

21 “(B) a request by either the institutional-
22 ized spouse, or the community spouse, or a rep-
23 resentative acting on behalf of either spouse;

24 each State shall notify both spouses (in the case de-
25 scribed in subparagraph (A)) or the spouse making

1 the request (in the case described in subparagraph
2 (B)) of the amount of the community spouse month-
3 ly income allowance (described in subsection
4 (d)(1)(B)), of the amount of any family allowances
5 (described in subsection (d)(1)(C)), of the method
6 for computing the amount of the community spouse
7 resources allowance permitted under subsection (f),
8 and of the spouse’s right to a fair hearing under this
9 subsection respecting ownership or availability of in-
10 come or resources, and the determination of the
11 community spouse monthly income or resource al-
12 lowance.

13 “(2) FAIR HEARING.—

14 “(A) IN GENERAL.—If either the institu-
15 tionalized spouse or the community spouse is
16 dissatisfied with a determination of—

17 “(i) the community spouse monthly
18 income allowance;

19 “(ii) the amount of monthly income
20 otherwise available to the community
21 spouse (as applied under subsection
22 (d)(2)(B));

23 “(iii) the computation of the spousal
24 share of resources under subsection (c)(1);

1 “(iv) the attribution of resources
2 under subsection (c)(2); or

3 “(v) the determination of the commu-
4 nity spouse resource allowance (as deter-
5 mined under subsection (f)(2));

6 such spouse is entitled to a fair hearing with re-
7 spect to such determination if an application for
8 benefits under a medicaid plan approved under
9 this title has been made on behalf of the insti-
10 tutionalized spouse. Any such hearing respect-
11 ing the determination of the community spouse
12 resource allowance shall be held within 30 days
13 of the date of the request for the hearing.

14 “(B) REVISION OF MINIMUM MONTHLY
15 MAINTENANCE NEEDS ALLOWANCE.—If either
16 such spouse establishes that the community
17 spouse needs income, above the level otherwise
18 provided by the minimum monthly maintenance
19 needs allowance, due to exceptional cir-
20 cumstances resulting in significant financial du-
21 ress, there shall be substituted, for the mini-
22 mum monthly maintenance needs allowance in
23 subsection (d)(2)(A), an amount adequate to
24 provide such additional income as is necessary.

1 “(C) REVISION OF COMMUNITY SPOUSE
2 RESOURCE ALLOWANCE.—If either such spouse
3 establishes that the community spouse resource
4 allowance (in relation to the amount of income
5 generated by such an allowance) is inadequate
6 to raise the community spouse’s income to the
7 minimum monthly maintenance needs allow-
8 ance, there shall be substituted, for the commu-
9 nity spouse resource allowance under subsection
10 (f)(2), an amount adequate to provide such a
11 minimum monthly maintenance needs allow-
12 ance.

13 “(f) PERMITTING TRANSFER OF RESOURCES TO
14 COMMUNITY SPOUSE.—

15 “(1) IN GENERAL.—An institutionalized spouse
16 may transfer an amount equal to the community
17 spouse resource allowance (as determined under
18 paragraph (2)), but only to the extent the resources
19 of the institutionalized spouse are transferred to, or
20 for the sole benefit of, the community spouse. The
21 transfer under the preceding sentence shall be made
22 as soon as practicable after the date of the initial
23 determination of eligibility, taking into account such
24 time as may be necessary to obtain a court order
25 under paragraph (3).

1 “(2) COMMUNITY SPOUSE RESOURCE ALLOW-
2 ANCE DETERMINED.—For purposes of paragraph
3 (1), the community spouse resource allowance for a
4 community spouse is an amount (if any) by which—

5 “(A) the greatest of—

6 “(i) \$12,000 (subject to adjustment
7 under subsection (g)), or, if greater (but
8 not to exceed the amount specified in
9 clause (ii)(II)) an amount specified under
10 the State plan,

11 “(ii) the lesser of (I) the spousal
12 share computed under subsection (c)(1), or
13 (II) \$60,000 (subject to adjustment under
14 subsection (g)),

15 “(iii) the amount established under
16 subsection (e)(2); or

17 “(iv) the amount transferred under a
18 court order under paragraph (3);

19 exceeds

20 “(B) the amount of the resources other-
21 wise available to the community spouse (deter-
22 mined without regard to such an allowance).

23 “(g) INDEXING DOLLAR AMOUNTS.—For services
24 furnished during a calendar year after 1989, the dollar
25 amounts specified in subsections (d)(3)(C), (f)(2)(A)(i),

1 and (f)(2)(A)(ii)(II) shall be increased by the same per-
 2 centage as the percentage increase in the consumer price
 3 index for all urban consumers (all items; U.S. city aver-
 4 age) between September 1988 and the September before
 5 the calendar year involved.

6 “(h) DEFINITIONS.—For purposes of this section:

7 “(1) INSTITUTIONALIZED SPOUSE.—The term
 8 ‘institutionalized spouse’ means an individual who is
 9 in a medical institution or nursing facility and is
 10 married to a spouse who is not in a medical institu-
 11 tion or nursing facility. The term does not include
 12 any such individual who is not likely to meet the re-
 13 quirements of the preceding sentence for at least 30
 14 consecutive days.

15 “(2) COMMUNITY SPOUSE.—The term ‘commu-
 16 nity spouse’ means the spouse of an institutionalized
 17 spouse.

18 “PART C—PAYMENTS TO STATES

19 **“SEC. 2121. ALLOTMENT OF FUNDS AMONG STATES.**

20 “(a) ALLOTMENTS.—

21 “(1) COMPUTATION.—The Secretary shall pro-
 22 vide for the computation of State obligation and out-
 23 lay allotments in accordance with this section for
 24 each fiscal year beginning with fiscal year 1996.

25 “(2) LIMITATION ON OBLIGATIONS.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), the Secretary shall not enter into
3 obligations with any State under this title for a
4 fiscal year in excess of the obligation allotment
5 for that State for the fiscal year under para-
6 graph (4). The sum of such obligation allot-
7 ments for all States in any fiscal year (exclud-
8 ing amounts carried over under subparagraph
9 (B) and excluding changes in allotments ef-
10 fected under paragraph (4)(D)) shall not exceed
11 the aggregate limit on new obligation authority
12 specified in paragraph (3) for that fiscal year.

13 “(B) ADJUSTMENTS.—

14 “(i) CARRYOVER OF ALLOTMENT PER-
15 MITTED.—If the amount of obligations en-
16 tered into under this part with a State for
17 quarters in a fiscal year is less than the
18 amount of the obligation allotment under
19 this section to the State for the fiscal year,
20 the amount of the difference shall be added
21 to the amount of the State obligation allot-
22 ment otherwise provided under this section
23 for the succeeding fiscal year.

24 “(ii) REDUCTION FOR POST-ENACT-
25 MENT NEW OBLIGATIONS UNDER TITLE

1 XIX IN FISCAL YEAR 1996.—The amount of
2 the obligation allotment otherwise provided
3 under this section for fiscal year 1996 for
4 a State shall be reduced by the amount of
5 the obligations entered into with respect to
6 the State under section 1903(a) after the
7 date of the enactment of this title.

8 “(3) AGGREGATE LIMIT ON NEW OBLIGATION
9 AUTHORITY.—

10 “(A) IN GENERAL.—For purposes of this
11 subsection, subject to subparagraph (C), the ag-
12 gregate limit on new obligation authority, for a
13 fiscal year, is the pool amount under subsection
14 (b) for the fiscal year, divided by the payout ad-
15 justment factor (described in subparagraph
16 (B)) for the fiscal year.

17 “(B) PAYOUT ADJUSTMENT FACTOR.—For
18 purposes of this subsection, the payout adjust-
19 ment factor—

20 “(i) for fiscal year 1996 is .950;

21 “(ii) for fiscal year 1997 is .986; and

22 “(iii) for a subsequent fiscal year is
23 .998.

24 “(C) TRANSITIONAL ADJUSTMENT FOR
25 PRE-ENACTMENT-OBLIGATION OUTLAYS.—In

1 order to account for pre-enactment-obligation
2 outlays described in paragraph (4)(C)(iv), in
3 determining the aggregate limit on new obliga-
4 tion authority under subparagraph (A) for fis-
5 cal year 1996, the pool amount for such fiscal
6 year is equal to—

7 “(i) the pool amount for such year;
8 reduced by

9 “(ii) \$24.624 billion.

10 “(4) OBLIGATION ALLOTMENTS.—

11 “(A) GENERAL RULE FOR 50 STATES AND
12 THE DISTRICT OF COLUMBIA.—Except as pro-
13 vided in this paragraph, the obligation allot-
14 ment for any of the 50 States or the District
15 of Columbia for a fiscal year (beginning with
16 fiscal year 1997) is an amount that bears the
17 same ratio to the outlay allotment under sub-
18 section (c)(2) for such State or District (not
19 taking into account any adjustment due to an
20 election under paragraph (4)) for the fiscal year
21 as the ratio of—

22 “(i) the aggregate limit on new obliga-
23 tion authority (less the total of the obliga-
24 tion allotments under subparagraph (B))
25 for the fiscal year; to

1 “(ii) the pool amount (less the sum of
2 the outlay allotments for the territories)
3 for such fiscal year.

4 “(B) TERRITORIES.—The obligation allot-
5 ment for each of the Commonwealths and terri-
6 tories for a fiscal year is the outlay allotment
7 for such Commonwealth or territory (as deter-
8 mined under subsection (c)(5)) for the fiscal
9 year divided by the payout adjustment factor
10 for the fiscal year (as defined in paragraph
11 (3)(B)).

12 “(C) TRANSITIONAL RULE FOR FISCAL
13 YEAR 1996.—

14 “(i) IN GENERAL.—The obligation
15 amount for fiscal year 1996 for any State,
16 including the District of Columbia, a Com-
17 monwealth, or territory, is determined ac-
18 cording to the formula: $A=(B-C)/D$,
19 where—

20 “(I) ‘A’ is the obligation amount
21 for such State;

22 “(II) ‘B’ is the outlay allotment
23 of such State for fiscal year 1996 (as
24 determined under subsection (c));

1 “(III) ‘C’ is the amount of the
2 pre-enactment-obligation outlays (as
3 established for such State under
4 clause (ii)); and

5 “(IV) ‘D’ is the payout adjust-
6 ment factor for such fiscal year (as
7 defined in paragraph (3)(B)).

8 “(ii) PRE-ENACTMENT-OBLIGATION
9 OUTLAY AMOUNTS.—Within 30 days after
10 the date of the enactment of this title, the
11 Secretary shall estimate (based on the best
12 data available) and publish in the Federal
13 Register the amount of the pre-enactment-
14 obligation outlays (as defined in clause
15 (iv)) for each State, including the District
16 of Columbia, Commonwealths, and terri-
17 tories. The total of such amounts shall
18 equal the dollar amount specified in para-
19 graph (3)(C)(ii).

20 “(iii) AGREEMENT.—The submission
21 of a medicaid plan by a State under this
22 title is deemed to constitute the State’s ac-
23 ceptance of the obligation allotment limita-
24 tions under this subsection, including the

1 formula for computing the amount of such
2 obligation allotment.

3 “(iv) PRE-ENACTMENT-OBLIGATION
4 OUTLAYS DEFINED.—For purposes of this
5 subsection, the term ‘pre-enactment-obliga-
6 tion outlays’ means, for a State, the out-
7 lays of the Federal Government that result
8 from obligations that have been incurred
9 under title XIX with respect to the State
10 before the date of the enactment of this
11 title, but for which payments to States
12 have not been made as of such date of en-
13 actment.

14 “(D) ADJUSTMENT TO REFLECT ADOPTION
15 OF ALTERNATIVE GROWTH FORMULA.—Any
16 State that has elected an alternative growth
17 formula under subsection (c)(4) which increases
18 or decreases the dollar amount of an outlay al-
19 lotment for a fiscal year is deemed to have in-
20 creased or decreased, respectively, its obligation
21 amount for such fiscal year by the amount of
22 such increase or decrease.

23 “(b) POOL OF AVAILABLE FUNDS.—

1 “(1) IN GENERAL.—For purposes of this sec-
2 tion and subject to section 2124, the pool amount
3 under this subsection for—

4 “(A) fiscal year 1996 is \$94.104 billion;

5 “(B) fiscal year 1997 is \$100.451 billion;

6 “(C) fiscal year 1998 is \$104.880 billion;

7 “(D) fiscal year 1999 is \$109.501 billion;

8 “(E) fiscal year 2000 is \$114.338 billion;

9 “(F) fiscal year 2001 is \$119.393 billion;

10 “(G) fiscal year 2002 is \$124.673 billion;

11 and

12 “(H) each subsequent fiscal year is the
13 pool amount under this paragraph for the pre-
14 vious fiscal year increased by the lesser of 4
15 percent or the annual percentage increase in
16 the gross domestic product for the 12-month
17 period ending in June before the beginning of
18 that subsequent fiscal year.

19 “(2) NATIONAL MEDICAID GROWTH PERCENT-
20 AGE.—For purposes of this section for a fiscal year
21 (beginning with fiscal year 1997), the national med-
22 icaid growth percentage is the percentage by
23 which—

24 “(A) the pool amount under paragraph (1)
25 for the fiscal year; exceeds

1 “(B) such pool amount for the previous
2 fiscal year.

3 “(c) STATE OUTLAY ALLOTMENTS.—

4 “(1) FISCAL YEAR 1996.—

5 “(A) IN GENERAL.—Except as provided in
6 paragraph (6), for each of the 50 States and
7 the District of Columbia, the amount of the
8 State outlay allotment under this subsection for
9 fiscal year 1996 is, subject to paragraph (4),
10 equal to—

11 “(i) the greater of—

12 “(I) the total amount of Federal
13 expenditures (minus the excess DSH
14 amount) made to such State or Dis-
15 trict under title XIX for the 4 quar-
16 ters in fiscal year 1995, or

17 “(II) the total amount of Federal
18 expenditures made to such State or
19 District under title XIX for the 4
20 quarters in fiscal year 1994; increased
21 by

22 “(ii) 7.25 percent; and multiplied by

23 “(iii) the scalar factor described in
24 subparagraph (E).

1 “(B) COMPUTATION OF EXPENDITURES.—
2 The amount of Federal expenditures described
3 in subparagraph (A)(i) shall be computed, using
4 data reported for the appropriate fiscal year on
5 line 11 of the HCFA Form 64.

6 “(C) LIMITATION ON ADJUSTMENT.—The
7 amount computed under subparagraph (B)
8 shall not be subject to adjustment (based on
9 any subsequent disallowances or otherwise).

10 “(D) EXCESS DSH AMOUNT.—For pur-
11 poses of subparagraph (A)(i)(I), the term ‘ex-
12 cess DSH amount’ means, for each of the 50
13 States and the District of Columbia, the excess
14 of—

15 “(i) the total amount of Federal ex-
16 penditures made with respect to such State
17 or District under section 1923 for calendar
18 quarters in fiscal year 1995; over

19 “(ii) 9 percent of the total amount of
20 Federal expenditures made to such State
21 or District under title XIX for such cal-
22 endar quarters.

23 “(E) SCALAR FACTOR.—The scalar factor
24 under this subparagraph for fiscal year 1996 is
25 such proportion so that, when it is applied

1 under subparagraph (A)(iii) for the fiscal year,
2 the total of the outlay allotments under this
3 paragraph for all the 50 States and the District
4 of Columbia for the fiscal year (not taking into
5 account any increase or decrease in an outlay
6 allotment for a fiscal year attributable to the
7 election of an alternative growth formula under
8 paragraph (4)) is equal to the amount by which
9 (i) the pool amount for the fiscal year (as deter-
10 mined under subsection (b)), exceeds (ii) the
11 sum of the outlay allotments provided under
12 paragraph (5) for the Commonwealths and ter-
13 ritories for the fiscal year.

14 “(2) COMPUTATION OF STATE OUTLAY ALLOT-
15 MENTS.—

16 “(A) IN GENERAL.—Subject to the suc-
17 ceeding provisions of this subsection, the
18 amount of the State outlay allotment under this
19 subsection for each of the 50 States and the
20 District of Columbia for a fiscal year (beginning
21 with fiscal year 1997) is equal to the product
22 of—

23 “(i) the needs-based amount deter-
24 mined under subparagraph (B) for such
25 State or District for the fiscal year; and

1 “(ii) the scalar factor described in
2 subparagraph (C) for the fiscal year.

3 “(B) NEEDS-BASED AMOUNT.—The needs-
4 based amount under this subparagraph for a
5 State or the District of Columbia for a fiscal
6 year is equal to the product of—

7 “(i) the State’s or District’s aggregate
8 expenditure need for the fiscal year (as de-
9 termined under subsection (d)); and

10 “(ii) the State’s or District’s Federal
11 medical assistance percentage (as deter-
12 mined under section 2122(c) (without re-
13 gard to paragraph (3)(A)(i) thereof)) for
14 the previous fiscal year (or, in the case of
15 fiscal year 1997, the Federal medical as-
16 sistance percentage determined under sec-
17 tion 1905(b) for fiscal year 1996).

18 “(C) SCALAR FACTOR.—The scalar factor
19 under this subparagraph for a fiscal year is
20 such proportion so that, when it is applied
21 under subparagraph (A)(ii) for the fiscal year
22 (taking into account the floors and ceilings
23 under paragraph (3)), the total of the outlay al-
24 lotments under this subsection for all the 50
25 States and the District of Columbia for the fis-

1 cal year (not taking into account any increase
2 or decrease in an outlay allotment for a fiscal
3 year attributable to the election of an alter-
4 native growth formula under paragraph (4)) is
5 equal to the amount by which (i) the pool
6 amount for the fiscal year (as determined under
7 subsection (b)), exceeds (ii) the sum of the out-
8 lay allotments provided under paragraph (5) for
9 the Commonwealths and territories for the fis-
10 cal year.

11 “(3) FLOORS AND CEILINGS.—

12 “(A) FLOOR.—In no case shall the amount
13 of the State outlay allotment under paragraph
14 (2) for a fiscal year be less than the greater
15 of—

16 “(i) 102 percent of the amount of the
17 State outlay allotment under this sub-
18 section for the previous fiscal year; or

19 “(ii) .21 percent of the pool amount
20 for such fiscal year.

21 “(B) CEILING.—In no case shall the
22 amount of the State outlay allotment under
23 paragraph (2) for a fiscal year be greater than
24 the product of—

1 “(i) the State outlay allotment under
2 this subsection for the State or the District
3 of Columbia for the preceding fiscal year;
4 and

5 “(ii) 125 percent of the national med-
6 icaid growth percentage (as determined
7 under subsection (b)(2)) for the fiscal year
8 involved; or

9 “(4) ELECTION OF ALTERNATIVE GROWTH
10 FORMULA.—

11 “(A) ELECTION.—In order to reduce vari-
12 ations in increases or decreases in outlay allot-
13 ments over time, any of the 50 States or the
14 District of Columbia may elect (by notice pro-
15 vided to the Secretary by not later than April
16 1, 1996) to adopt an alternative growth rate
17 formula under this paragraph for the deter-
18 mination of such State’s or District’s outlay al-
19 lotment in fiscal year 1996 and for the increase
20 or decrease in the amount of such allotment in
21 subsequent fiscal years.

22 “(B) FORMULA.—The alternative growth
23 formula under this paragraph may be any for-
24 mula under which—

1 “(i) a portion of the State outlay al-
2 lotment for fiscal year 1996 under para-
3 graph (1) is deferred and applied to in-
4 crease the amount of its outlay allotment
5 for one or more subsequent fiscal years, so
6 long as the total amount of such increases
7 for all such subsequent fiscal years does
8 not exceed the amount of the outlay allot-
9 ment deferred from fiscal year 1996; or

10 “(ii) a portion of the State outlay al-
11 lotment for one or more of the 3 fiscal
12 years immediately following fiscal year
13 1996 under paragraph (2) is applied to in-
14 crease the amount of its outlay allotment
15 for fiscal year 1996, so long as the total
16 amount of such increase does not exceed
17 25 percent of the amount of the outlay al-
18 lotment for fiscal year 1996 otherwise de-
19 termined under paragraph (1).

20 “(5) COMMONWEALTHS AND TERRITORIES.—
21 The outlay allotment for each of the Commonwealths
22 and territories for a fiscal year is the maximum
23 amount that could have been certified under section
24 1108(c) with respect to the Commonwealth or terri-
25 tory for the fiscal year with respect to title XIX, if

1 the national medicaid growth percentage (as deter-
2 mined under subsection (b)(2)) for the fiscal year
3 had been substituted (beginning with fiscal year
4 1997) for the percentage increase referred to in sec-
5 tion 1108(c)(1)(B).

6 “(6) SPECIAL RULE.—

7 “(A) IN GENERAL.—Notwithstanding the
8 preceding paragraphs of this subsection, the
9 State outlay allotment for—

10 “(i) New Hampshire for each of the
11 fiscal years 1996 through 2000, is
12 \$360,000,000; and

13 “(ii) Louisiana for each of the fiscal
14 years 1996 through 2000, is \$2.622 bil-
15 lion.

16 “(B) EXCEPTION.—A State described in
17 subparagraph (A) may apply to the Secretary
18 for use of the State outlay allotment otherwise
19 determined under this subsection for any fiscal
20 year, if such State notifies the Secretary not
21 later than March 1 preceding such fiscal year
22 that such State will be able to expend sufficient
23 State funds in such fiscal year to qualify for
24 such allotment.

1 “(d) AGGREGATE EXPENDITURE NEED DETER-
2 MINED.—

3 “(1) IN GENERAL.—For purposes of subsection
4 (c), the aggregate expenditure need for a State or
5 the District of Columbia for a fiscal year is equal to
6 the product of the following 4 factors:

7 “(A) RESIDENTS IN POVERTY.—The aver-
8 age annual number of residents in poverty of
9 such State or District with respect to the fiscal
10 year (as determined under paragraph (2)).

11 “(B) CASE MIX INDEX.—The average of
12 the case mix indexes for such State or District
13 (as determined under paragraph (3)) for the 3
14 most recent fiscal years for which data are
15 available.

16 “(C) INPUT COST INDEX.—The average of
17 the input cost indexes for such State or District
18 (as determined under paragraph (4)) for the 3
19 most recent fiscal years for which data are
20 available.

21 “(D) NATIONAL AVERAGE SPENDING PER
22 RESIDENT IN POVERTY.—The national average
23 spending per resident in poverty (as determined
24 under paragraph (5)).

1 “(2) RESIDENTS IN POVERTY.—For purposes of
2 this section:

3 “(A) IN GENERAL.—The term ‘average an-
4 nual number of residents in poverty’ means,
5 with respect to a State or the District of Co-
6 lumbia and a fiscal year, the average annual
7 number of residents in poverty (as defined in
8 subparagraph (B)) in such State or District
9 (based on data made generally available by the
10 Bureau of the Census from the Current Popu-
11 lation Survey) for the most recent 3-calendar-
12 year period (ending before the fiscal year) for
13 which such data are available.

14 “(B) RESIDENT IN POVERTY DEFINED.—
15 The term ‘resident in poverty’ means an indi-
16 vidual described in section 1614(a)(1)(B)(i)
17 whose family income does not exceed 100 per-
18 cent of the poverty line for the year involved ap-
19 plicable to a family of the size involved thresh-
20 old.

21 “(3) CASE MIX INDEX.—

22 “(A) IN GENERAL.—For purposes of this
23 subsection, the case mix index for a State or
24 the District of Columbia for a fiscal year is
25 equal to—

1 “(i) the sum of—

2 “(I) the per recipient expendi-
3 tures with respect to elderly individ-
4 uals in such State or District for the
5 fiscal year (determined under sub-
6 paragraph (B)),

7 “(II) the per recipient expendi-
8 tures with respect to the blind and
9 disabled individuals in such State or
10 District for the fiscal year (deter-
11 mined under subparagraph (C)), and

12 “(III) the per recipient expendi-
13 tures with respect to other individuals
14 in such State or District (determined
15 under subparagraph (D));

16 divided by—

17 “(ii) the national average spending
18 per recipient determined under subpara-
19 graph (E) for the fiscal year involved.

20 “(B) PER RECIPIENT EXPENDITURES FOR
21 THE ELDERLY.—For purposes of subparagraph
22 (A)(I)(i), the per recipient expenditures with re-
23 spect to elderly individuals in a State or the
24 District of Columbia for a fiscal year is equal
25 to the product of—

1 “(i) the national average per recipient
2 expenditures under this title in the 50
3 States and the District of Columbia for the
4 most recent fiscal year for which data are
5 available for individuals who have attained
6 retirement age; and

7 “(ii) the proportion, of all individuals
8 who received medical assistance under this
9 title in such State or District in the most
10 recent fiscal year referred to in clause (i),
11 that were individuals described in such
12 clause.

13 “(C) PER RECIPIENT EXPENDITURES FOR
14 THE BLIND AND DISABLED.—For purposes of
15 subparagraph (A)(i)(II), the per recipient ex-
16 penditures with respect to blind and disabled
17 individuals in a State or the District of Colum-
18 bia for a fiscal year is equal to the product of—

19 “(i) the national average per recipient
20 expenditures under this title in the 50
21 States and the District of Columbia for the
22 most recent fiscal year for which data are
23 available for individuals who are eligible
24 for medical assistance because such indi-

1 individuals are blind or disabled and under re-
2 tirement age; and

3 “(ii) the proportion, of all individuals
4 who received medical assistance under this
5 title in such State or District in the most
6 recent fiscal year referred to in clause (i),
7 that were individuals described in such
8 clause.

9 “(D) PER RECIPIENT EXPENDITURES FOR
10 OTHER INDIVIDUALS.—For purposes of sub-
11 paragraph (A)(i)(III), the per recipient expendi-
12 tures with respect to other individuals in a
13 State or the District of Columbia for a fiscal
14 year is equal to the product of—

15 “(i) the national average per recipient
16 expenditures under this title in the 50
17 States and the District of Columbia for the
18 most recent fiscal year for which data are
19 available for individuals who are not de-
20 scribed in subparagraph (B)(i) or (C)(i);
21 and

22 “(ii) the proportion, of all individuals
23 who received medical assistance under this
24 title in such State or District in the most
25 recent fiscal year referred to in clause (i),

1 that were individuals described in such
2 clause.

3 “(E) NATIONAL AVERAGE SPENDING PER
4 RECIPIENT.—For purposes of this paragraph,
5 the national average expenditures per recipient
6 for a fiscal year is equal to the sum of—

7 “(i) the product of (I) the national av-
8 erage described in subparagraph (B)(i),
9 and (II) the proportion, of all individuals
10 who received medical assistance under this
11 title in any of the 50 States or the District
12 of Columbia in the fiscal year referred to
13 in such subparagraph, who are described
14 in such subparagraph;

15 “(ii) the product of (I) the national
16 average described in subparagraph (C)(i),
17 and (II) the proportion, of all individuals
18 who received medical assistance under this
19 title in any of the 50 States or the District
20 of Columbia in the fiscal year referred to
21 in such subparagraph, who are described
22 in such subparagraph; and

23 “(iii) the product of (I) the national
24 average described in subparagraph (D)(i),
25 and (II) the proportion, of all individuals

1 who received medical assistance under this
2 title in any of the 50 States or the District
3 of Columbia in the fiscal year referred to
4 in such subparagraph, who are described
5 in such subparagraph.

6 “(F) DETERMINATION OF NATIONAL AVER-
7 AGES AND PROPORTIONS.—

8 “(i) IN GENERAL.—The national aver-
9 ages per recipient and the proportions
10 referred to in clauses (i) and (ii), re-
11 spectively, of subparagraphs (B), (C), and
12 (D) and subparagraph (E) shall be deter-
13 mined by the Secretary using the most re-
14 cent data available.

15 “(ii) USE OF MEDICAID DATA.—If for
16 a fiscal year there is inadequate data to
17 compute such averages and proportions
18 based on expenditures and numbers of in-
19 dividuals receiving medical assistance
20 under this title, the Secretary may com-
21 pute such averages based on expenditures
22 and numbers of such individuals under
23 title XIX for the most recent fiscal year
24 for which data are available and, for this
25 purpose—

1 “(I) any reference in subpara-
2 graph (B)(i) to ‘individuals who have
3 attained retirement age’ is deemed a
4 reference to ‘individuals whose eligi-
5 bility for medical assistance is based
6 on having attained retirement age’;

7 “(II) the reference in subpara-
8 graph (C)(i) to ‘and under retirement
9 age’ shall be considered to be deleted;
10 and

11 “(III) individuals whose basis for
12 eligibility for medical assistance was
13 reported as unknown shall not be
14 counted as individuals under subpara-
15 graph (D)(i).

16 “(iii) EXPENDITURE DEFINED.—For
17 purposes of this paragraph, the term ‘ex-
18 penditure’ means expenditures for medical
19 assistance under the medicaid plan, other
20 than medical assistance attributable to dis-
21 proportionate share payment adjustments
22 described in section 2111(b)(7) (or section
23 1923, in the case of fiscal year 1995).

24 “(4) INPUT COST INDEX.—

1 “(A) IN GENERAL.—For purposes of this
2 section, the input cost index for a State or the
3 District of Columbia for a fiscal year is the sum
4 of—

5 “(i) 0.15; and

6 “(ii) 0.85 multiplied by the ratio of
7 (I) the annual average wages for hospital
8 employees in such State or District for the
9 fiscal year (as determined under subpara-
10 graph (B)), to (II) the annual average
11 wages for hospital employees in the 50
12 States and the District of Columbia for
13 such year (as determined under such sub-
14 paragraph).

15 “(B) DETERMINATION OF ANNUAL AVER-
16 AGE WAGES OF HOSPITAL EMPLOYEES.—The
17 Secretary shall provide for the determination of
18 annual average wages for hospital employees in
19 a State or the District of Columbia and, collec-
20 tively, in the 50 States and the District of Co-
21 lumbia for a fiscal year based on the area wage
22 data applicable to hospitals under
23 1886(d)(2)(E) (or, if such data no longer ex-
24 ists, comparable data of hospital wages) for the
25 fiscal year involved.

1 “(5) NATIONAL AVERAGE SPENDING PER RESI-
2 DENT IN POVERTY.—For purposes of this sub-
3 section, the national average spending per resident
4 in poverty—

5 “(A) for fiscal year 1997 is equal to—

6 “(i) the sum (for each of the 50
7 States and the District of Columbia) of the
8 total of the Federal and State expenditures
9 under title XIX for medical assistance for
10 calendar quarters in fiscal year 1995
11 (other than such expenditures under sec-
12 tion 1923), increased by the percentage
13 specified in subsection (c)(1)(A)(ii), divided
14 by

15 “(ii) the average of the sum of the
16 number of residents in poverty (as defined
17 in paragraph (2)(A)) for all of the 50
18 States and the District of Columbia for the
19 3 most recent fiscal years for which data
20 are available, and increased by

21 “(iii) the national medicaid growth
22 percentage (as defined in subsection
23 (b)(2)) for fiscal year 1997;

24 “(B) for a succeeding fiscal year is equal
25 to the national average spending per resident in

1 poverty under this paragraph for the preceding
2 fiscal year increased by the national medicaid
3 growth percentage (as so defined) for the fiscal
4 year involved.

5 “(e) PUBLICATION OF OBLIGATION AND OUTLAY AL-
6 LOTMENTS.—

7 “(1) NOTICE OF PRELIMINARY ALLOTMENTS.—
8 Not later than April 1 before the beginning of each
9 fiscal year (beginning with fiscal year 1997), the
10 Secretary shall initially compute and publish in the
11 Federal Register notice of the proposed obligation
12 and outlay allotments for each State and the Dis-
13 trict of Columbia under this section (not taking into
14 account subsection (a)(2)(B)) for the fiscal year.
15 The Secretary shall include in the notice a descrip-
16 tion of the methodology and data used in deriving
17 such allotments for the year.

18 “(2) REVIEW BY GAO.—The Comptroller Gen-
19 eral shall submit to Congress by not later than May
20 15 of each such fiscal year, a report analyzing such
21 allotments and the extent to which such allotments
22 comply with the precise requirements of this section.

23 “(3) NOTICE OF FINAL ALLOTMENTS.—Not
24 later than July 1 before the beginning of each such
25 fiscal year, the Secretary, taking into consideration

1 the analysis contained in the report of the Comptrol-
2 ler General under paragraph (2), shall compute and
3 publish in the Federal Register notice of the final al-
4 lotments under this section (both taking into ac-
5 count and not taking into account subsection
6 (a)(2)(B)) for the fiscal year. The Secretary shall in-
7 clude in the notice a description of any changes in
8 such allotments from the initial allotments published
9 under paragraph (1) for the fiscal year and the rea-
10 sons for such changes. Once published under this
11 paragraph, the Secretary is not authorized to change
12 such allotments.

13 “(4) GAO REPORT ON FINAL ALLOTMENTS.—
14 The Comptroller General shall submit to Congress
15 by not later than August 1 of each such fiscal year,
16 a report analyzing the final allotments under para-
17 graph (3) and the extent to which such allotments
18 comply with the precise requirements of this section.

19 **“SEC. 2122. PAYMENTS TO STATES.**

20 “(a) AMOUNT OF PAYMENT.—From the allotment of
21 a State under section 2121 for a fiscal year, subject to
22 the succeeding provisions of this title, the Secretary shall
23 pay to each State which has a medicaid plan approved
24 under part E, for each quarter in the fiscal year—

1 “(1) an amount equal to the Federal medical
2 assistance percentage (as defined in subsection (e))
3 of the total amount expended during such quarter as
4 medical assistance under the plan; plus

5 “(2) an amount equal to the Federal medical
6 assistance percentage of the total amount expended
7 during such quarter for medically-related services
8 (as defined in section 2112(d)(2)); plus

9 “(3) an amount equal to—

10 “(A) 90 percent of the amounts expended
11 during such quarter for the design, develop-
12 ment, and installation of information systems
13 and for providing incentives to promote the en-
14 forcement of medical support orders, plus

15 “(B) 75 percent of the amounts expended
16 during such quarter for medical personnel, ad-
17 ministrative support of medical personnel, oper-
18 ation and maintenance of information systems,
19 modification of information systems, quality as-
20 surance activities, utilization review, medical
21 and peer review, anti-fraud activities, independ-
22 ent evaluations, coordination of benefits, and
23 meeting reporting requirements under this title,
24 plus

1 “(C) 50 percent of so much of the remain-
2 der of the amounts expended during such quar-
3 ter as are expended by the State in the admin-
4 istration of the State plan.

5 “(b) PAYMENT PROCESS.—

6 “(1) QUARTERLY ESTIMATES.—Prior to the be-
7 ginning of each quarter, the Secretary shall estimate
8 the amount to which a State will be entitled under
9 subsection (a) for such quarter, such estimates to be
10 based on (A) a report filed by the State containing
11 its estimate of the total sum to be expended in such
12 quarter in accordance with the provisions of such
13 subsections, and stating the amount appropriated or
14 made available by the State and its political subdivi-
15 sions for such expenditures in such quarter, and if
16 such amount is less than the State’s proportionate
17 share of the total sum of such estimated expendi-
18 tures, the source or sources from which the dif-
19 ference is expected to be derived, and (B) such other
20 investigation as the Secretary may find necessary.

21 “(2) PAYMENT.—

22 “(A) IN GENERAL.—The Secretary shall
23 then pay to the State, in such installments as
24 the Secretary may determine and in accordance
25 with section 6503(a) of title 31, United States

1 Code, the amount so estimated, reduced or in-
2 creased to the extent of any overpayment or
3 underpayment which the Secretary determines
4 was made under this section (or section 1903)
5 to such State for any prior quarter and with re-
6 spect to which adjustment has not already been
7 made under this subsection (or under section
8 1903(d)).

9 “(B) TREATMENT AS OVERPAYMENTS.—
10 Expenditures for which payments were made to
11 the State under subsection (a) shall be treated
12 as an overpayment to the extent that the State
13 or local agency administering such plan has
14 been reimbursed for such expenditures by a
15 third party pursuant to the provisions of its
16 plan in compliance with section 2135.

17 “(C) RECOVERY OF OVERPAYMENTS.—For
18 purposes of this subsection, when an overpay-
19 ment is discovered, which was made by a State
20 to a person or other entity, the State shall have
21 a period of 60 days in which to recover or at-
22 tempt to recover such overpayment before ad-
23 justment is made in the Federal payment to
24 such State on account of such overpayment.
25 Except as otherwise provided in subparagraph

1 (D), the adjustment in the Federal payment
2 shall be made at the end of the 60 days, wheth-
3 er or not recovery was made.

4 “(D) NO ADJUSTMENT FOR
5 UNCOLLECTABLES.—In any case where the
6 State is unable to recover a debt which rep-
7 represents an overpayment (or any portion thereof)
8 made to a person or other entity on account of
9 such debt having been discharged in bankruptcy
10 or otherwise being uncollectable, no adjustment
11 shall be made in the Federal payment to such
12 State on account of such overpayment (or por-
13 tion thereof).

14 “(3) FEDERAL SHARE OF RECOVERIES.—The
15 pro rata share to which the United States is equi-
16 tably entitled, as determined by the Secretary, of the
17 net amount recovered during any quarter by the
18 State or any political subdivision thereof with re-
19 spect to medical assistance furnished under the
20 State plan shall be considered an overpayment to be
21 adjusted under this subsection.

22 “(4) TIMING OF OBLIGATION OF FUNDS.—
23 Upon the making of any estimate by the Secretary
24 under this subsection, any appropriations available

1 for payments under this section shall be deemed ob-
2 ligated.

3 “(5) DISALLOWANCES.—In any case in which
4 the Secretary estimates that there has been an over-
5 payment under this section to a State on the basis
6 of a claim by such State that has been disallowed by
7 the Secretary under section 1116(d), and such State
8 disputes such disallowance, the amount of the Fed-
9 eral payment in controversy shall, at the option of
10 the State, be retained by such State or recovered by
11 the Secretary pending a final determination with re-
12 spect to such payment amount. If such final deter-
13 mination is to the effect that any amount was prop-
14 erly disallowed, and the State chose to retain pay-
15 ment of the amount in controversy, the Secretary
16 shall offset, from any subsequent payments made to
17 such State under this title, an amount equal to the
18 proper amount of the disallowance plus interest on
19 such amount disallowed for the period beginning on
20 the date such amount was disallowed and ending on
21 the date of such final determination at a rate (deter-
22 mined by the Secretary) based on the average of the
23 bond equivalent of the weekly 90-day treasury bill
24 auction rates during such period.

1 “(c) FEDERAL MEDICAL ASSISTANCE PERCENTAGE
2 DEFINED.—

3 “(1) IN GENERAL.—For purposes of this sec-
4 tion, except as provided in subsection (f), the Fed-
5 eral medical assistance percentage, with respect to
6 each of the 50 States or the District of Columbia,
7 is 100 percent less the State percentage.

8 “(2) STATE PERCENTAGE.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraph (B), the State percentage is that
11 percentage which bears the same ratio to 45
12 percent as the square of the per capita income
13 of such State bears to the square of the per
14 capita income of the continental United States
15 (including Alaska) and Hawaii.

16 “(B) EXCEPTION.—For purposes of this
17 title only, for Alaska, the State percentage is
18 that percentage which bears the same ratio to
19 45 percent as the square of the adjusted per
20 capita income of such State bears to the square
21 of the per capita income of the continental
22 United States. For purposes of the preceding
23 sentence, the adjusted per capita income for
24 Alaska shall be determined by dividing the
25 State’s most recent 3-year average per capita

1 by the input cost index for such State (as deter-
2 mined in section 2121(d)(4)).

3 “(3) LIMITATION ON RANGE.—In no case shall
4 the Federal medical assistance percentage be—

5 “(A) less than—

6 “(i) 60 percent, or

7 “(ii) 50 percent, in the case of any
8 other provision of law other than this title;

9 or

10 “(B) more than 83 percent.

11 “(4) PROMULGATION.—The Federal medical as-
12 sistance percentage for any State shall be deter-
13 mined and promulgated in accordance with the pro-
14 visions of section 1101(a)(8)(B).

15 “(d) PROVIDER-RELATED DONATIONS AND HEALTH
16 CARE RELATED TAXES.—

17 “(1) GENERAL LIMITATIONS.—

18 “(A) REDUCTION IN MEDICAL ASSISTANCE
19 EXPENDITURES.—Notwithstanding the previous
20 provisions of this section, for purposes of deter-
21 mining the amount to be paid to a State (as de-
22 fined in paragraph (5)(D)) under this section
23 for quarters in any fiscal year, the total amount
24 expended during such fiscal year as medical as-
25 sistance under the medicaid plan (as deter-

1 mined without regard to this subsection) shall
2 be reduced by the sum of any revenues received
3 by the State (or by a unit of local government
4 in the State) during the fiscal year—

5 “(i) from provider-related donations
6 (as defined in paragraph (2)(A)), other
7 than—

8 “(I) bona fide provider-related
9 donations (as defined in paragraph
10 (2)(B)), and

11 “(II) donations described in
12 paragraph (2)(C);

13 “(ii) from health care related taxes
14 (as defined in paragraph (3)(A)), other
15 than broad-based health care related taxes
16 (as defined in paragraph (3)(B)); or

17 “(iii) from a broad-based health care
18 related tax, if there is in effect a hold
19 harmless provision (described in paragraph
20 (4)) with respect to the tax.

21 “(B) REDUCTION IN ADMINISTRATIVE EX-
22 PENDITURES.—Notwithstanding the previous
23 provisions of this section, for purposes of deter-
24 mining the amount to be paid to a State under
25 this section for all quarters in a Federal fiscal

1 year (beginning with fiscal year 1996), the total
2 amount expended during the fiscal year for ad-
3 ministrative expenditures under the medicaid
4 plan (as determined without regard to this sub-
5 section) shall be reduced by the sum of any rev-
6 enues received by the State (or by a unit of
7 local government in the State) during such
8 quarters from donations described in paragraph
9 (2)(C), to the extent the amount of such dona-
10 tions exceeds 10 percent of the amounts ex-
11 pended under the medicaid plan approved under
12 this title during the fiscal year for purposes de-
13 scribed in subsection (a)(3).

14 “(2) PROVIDER-RELATED DONATIONS.—

15 “(A) IN GENERAL.—For purposes of this
16 subsection, the term ‘provider-related donation’
17 means any donation or other voluntary payment
18 (whether in cash or in kind) made (directly or
19 indirectly) to a State or unit of local govern-
20 ment by—

21 “(i) a health care provider (as defined
22 in paragraph (5)(B));

23 “(ii) an entity related to a health care
24 provider (as defined in paragraph (5)(C));

25 or

1 “(iii) an entity providing goods or
2 services under the State plan for which
3 payment is made to the State under sub-
4 section (a)(3).

5 “(B) BONA FIDE PROVIDER-RELATED DO-
6 NATIONS.—For purposes of paragraph
7 (1)(A)(i)(I), the term ‘bona fide provider-relat-
8 ed donation’ means a provider-related donation
9 that has no direct or indirect relationship (as
10 determined by the Secretary) to payments made
11 under this title to that provider, to providers
12 furnishing the same class of items and services
13 as that provider, or to any related entity, as es-
14 tablished by the State to the satisfaction of the
15 Secretary. The Secretary may by regulation
16 specify types of provider-related donations de-
17 scribed in the previous sentence that will be
18 considered to be bona fide provider-related do-
19 nations.

20 “(C) DONATIONS DESCRIBED.—For pur-
21 poses of paragraph (1)(A)(i)(II), donations de-
22 scribed in this subparagraph are funds ex-
23 pended by a hospital, clinic, or similar entity for
24 the direct cost (including costs of training and
25 of preparing and distributing outreach mate-

1 rials) of State or local agency personnel who are
2 stationed at the hospital, clinic, or entity to de-
3 termine the eligibility of individuals for medical
4 assistance under a medicaid plan approved
5 under this title and to provide outreach services
6 to eligible or potentially eligible individuals.

7 “(3) HEALTH CARE RELATED TAXES.—

8 “(A) IN GENERAL.—For purposes of this
9 subsection, the term ‘health care related tax’
10 means a tax (as defined in paragraph (5)(F))
11 that—

12 “(i) is related to health care items or
13 services, or to the provision of, the author-
14 ity to provide, or payment for, such items
15 or services; or

16 “(ii) is not limited to such items or
17 services but provides for treatment of indi-
18 viduals or entities that are providing or
19 paying for such items or services that is
20 different from the treatment provided to
21 other individuals or entities.

22 In applying clause (i), a tax is considered to re-
23 late to health care items or services if at least
24 85 percent of the burden of such tax falls on
25 health care providers.

1 “(B) BROAD-BASED HEALTH CARE RELAT-
2 ED TAX.—For purposes of this subsection, the
3 term ‘broad-based health care related tax’
4 means a health care related tax which is im-
5 posed with respect to a class of health care
6 items or services (as described in paragraph
7 (5)(A)) or with respect to providers of such
8 items or services and which, except as provided
9 in subparagraphs (D) and (E)—

10 “(i) is imposed at least with respect to
11 all items or services in the class furnished
12 by all non-Federal, nonpublic providers in
13 the State (or, in the case of a tax imposed
14 by a unit of local government, the area
15 over which the unit has jurisdiction) or is
16 imposed with respect to all non-Federal,
17 nonpublic providers in the class; and

18 “(ii) is imposed uniformly (in accord-
19 ance with subparagraph (C)).

20 “(C) UNIFORM IMPOSITION OF TAX.—

21 “(i) IN GENERAL.—Subject to clause
22 (ii), for purposes of subparagraph (B)(ii),
23 a tax is considered to be imposed uni-
24 formly if—

1 “(I) in the case of a tax consist-
2 ing of a licensing fee or similar tax on
3 a class of health care items or services
4 (or providers of such items or serv-
5 ices), the amount of the tax imposed
6 is the same for every provider provid-
7 ing items or services within the class;

8 “(II) in the case of a tax consist-
9 ing of a licensing fee or similar tax
10 imposed on a class of health care
11 items or services (or providers of such
12 services) on the basis of the number
13 of beds (licensed or otherwise) of the
14 provider, or the number of patient
15 days or other unit of service, the
16 amount of the tax is the same for
17 each bed, or each unit of service, of
18 each provider of such items or services
19 in the class;

20 “(III) in the case of a tax based
21 on revenues or receipts with respect to
22 a class of items or services (or provid-
23 ers of items or services) the tax is im-
24 posed at a uniform rate for all items
25 and services (or providers of such

1 items of services) in the class on all
2 the gross revenues or receipts, or net
3 operating revenues, relating to the
4 provision of all such items or services
5 (or all such providers) in the State
6 (or, in the case of a tax imposed by
7 a unit of local government within the
8 State, in the area over which the unit
9 has jurisdiction); or

10 “(IV) in the case of any other
11 tax, the State establishes to the satis-
12 faction of the Secretary that the tax is
13 imposed uniformly.

14 “(ii) DETERMINATION OF
15 NONUNIFORMITY.—Subject to subpara-
16 graphs (D) and (E), a tax imposed with
17 respect to a class of health care items and
18 services is not considered to be imposed
19 uniformly if the tax provides for any cred-
20 its, exclusions, or deductions which have as
21 their purpose or effect the return to pro-
22 viders of all or a portion of the tax paid in
23 a manner that is inconsistent with
24 subclauses (I) and (II) of subparagraph

1 (E)(ii) or provides for a hold harmless pro-
 2 vision described in paragraph (4).

3 “(D) EXCEPTIONS TO NONUNIFORMITY
 4 DETERMINATIONS.—A tax imposed with respect
 5 to a class of health care items and services is
 6 considered to be imposed uniformly—

7 “(i) notwithstanding that the tax is
 8 not imposed with respect to items or serv-
 9 ices (or the providers thereof) for which
 10 payment is made under a medicaid plan
 11 approved under this title or title XVIII; or

12 “(ii) in the case of a tax described in
 13 subparagraph (C)(i)(III), notwithstanding
 14 that the tax provides for exclusion (in
 15 whole or in part) of revenues or receipts
 16 from a medicaid plan approved under this
 17 title or title XVIII.

18 “(E) WAIVER APPLICATION FOR TREAT-
 19 MENTS AS BROAD-BASED TAX.—

20 “(i) IN GENERAL.—A State may sub-
 21 mit an application to the Secretary re-
 22 questing that the Secretary treat a tax as
 23 a broad-based health care related tax, not-
 24 withstanding that the tax does not apply to
 25 all health care items or services in class (or

1 all providers of such items and services),
2 provides for a credit, deduction, or exclu-
3 sion, is not applied uniformly, or otherwise
4 does not meet the requirements of sub-
5 paragraph (B) or (C). Permissible waivers
6 may include exemptions for rural or sole-
7 community providers.

8 “(ii) WAIVER APPROVAL REQUIRE-
9 MENTS.—The Secretary shall approve such
10 an application if the State establishes to
11 the satisfaction of the Secretary that—

12 “(I) the net impact of the tax
13 and associated expenditures under the
14 medicaid plan approved under this
15 title as proposed by the State is gen-
16 erally redistributive in nature; and

17 “(II) the amount of the tax is
18 not directly correlated to payments
19 under such plan for items or services
20 with respect to which the tax is im-
21 posed.

22 “(iii) DETERMINATION OF REDIS-
23 TRIBUTIVE NATURE.—In determining
24 whether a tax for which a waiver is sought

1 is generally redistributive in nature, the
2 Secretary shall, if requested by the State—

3 “(I) compare the tax to a tax
4 that meets any of the uniformity re-
5 quirements of subparagraphs (C) or
6 (D); and

7 “(II) consider in the aggregate
8 all classes (or providers) of health
9 care items or services that are subject
10 to the same tax.

11 “(iv) TERM OF WAIVER.—A tax for
12 which the Secretary has approved an appli-
13 cation for waiver shall not be subject to
14 the requirements of a further waiver appli-
15 cation solely because a change in the rate
16 of tax.

17 “(F) TREATMENT OF MANAGED CARE PRE-
18 MIUMS.—No tax on the payment or receipt of
19 premiums or similar periodic payments to
20 health maintenance organizations or health care
21 insurers shall be treated as a health care relat-
22 ed tax unless and until the Secretary, after con-
23 sultation with the States pursuant to section
24 5(c) of the Medicaid Voluntary Contribution
25 and Provider-Specific Tax Amendments of

1 1991, adopts a final regulation specifically sub-
2 jecting such taxes, or any of such taxes, to the
3 provisions of this subsection.

4 “(4) HOLD HARMLESS DETERMINATION.—For
5 purposes of paragraph (1)(A)(iii), there is in effect
6 a hold harmless provision with respect to a broad-
7 based health care related tax imposed with respect
8 to a class of items or services if the Secretary deter-
9 mines that any of the following applies:

10 “(A) The State or other unit of govern-
11 ment imposing the tax provides (directly or in-
12 directly) for a payment (other than under a
13 medicaid plan approved under this title) to tax-
14 payers and the amount of such payment is posi-
15 tively correlated either to the amount of such
16 tax or to the difference between the amount of
17 the tax and the amount of payment under the
18 medicaid plan.

19 “(B) All or any portion of the payment
20 made under this title to the taxpayer varies
21 based only upon the amount of the total tax
22 paid.

23 “(C) The State or other unit of govern-
24 ment imposing the tax provides (directly or in-
25 directly) for any payment, offset, or waiver that

1 guarantees to hold taxpayers harmless for any
2 portion of the costs of the tax.

3 Notwithstanding the provisions of this paragraph, no
4 hold harmless shall be found to be in effect with re-
5 spect to a tax enacted or extended prior to October
6 1, 1995, because of the existence in the State of a
7 program of financial aid or of tax credits for recipi-
8 ents of health care items or services from providers
9 that are subject to an otherwise valid health care re-
10 lated tax.

11 “(5) DEFINITIONS AND SPECIAL RULES.—For
12 purposes of this subsection:

13 “(A) CLASSES OF HEALTH CARE ITEMS
14 AND SERVICES.—Each of the following shall be
15 considered a separate class of health care items
16 and services:

17 “(i) Inpatient hospital services.

18 “(ii) Outpatient hospital services.

19 “(iii) Nursing facility services (other
20 than services of intermediate care facilities
21 for the mentally retarded).

22 “(iv) Services of intermediate care fa-
23 cilities for the mentally retarded.

24 “(v) Physicians’ services.

25 “(vi) Home health care services.

1 “(vii) Outpatient prescription drugs.

2 “(viii) Services of health maintenance
3 organizations (and other organizations
4 with contracts under section 2114) not
5 otherwise subject to a tax described in this
6 subsection.

7 “(ix) Such other classification of
8 health care items and services consistent
9 with this subparagraph as the Secretary
10 may establish by regulation.

11 “(B) HEALTH CARE PROVIDER.—The term
12 ‘health care provider’ means an individual or
13 person that receives payments for the provision
14 of health care items or services.

15 “(C) RELATED ENTITIES.—An entity is
16 considered to be ‘related’ to a health care pro-
17 vider if the entity—

18 “(i) is an organization, association,
19 corporation or partnership formed by or on
20 behalf of health care providers;

21 “(ii) is a person with an ownership or
22 control interest (as defined in section
23 1124(a)(3)) in the provider;

1 “(iii) is the employee, spouse, parent,
2 child, or sibling of the provider (or of a
3 person described in clause (ii)); or

4 “(iv) has a similar, close relationship
5 (as defined in regulations) to the provider.

6 “(D) STATE.—The term ‘State’ means
7 only the 50 States and the District of Colum-
8 bia.

9 “(E) STATE FISCAL YEAR.—The ‘State fis-
10 cal year’ means, with respect to a specified
11 year, a State fiscal year ending in that specified
12 year.

13 “(F) TAX.—The term ‘tax’ includes any li-
14 censing fee, assessment, or other mandatory
15 payment, but does not include any fee or charge
16 associated with a State regulatory, authorizing,
17 financial assistance, or other program in which
18 health care providers are eligible to participate,
19 or payment of a criminal or civil fine or penalty
20 (other than a fine or penalty imposed in lieu of
21 or instead of a fee, assessment, or other manda-
22 tory payment).

23 “(G) UNIT OF LOCAL GOVERNMENT.—The
24 term ‘unit of local government’ means, with re-
25 spect to a State, a city, county, special purpose

1 district, or other governmental unit in the
2 State.

3 “(6) CERTAIN IMPOSITION OF HEALTH CARE
4 RELATED TAXES PROHIBITED.—No payment may be
5 made to a State under this section with respect to
6 State expenditures attributable to health care related
7 taxes or broad-based health care related taxes im-
8 posed on hospitals described in section 501(c)(3) of
9 the Internal Revenue Code of 1986 which do not ac-
10 cept reimbursement under a medicaid plan.

11 “(e) TREATMENT OF STATE EXPENDITURES.—

12 “(1) IN GENERAL.—No payment may be made
13 to a State under this section unless such State pro-
14 vides not less than 40 percent of the non-Federal
15 share of the expenditures under the medicaid plan.

16 “(2) TREATMENT OF CERTAIN EXPENDI-
17 TURES.—In determining State expenditures under
18 this section:

19 “(A) TRANSFERS FROM OTHER STATE AND
20 LOCAL PROGRAMS.—Such expenditures shall
21 not include funding supplanted by transfers
22 from other State and local programs.

23 “(B) EXCLUSION OF FEDERAL
24 AMOUNTS.—Such expenditures shall not include
25 amounts made available by the Federal Govern-

1 ment and any State funds which are used to
2 match Federal funds or are expended as a con-
3 dition of receiving Federal funds under Federal
4 programs other than under this title.

5 “(f) SPECIAL RULES.—For purposes of this title:

6 “(1) COMMONWEALTHS AND TERRITORIES.—In
7 the case of Puerto Rico, the Virgin Islands, Guam,
8 the Northern Mariana Islands, and American
9 Samoa, the Federal medical assistance percentages
10 are 50 percent.

11 “(2) INDIAN HEALTH PROGRAMS.—The Federal
12 medical assistance percentages shall be 100 percent
13 with respect to the amounts expended as medical as-
14 sistance for services which are provided by—

15 “(A) the Indian Health Service;

16 “(B) an Indian health program operated
17 by an Indian tribe or tribal organization pursu-
18 ant to a contract, grant, cooperative agreement,
19 or compact with the Indian Health Service
20 under authority of the Indian Self-Determina-
21 tion Act (25 U.S.C. 450 et seq.); or

22 “(C) an urban Indian health program op-
23 erated by an urban Indian organization pursu-
24 ant to a grant or contract with the Indian
25 Health Service under authority of title V of the

1 Indian Health Care Improvement Act (25
2 U.S.C. 1601 et seq.).

3 “(3) NO STATE MATCHING REQUIRED FOR CER-
4 TAIN EXPENDITURES.—In applying subsection (a)(1)
5 with respect to medical assistance provided to unlaw-
6 ful aliens pursuant to the exception specified in sec-
7 tion 2123(f)(2), payment shall be made for the
8 amount of such assistance without regard to any
9 need for a State match.

10 “(4) SPECIAL RULE.—

11 “(A) IN GENERAL.—Notwithstanding sub-
12 section (a), in order to receive the full State
13 outlay allotment described in section
14 2121(c)(6), a State shall expend State funds in
15 a fiscal year under a medicaid plan approved
16 under this title in an amount not less than the
17 adjusted base year State expenditures, plus an
18 applicable percentage of the difference between
19 such expenditures and the amount necessary to
20 qualify for the full State outlay allotment so de-
21 scribed in such fiscal year as determined under
22 this section without regard to this paragraph.

23 “(B) REDUCTION IN ALLOTMENT IF EX-
24 PENDITURE LIMIT NOT MET.—In the event a
25 State fails to expend State funds in an amount

1 required by subparagraph (A) for a fiscal year,
 2 the outlay allotment described in section
 3 2121(c)(6) for such year shall be reduced by an
 4 amount which bears the same ratio to such out-
 5 lay allotment as the State funds expended in
 6 such fiscal year bears to the amount required
 7 by subparagraph (A).

8 “(C) ADJUSTED BASE YEAR STATE EX-
 9 PENDITURES.—For purposes of this paragraph,
 10 the term ‘adjusted base year State expendi-
 11 tures’ means—

12 “(i) for New Hampshire,
 13 \$203,000,000; and

14 “(ii) for Louisiana, \$355,000,000.

15 “(D) APPLICABLE PERCENTAGE.—For
 16 purposes of this paragraph, the applicable per-
 17 centage for any fiscal year is specified in the
 18 following table:

“Fiscal year:	Applicable Percentage:
1996	20
1997	40
1998	60
1999	80
2000	100.

19 “(g) AUTHORITY TO USE PORTION OF PAYMENT
 20 FOR OTHER PURPOSES.—

21 “(1) IN GENERAL.—A State may use not more
 22 than 30 percent of the amount of the grant made to

1 the State under this section for a fiscal year to carry
2 out a State program pursuant to a waiver granted
3 under section 1115 which may include waivers of
4 any or all of the following provisions of law:

5 “(A) Part A of title IV.

6 “(B) Title V.

7 “(C) Title XVI.

8 “(D) Title XVIII.

9 “(E) Title XX.

10 “(F) The Food Stamp Act of 1977.

11 “(2) SUFFICIENT FUNDING DETERMINATION.—

12 Prior to using any amounts received from a payment
13 under this title for a fiscal year to carry out a State
14 program pursuant to any or all of the provisions of
15 law described in paragraph (1), the appropriate
16 State agency shall make a determination that suffi-
17 cient amounts will remain available for such fiscal
18 year to carry out the medicaid plan approved under
19 this title.

20 “(3) APPLICABLE RULES.—Any amount paid to

21 the State under this title that is used to carry out
22 a State program pursuant to a provision of law spec-
23 ified in paragraph (1) shall not be subject to the re-
24 quirements of this title, but shall be subject to the
25 requirements that apply to Federal funds provided

1 directly under the provision of law to carry out the
2 program.

3 “(4) EXPEDITED WAIVER PROCESS.—Notwith-
4 standing any other provision of law, the Secretary
5 shall approve or disapprove a waiver described in
6 paragraph (1) and submitted under section 1115 not
7 later than 90 days after the date the completed ap-
8 plication is received. Any application for such a
9 waiver which is not approved or disapproved within
10 such 90-day period shall be deemed approved.

11 “(5) SECRETARIAL ENCOURAGEMENT OF WAIV-
12 ERS.—The Secretary shall encourage States to oper-
13 ate a waiver described in paragraph (1) and to
14 evaluate, using random sampling and other charac-
15 teristics of accepted scientific evaluations, the result
16 or effect of such waiver.

17 **“SEC. 2123. LIMITATION ON USE OF FUNDS; DISALLOW-**
18 **ANCE.**

19 “(a) IN GENERAL.—Funds provided to a State under
20 this title shall only be used to carry out the purposes of
21 this title.

22 “(b) DISALLOWANCES FOR EXCLUDED PROVID-
23 ERS.—

1 “(1) IN GENERAL.—No payment shall be made
2 to a State under this part for expenditures for items
3 and services furnished—

4 “(A) by a provider who was excluded from
5 participation under title V, XVIII, or XX or
6 under this title pursuant to section 1128,
7 1128A, 1156, or 1842(j)(2); or

8 “(B) under the medical direction or on the
9 prescription of a physician who was so excluded,
10 if the provider of the services knew or had rea-
11 son to know of the exclusion.

12 “(2) EXCEPTION FOR EMERGENCY SERVICES.—
13 Paragraph (1) shall not apply to emergency items or
14 services, not including hospital emergency room serv-
15 ices.

16 “(c) LIMITATION.—No Federal financial assistance is
17 available for expenditures under the medicaid plan for
18 medically-related services for a quarter to the extent such
19 expenditures exceed 5 percent of the total expenditures
20 under the plan for the quarter.

21 “(d) TREATMENT OF THIRD PARTY LIABILITY.—No
22 payment shall be made to a State under this part for ex-
23 penditures for medical assistance provided for an individ-
24 ual under its medicaid plan to the extent that a private
25 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-

1 nished to an alien who is not lawfully admitted for
2 permanent residence or otherwise permanently resid-
3 ing in the United States under color of law.

4 “(2) EXCEPTION FOR EMERGENCY SERVICES.—
5 Payment may be made under this section for care
6 and services that are furnished to an alien described
7 in paragraph (1) only if—

8 “(A) such care and services are necessary
9 for the treatment of an emergency medical con-
10 dition of the alien;

11 “(B) such alien otherwise meets the eligi-
12 bility requirements for medical assistance under
13 the medicaid plan (other than a requirement of
14 the receipt of aid or assistance under title IV,
15 supplemental security income benefits under
16 title XVI, or a State supplementary payment);
17 and

18 “(C) such care and services are not related
19 to an organ transplant procedure.

20 “(3) EMERGENCY MEDICAL CONDITION DE-
21 FINED.—For purposes of this subsection, the term
22 ‘emergency medical condition’ means a medical con-
23 dition (including emergency labor and delivery)
24 manifesting itself by acute symptoms of sufficient
25 severity (including severe pain) such that the ab-

1 sence of immediate medical attention could reason-
2 ably be expected to result in—

3 “(A) placing the patient’s health in serious
4 jeopardy;

5 “(B) serious impairment to bodily func-
6 tions; or

7 “(C) serious dysfunction of any bodily
8 organ or part.

9 “(g) LIMITATION ON PAYMENT FOR ABORTIONS.—

10 “(1) IN GENERAL.—No payment shall be made
11 to a State under this part for any amount expended
12 under the medicaid plan to pay for any abortion or
13 to assist in the purchase, in whole or in part, of
14 health benefit coverage that includes coverage of
15 abortion.

16 “(2) EXCEPTION.—Paragraph (1) shall not
17 apply to an abortion—

18 “(A) if the pregnancy is the result of an
19 act of rape or incest; or

20 “(B) in the case where a woman suffers
21 from a physical disorder, illness, or injury that
22 would, as certified by a physician, place the
23 woman in danger of death unless an abortion is
24 performed.

25 “(h) TREATMENT OF ASSISTED SUICIDE.—

1 “(1) PROHIBITION OF PAYMENT.—No payment
2 shall be made to a State under this part for
3 amounts expended under the medicaid plan to pay
4 for, or to assist in the purchase, in whole or in part,
5 of health benefit coverage that includes payment for
6 any drug, biological product, or service which was
7 furnished for the purpose of causing, or assisting in
8 causing, the death, suicide, euthanasia, or mercy
9 killing of a person.

10 “(2) NO REQUIREMENT THAT HEALTH CARE
11 PROVIDERS INFORM PATIENTS CONCERNING AS-
12 SISTED SUICIDE.—No State may require under its
13 medicaid plan that a health care provider or em-
14 ployee of a health care provider be required to in-
15 form or counsel a patient regarding assisted suicide,
16 euthanasia, mercy killing, or other services which
17 purposefully causes the death of a person.

18 “(i) UNAUTHORIZED USE OF FUNDS.—No payment
19 shall be made to a State under this part with respect to
20 State expenditures—

21 “(1) to purchase or improve land or construct
22 or remodel buildings;

23 “(2) to pay basic room and board costs, except
24 when provided as part of a temporary, respite care

1 service in a facility approved by the State which is
2 not a private residence;

3 “(3) to provide educational services which the
4 State makes generally available to its residents with-
5 out cost and without regard to income; or

6 “(4) to provide vocational rehabilitation or
7 other employment training and related services
8 which are available to eligible individuals through
9 other Federal, State or local programs and funding
10 sources.

11 **“SEC. 2124. GRANT PROGRAM FOR COMMUNITY HEALTH**
12 **CENTERS AND RURAL HEALTH CLINICS.**

13 “(a) IN GENERAL.—From the pool amount deter-
14 mined under section 2121(b)(1) for a fiscal year, the Sec-
15 retary shall set aside an amount equal to 1 percent of such
16 amount.

17 “(b) USE OF FUNDS.—Fifty percent of the amount
18 set aside by the Secretary under subsection (a) shall only
19 be used for grants for primary and preventive health care
20 services provided at rural health clinics (as defined in sec-
21 tion 1861(aa)(2)) and 50 percent of such amount shall
22 only be used for grants for such services provided at Fed-
23 erally-qualified health centers (as defined in section
24 1861(aa)(4)).

1 “(c) GRANT AMOUNTS.—The Secretary shall provide
2 the methodology for determining the amount of each grant
3 made under subsection (b).

4 “PART D—PROGRAM INTEGRITY AND QUALITY
5 **“SEC. 2131. USE OF AUDITS TO ACHIEVE FISCAL INTEGRITY.**

6 “(a) FINANCIAL AUDITS OF PROGRAM.—

7 “(1) IN GENERAL.—Each medicaid plan shall
8 provide for an annual audit of the State’s expendi-
9 tures from amounts received under this title, in com-
10 pliance with chapter 75 of title 31, United States
11 Code.

12 “(2) VERIFICATION AUDITS.—If, after consulta-
13 tion with the State and the Comptroller General and
14 after a fair hearing, the Secretary determines that
15 a State’s audit under paragraph (1) was performed
16 in substantial violation of chapter 75 of title 31,
17 United States Code, the Secretary may—

18 “(A) require that the State provide for a
19 verification audit in compliance with such chap-
20 ter; or

21 “(B) conduct such a verification audit.

22 “(3) AVAILABILITY OF AUDIT REPORTS.—With-
23 in 30 days after completion of each audit or verifica-
24 tion audit under this subsection, the State shall—

1 “(A) provide the Secretary with a copy of
2 the audit report, including the State’s response
3 to any recommendations of the auditor; and

4 “(B) make the audit report available for
5 public inspection in the same manner as pro-
6 posed medicaid plan amendments are made
7 available under section 2105.

8 “(b) FISCAL CONTROLS.—

9 “(1) IN GENERAL.—With respect to the ac-
10 counting and expenditure of funds under this title,
11 each State shall adopt and maintain such fiscal con-
12 trols, accounting procedures, and data processing
13 safeguards as the State deems reasonably necessary
14 to assure the fiscal integrity of the State’s activities
15 under this title.

16 “(2) CONSISTENCY WITH GENERALLY ACCEPT-
17 ED ACCOUNTING PRINCIPLES.—Such controls and
18 procedures shall be generally consistent with gen-
19 erally accepted accounting principles as recognized
20 by the Governmental Accounting Standards Board
21 or the Comptroller General.

22 “(c) AUDITS OF PROVIDERS.—Each medicaid plan
23 shall provide that the records of any entity providing items
24 or services for which payment may be made under the plan

1 may be audited as necessary to ensure that proper pay-
2 ments are made under the plan.

3 **“SEC. 2132. FRAUD PREVENTION PROGRAM.**

4 “(a) ESTABLISHMENT.—Each medicaid plan shall
5 provide for the establishment and maintenance of an effec-
6 tive program for the detection and prevention of fraud and
7 abuse by beneficiaries, providers, and others in connection
8 with the operation of the program.

9 “(b) PROGRAM REQUIREMENTS.—The program es-
10 tablished pursuant to subsection (a) shall include at least
11 the following requirements:

12 “(1) DISCLOSURE OF INFORMATION.—Any dis-
13 closing entity (as defined in section 1124(a)) receiv-
14 ing payments under the medicaid plan shall comply
15 with the requirements of section 1124.

16 “(2) SUPPLY OF INFORMATION.—An entity
17 (other than an individual practitioner or a group of
18 practitioners) that furnishes, or arranges for the fur-
19 nishing of, an item or service under the medicaid
20 plan shall supply upon request specifically addressed
21 to the entity by the Secretary or the State agency
22 the information described in section 1128(b)(9).

23 “(3) EXCLUSION.—

24 “(A) IN GENERAL.—The medicaid plan
25 shall exclude any specified individual or entity

1 from participation in the plan for the period
2 specified by the Secretary when required by the
3 Secretary to do so pursuant to section 1128 or
4 section 1128A, and provide that no payment
5 may be made under the plan with respect to
6 any item or service furnished by such individual
7 or entity during such period.

8 “(B) AUTHORITY.—In addition to any
9 other authority, a State may exclude any indi-
10 vidual or entity for purposes of participating
11 under the medicaid plan for any reason for
12 which the Secretary could exclude the individual
13 or entity from participation in a program under
14 title XVIII or under section 1128, 1128A, or
15 1866(b)(2).

16 “(4) NOTICE.—The medicaid plan shall provide
17 that whenever a provider of services or any other
18 person is terminated, suspended, or otherwise sanc-
19 tioned or prohibited from participating under the
20 plan, the State agency responsible for administering
21 the plan shall promptly notify the Secretary and, in
22 the case of a physician, the State medical licensing
23 board of such action.

24 “(5) ACCESS TO INFORMATION.—The medicaid
25 plan shall provide that the State will provide infor-

1 mation and access to certain information respecting
2 sanctions taken against health care practitioners and
3 providers by State licensing authorities in accord-
4 ance with section 2133.

5 **“SEC. 2133. INFORMATION CONCERNING SANCTIONS TAKEN**
6 **BY STATE LICENSING AUTHORITIES AGAINST**
7 **HEALTH CARE PRACTITIONERS AND PROVID-**
8 **ERS.**

9 “(a) INFORMATION REPORTING REQUIREMENT.—
10 The requirement referred to in section 2132(b)(5) is that
11 the State must provide for the following:

12 “(1) INFORMATION REPORTING SYSTEM.—The
13 State must have in effect a system of reporting the
14 following information with respect to formal proceed-
15 ings (as defined by the Secretary in regulations)
16 concluded against a health care practitioner or entity
17 by any authority of the State (or of a political sub-
18 division thereof) responsible for the licensing of
19 health care practitioners (or any peer review organi-
20 zation or private accreditation entity reviewing the
21 services provided by health care practitioners) or en-
22 tities:

23 “(A) Any adverse action taken by such li-
24 censing authority as a result of the proceeding,
25 including any revocation or suspension of a li-

1 cense (and the length of any such suspension),
2 reprimand, censure, or probation.

3 “(B) Any dismissal or closure of the pro-
4 ceedings by reason of the practitioner or entity
5 surrendering the license or leaving the State or
6 jurisdiction.

7 “(C) Any other loss of the license of the
8 practitioner or entity, whether by operation of
9 law, voluntary surrender, or otherwise.

10 “(D) Any negative action or finding by
11 such authority, organization, or entity regard-
12 ing the practitioner or entity.

13 “(2) ACCESS TO DOCUMENTS.—The State must
14 provide the Secretary (or an entity designated by the
15 Secretary) with access to such documents of the au-
16 thority described in paragraph (1) as may be nec-
17 essary for the Secretary to determine the facts and
18 circumstances concerning the actions and determina-
19 tions described in such paragraph for the purpose of
20 carrying out this Act.

21 “(b) FORM OF INFORMATION.—The information de-
22 scribed in subsection (a)(1) shall be provided to the Sec-
23 retary (or to an appropriate private or public agency,
24 under suitable arrangements made by the Secretary with
25 respect to receipt, storage, protection of confidentiality,

1 and dissemination of information) in such a form and
2 manner as the Secretary determines to be appropriate in
3 order to provide for activities of the Secretary under this
4 Act and in order to provide, directly or through suitable
5 arrangements made by the Secretary, information—

6 “(1) to agencies administering Federal health
7 care programs, including private entities administer-
8 ing such programs under contract;

9 “(2) to licensing authorities described in sub-
10 section (a)(1);

11 “(3) to State agencies administering or super-
12 vising the administration of State health care pro-
13 grams (as defined in section 1128(h));

14 “(4) to utilization and quality control peer re-
15 view organizations described in part B of title XI
16 and to appropriate entities with contracts under sec-
17 tion 1154(a)(4)(C) with respect to eligible organiza-
18 tions reviewed under the contracts;

19 “(5) to State medicaid fraud control units (as
20 defined in section 2134(b));

21 “(6) to hospitals and other health care entities
22 (as defined in section 431 of the Health Care Qual-
23 ity Improvement Act of 1986), with respect to physi-
24 cians or other licensed health care practitioners that
25 have entered (or may be entering) into an employ-

1 ment or affiliation relationship with, or have applied
2 for clinical privileges or appointments to the medical
3 staff of, such hospitals or other health care entities
4 (and such information shall be deemed to be dis-
5 closed pursuant to section 427 of, and be subject to
6 the provisions of, that Act);

7 “(7) to the Attorney General and such other
8 law enforcement officials as the Secretary deems ap-
9 propriate; and

10 “(8) upon request, to the Comptroller General,
11 in order for such authorities to determine the fitness
12 of individuals to provide health care services, to pro-
13 tect the health and safety of individuals receiving
14 health care through such programs, and to protect
15 the fiscal integrity of such programs.

16 “(c) CONFIDENTIALITY OF INFORMATION PRO-
17 VIDED.—The Secretary shall provide for suitable safe-
18 guards for the confidentiality of the information furnished
19 under subsection (a). Nothing in this subsection shall pre-
20 vent the disclosure of such information by a party which
21 is otherwise authorized, under applicable State law, to
22 make such disclosure.

23 “(d) APPROPRIATE COORDINATION.—The Secretary
24 shall provide for the maximum appropriate coordination
25 in the implementation of subsection (a) of this section and

1 section 422 of the Health Care Quality Improvement Act
2 of 1986 and section 1128E.

3 **“SEC. 2134. STATE MEDICAID FRAUD CONTROL UNITS.**

4 “(a) IN GENERAL.—Each medicaid plan shall provide
5 for a State medicaid fraud control unit that effectively car-
6 ries out the functions and requirements described in such
7 subsection, unless the State demonstrates to the satisfac-
8 tion of the Secretary that the effective operation of such
9 a unit in the State would not be cost-effective because
10 minimal fraud exists in connection with the provision of
11 covered services to eligible individuals under the plan, and
12 that beneficiaries under the plan will be protected from
13 abuse and neglect in connection with the provision of med-
14 ical assistance under the plan without the existence of
15 such a unit.

16 “(b) UNITS DESCRIBED.—For purposes of this sec-
17 tion, the term ‘State medicaid fraud control unit’ means
18 a single identifiable entity of the State government which
19 meets the following requirements:

20 “(1) ORGANIZATION.—The entity—

21 “(A) is a unit of the office of the State At-
22 torney General or of another department of
23 State government which possesses statewide au-
24 thority to prosecute individuals for criminal vio-
25 lations;

1 “(B) is in a State the constitution of which
2 does not provide for the criminal prosecution of
3 individuals by a statewide authority and has
4 formal procedures that—

5 “(i) assure its referral of suspected
6 criminal violations relating to the program
7 under this title to the appropriate author-
8 ity or authorities in the State for prosecu-
9 tion, and

10 “(ii) assure its assistance of, and co-
11 ordination with, such authority or authori-
12 ties in such prosecutions; or

13 “(C) has a formal working relationship
14 with the office of the State Attorney General
15 and has formal procedures (including proce-
16 dures for its referral of suspected criminal vio-
17 lations to such office) which provide effective
18 coordination of activities between the entity and
19 such office with respect to the detection, inves-
20 tigation, and prosecution of suspected criminal
21 violations relating to the program under this
22 title.

23 “(2) INDEPENDENCE.—The entity is separate
24 and distinct from any State agency that has prin-

1 cial responsibilities for administering or supervising
2 the administration of the medicaid plan.

3 “(3) FUNCTION.—The entity’s function is con-
4 ducting a statewide program for the investigation
5 and prosecution of violations of all applicable State
6 laws regarding any and all aspects of fraud in con-
7 nection with any aspect of the provision of medical
8 assistance and the activities of providers of such as-
9 sistance under the medicaid plan.

10 “(4) REVIEW OF COMPLAINTS.—The entity has
11 procedures for reviewing complaints of the abuse
12 and neglect of patients of health care facilities which
13 receive payments under the medicaid plan approved
14 under this title, and, where appropriate, for acting
15 upon such complaints under the criminal laws of the
16 State or for referring them to other State agencies
17 for action.

18 “(5) OVERPAYMENTS.—

19 “(A) IN GENERAL.—The entity provides
20 for the collection, or referral for collection to a
21 single State agency, of overpayments that are
22 made under the medicaid plan to health care
23 providers and that are discovered by the entity
24 in carrying out its activities.

1 “(2) to seek reimbursement for medical assist-
2 ance provided to the extent legal liability is estab-
3 lished if the amount expected to be recovered ex-
4 ceeds the costs of the recovery.

5 “(b) BENEFICIARY PROTECTION.—

6 “(1) IN GENERAL.—Each medicaid plan shall
7 provide that in the case of a person furnishing serv-
8 ices under the plan for which a third party may be
9 liable for payment—

10 “(A) the person may not seek to collect
11 from the individual (or financially responsible
12 relative) payment of an amount for the service
13 more than could be collected under the plan in
14 the absence of such third party liability; and

15 “(B) may not refuse to furnish services to
16 such an individual because of a third party’s
17 potential liability for payment for the service.

18 “(2) PENALTY.—A medicaid plan may provide
19 for a reduction of any payment amount otherwise
20 due with respect to a person who furnishes services
21 under the plan in an amount equal to up to 3 times
22 the amount of any payment sought to be collected by
23 that person in violation of paragraph (1)(A).

24 “(c) GENERAL LIABILITY.—The State shall prohibit
25 any health insurer, including a group health plan as de-

1 fined in section 607 of the Employee Retirement Income
2 Security Act of 1974, a service benefit plan, or a health
3 maintenance organization, in enrolling an individual or in
4 making any payments for benefits to the individual or on
5 the individual's behalf, from taking into account that the
6 individual is eligible for or is provided medical assistance
7 under a medicaid plan for any State.

8 “(d) ACQUISITION OF RIGHTS OF BENEFICIARIES.—
9 To the extent that payment has been made under a medic-
10 aid plan in any case where a third party has a legal liabil-
11 ity to make payment for such assistance, the State shall
12 have in effect laws under which, to the extent that pay-
13 ment has been made under the plan for health care items
14 or services furnished to an individual, the State is consid-
15 ered to have acquired the rights of such individual to pay-
16 ment by any other party for such health care items or
17 services.

18 “(e) ASSIGNMENT OF MEDICAL SUPPORT RIGHTS.—
19 The medicaid plan shall provide for mandatory assignment
20 of rights of payment for medical support and other medi-
21 cal care owed to recipients in accordance with section
22 2136.

23 “(f) REQUIRED LAWS RELATING TO MEDICAL CHILD
24 SUPPORT.—

1 “(1) IN GENERAL.— Each State with a medic-
2 aid plan shall have in effect the following laws:

3 “(A) A law that prohibits an insurer from
4 denying enrollment of a child under the health
5 coverage of the child’s parent on the ground
6 that—

7 “(i) the child was born out of wedlock;

8 “(ii) the child is not claimed as a de-
9 pendent on the parent’s Federal income
10 tax return; or

11 “(iii) the child does not reside with
12 the parent or in the insurer’s service area.

13 “(B) In any case in which a parent is re-
14 quired by a court or administrative order to
15 provide health coverage for a child and the par-
16 ent is eligible for family health coverage
17 through an insurer, a law that requires such in-
18 surer—

19 “(i) to permit such parent to enroll
20 under such family coverage any such child
21 who is otherwise eligible for such coverage
22 (without regard to any enrollment season
23 restrictions);

24 “(ii) if such a parent is enrolled but
25 fails to make application to obtain cov-

1 erage of such child, to enroll such child
2 under such family coverage upon applica-
3 tion by the child's other parent or by the
4 State agency administering the program
5 under this title or part D of title IV; and

6 “(iii) not to disenroll, or eliminate
7 coverage of, such a child unless the insurer
8 is provided satisfactory written evidence
9 that—

10 “(I) such court or administrative
11 order is no longer in effect, or

12 “(II) the child is or will be en-
13 rolled in comparable health coverage
14 through another insurer which will
15 take effect not later than the effective
16 date of such disenrollment.

17 “(C) In any case in which a parent is re-
18 quired by a court or administrative order to
19 provide health coverage for a child and the par-
20 ent is eligible for family health coverage
21 through an employer doing business in the
22 State, a law that requires such employer—

23 “(i) to permit such parent to enroll
24 under such family coverage any such child
25 who is otherwise eligible for such coverage

1 (without regard to any enrollment season
2 restrictions);

3 “(ii) if such a parent is enrolled but
4 fails to make application to obtain cov-
5 erage of such child, to enroll such child
6 under such family coverage upon applica-
7 tion by the child’s other parent or by the
8 State agency administering the program
9 under this title or part D of title IV; and

10 “(iii) not to disenroll, or eliminate
11 coverage of, any such child unless—

12 “(I) the employer is provided sat-
13 isfactory written evidence that such
14 court or administrative order is no
15 longer in effect, or the child is or will
16 be enrolled in comparable health cov-
17 erage which will take effect not later
18 than the effective date of such
19 disenrollment, or

20 “(II) the employer has eliminated
21 family health coverage for all of its
22 employees; and

23 “(iv) to withhold from such employ-
24 ee’s compensation the employee’s share (if
25 any) of premiums for health coverage (ex-

1 cept that the amount so withheld may not
2 exceed the maximum amount permitted to
3 be withheld under section 303(b) of the
4 Consumer Credit Protection Act), and to
5 pay such share of premiums to the insurer,
6 except that the Secretary may provide by
7 regulation for appropriate circumstances
8 under which an employer may withhold
9 less than such employee’s share of such
10 premiums.

11 “(D) A law that prohibits an insurer from
12 imposing requirements on a State agency,
13 which has been assigned the rights of an indi-
14 vidual eligible for medical assistance under a
15 medicaid plan approved under this title and
16 covered for health benefits from the insurer,
17 that are different from requirements applicable
18 to an agent or assignee of any other individual
19 so covered.

20 “(E) A law that requires an insurer, in
21 any case in which a child has health coverage
22 through the insurer of a noncustodial parent—

23 “(i) to provide such information to the
24 custodial parent as may be necessary for

1 the child to obtain benefits through such
2 coverage;

3 “(ii) to permit the custodial parent
4 (or provider, with the custodial parent’s
5 approval) to submit claims for covered
6 services without the approval of the
7 noncustodial parent; and

8 “(iii) to make payment on claims sub-
9 mitted in accordance with clause (ii) di-
10 rectly to such custodial parent, the pro-
11 vider, or the State agency.

12 “(F) A law that permits the State agency
13 under the medicaid plan approved under this
14 title to garnish the wages, salary, or other em-
15 ployment income of, and requires withholding
16 amounts from State tax refunds to, any person
17 who—

18 “(i) is required by court or adminis-
19 trative order to provide coverage of the
20 costs of health services to a child who is el-
21 igible for medical assistance under a med-
22 icaid plan approved under this title;

23 “(ii) has received payment from a
24 third party for the costs of such services to
25 such child; but

1 “(iii) has not used such payments to
2 reimburse, as appropriate, either the other
3 parent or guardian of such child or the
4 provider of such services,
5 to the extent necessary to reimburse the State
6 agency for expenditures for such costs under its
7 plan under this title, but any claims for current
8 or past-due child support shall take priority
9 over any such claims for the costs of such serv-
10 ices.

11 “(2) DEFINITION.—For purposes of this sub-
12 section, the term ‘insurer’ includes a group health
13 plan, as defined in section 607(1) of the Employee
14 Retirement Income Security Act of 1974, a health
15 maintenance organization, and an entity offering a
16 service benefit plan.

17 “(g) ESTATE RECOVERIES AND LIENS PER-
18 MITTED.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (2), a State may take such actions as it con-
21 siders appropriate to adjust or recover from the indi-
22 vidual or the individual’s estate any amounts paid as
23 medical assistance to or on behalf of the individual
24 under the medicaid plan, including through the im-

1 position of liens against the property or estate of the
2 individual.

3 “(2) NO LIEN ON HOMES OR FAMILY FARMS.—
4 For purposes of paragraph (1), a State may not im-
5 pose a lien on the principal residence (within the
6 meaning of section 1034 of the Internal Revenue
7 Code of 1986) of moderate value or the family farm
8 owned by the individual as a condition of the spouse
9 of the individual receiving nursing facility or other
10 long term care benefits under its medicaid plan.

11 **“SEC. 2136. ASSIGNMENT OF RIGHTS OF PAYMENT.**

12 “(a) IN GENERAL.—For the purpose of assisting in
13 the collection of medical support payments and other pay-
14 ments for medical care owed to recipients of medical as-
15 sistance under the medicaid plan, each medicaid plan
16 shall—

17 “(1) provide that, as a condition of eligibility
18 for medical assistance under the plan to an individ-
19 ual who has the legal capacity to execute an assign-
20 ment for himself, the individual is required—

21 “(A) to assign the State any rights, of the
22 individual or of any other person who is eligible
23 for medical assistance under the plan and on
24 whose behalf the individual has the legal au-
25 thority to execute an assignment of such rights,

1 to support (specified as support for the purpose
2 of medical care by a court or administrative
3 order) and to payment for medical care from
4 any third party,

5 “(B) to cooperate with the State (i) in es-
6 tablishing the paternity of such person (referred
7 to in subparagraph (A)) if the person is a child
8 born out of wedlock, and (ii) in obtaining sup-
9 port and payments (described in subparagraph
10 (A)) for himself and for such person, unless (in
11 either case) the individual is a pregnant woman
12 or the individual is found to have good cause
13 for refusing to cooperate as determined by the
14 State, and

15 “(C) to cooperate with the State in identi-
16 fying, and providing information to assist the
17 State in pursuing, any third party who may be
18 liable to pay for care and services available
19 under the plan, unless such individual has good
20 cause for refusing to cooperate as determined
21 by the State; and

22 “(2) provide for entering into cooperative ar-
23 rangements, including financial arrangements, with
24 any appropriate agency of any State (including, with
25 respect to the enforcement and collection of rights of

1 payment for medical care by or through a parent,
 2 with a State's agency established or designated
 3 under section 454(3)) and with appropriate courts
 4 and law enforcement officials, to assist the agency
 5 or agencies administering the plan with respect to—

6 “(A) the enforcement and collection of
 7 rights to support or payment assigned under
 8 this section, and

9 “(B) any other matters of common con-
 10 cern.

11 “(b) USE OF AMOUNTS COLLECTED.—Such part of
 12 any amount collected by the State under an assignment
 13 made under the provisions of this section shall be retained
 14 by the State as is necessary to reimburse it for medical
 15 assistance payments made on behalf of an individual with
 16 respect to whom such assignment was executed (with ap-
 17 propriate reimbursement of the Federal Government to
 18 the extent of its participation in the financing of such
 19 medical assistance), and the remainder of such amount
 20 collected shall be paid to such individual.

21 **“SEC. 2137. QUALITY ASSURANCE STANDARDS FOR NURS-**
 22 **ING FACILITIES.**

23 “(a) STANDARDS FOR AND CERTIFICATION OF CER-
 24 TAIN FACILITIES.—

25 “(1) STANDARDS FOR FACILITIES.—

1 “(A) IN GENERAL.—Each medicaid plan
2 shall provide for the establishment and mainte-
3 nance of procedures described in subparagraph
4 (B) and standards consistent with the contents
5 described in subparagraph (C) for nursing fa-
6 cilities which furnish services under the plan.

7 “(B) PROCEDURES DESCRIBED.—The pro-
8 cedures described in this subparagraph are—

9 “(i) procedures for the investigation
10 of—

11 “(I) complaints by residents of
12 nursing facilities, and

13 “(II) the abuse, neglect, and mis-
14 appropriation of property of such resi-
15 dents; and

16 “(ii) procedures governing the dis-
17 charge and transfer of residents sufficient
18 to protect the health and safety of such
19 residents, including the opportunity for a
20 fair hearing and appeal of such discharges
21 and transfers.

22 “(C) CONTENTS OF STANDARDS.—The
23 standards established for facilities under this
24 paragraph shall contain provisions relating to
25 the following items:

1 “(i) The treatment of resident medical
2 records.

3 “(ii) Policies, procedures, and bylaws
4 for operation.

5 “(iii) Quality assurance systems.

6 “(iv) Resident assessment procedures,
7 including care planning and outcome eval-
8 uation.

9 “(v) The assurance of a safe and ade-
10 quate physical plant for the facility.

11 “(vi) Qualifications for staff sufficient
12 to provide adequate care, as defined by the
13 State.

14 “(vii) Utilization review.

15 “(viii) The protection and enforce-
16 ment of resident rights described in sub-
17 paragraph (D).

18 “(D) RESIDENT RIGHTS DESCRIBED.—The
19 resident rights described in this subparagraph
20 are the rights of residents to the following:

21 “(i) To exercise the individual’s rights
22 as a resident of the facility and as a citizen
23 or resident of the United States.

24 “(ii) To receive notice of rights and
25 services.

1 “(iii) To be protected against the mis-
2 use of resident funds.

3 “(iv) To be provided privacy and con-
4 fidentiality, including the confidentiality of
5 medical records.

6 “(v) To voice grievances without dis-
7 crimination or reprisal.

8 “(vi) To examine the results of State
9 certification program inspections.

10 “(vii) To refuse to perform services
11 for the facility.

12 “(viii) To be provided privacy in com-
13 munications and to receive mail.

14 “(ix) To have the facility provide im-
15 mediate access to any resident by any rep-
16 resentative of the certification program,
17 the resident’s individual physician, the
18 State long term care ombudsman, and any
19 person the resident has designated as a
20 visitor.

21 “(x) To retain and use personal prop-
22 erty.

23 “(xi) To be free from abuse, including
24 verbal, sexual, physical and mental abuse,
25 corporal punishment, and involuntary se-

1 clusion, and from any physical or chemical
2 restraints imposed for purposes of dis-
3 cipline or convenience and not required to
4 treat the resident's medical symptoms. Re-
5 straints may only be imposed—

6 “(I) to ensure the physical safety
7 of the resident or other residents; and

8 “(II) only upon the written order
9 of a physician that specifies the dura-
10 tion and circumstances under which
11 the restraints are to be used, except in
12 emergency circumstances specified by
13 the Secretary until such an order
14 could reasonably be obtained.

15 “(xii) To reside and receive services
16 with reasonable accommodation of individ-
17 ual needs and preferences, except where
18 the health or safety of the individual or
19 other residents would be endangered.

20 “(xiii) To be provided with 30 days
21 prior written notice of a pending transfer
22 or discharge.

23 “(xiv) To request an assessment
24 under section 2117(c)(1)(B).

1 “(E) PROCESS FOR ESTABLISHMENT.—

2 The procedures and standards established by
3 the State for facilities under this paragraph
4 shall be promulgated either through the State’s
5 legislative, regulatory, or other process, and
6 may only take effect after the State has pro-
7 vided the public with notice and an opportunity
8 for comment.

9 “(2) CERTIFICATION PROGRAM.—

10 “(A) IN GENERAL.—Each medicaid plan
11 shall provide for the establishment and oper-
12 ation of a program consistent with the require-
13 ments of subparagraph (B) for the certification
14 of nursing facilities which follow the procedures
15 and meet the standards established under para-
16 graph (1) and the decertification of facilities
17 which fail to follow such procedures or to meet
18 such standards.

19 “(B) REQUIREMENTS FOR PROGRAM.—In
20 addition to any other requirements the State
21 may impose, in establishing and operating the
22 certification program under subparagraph (A),
23 the State shall ensure the following:

24 “(i) The State shall ensure public ac-
25 cess (as defined by the State) to the cer-

1 tification program’s evaluations of partici-
2 pating facilities, including compliance
3 records and enforcement actions and other
4 reports by the State regarding the owner-
5 ship, compliance histories, and services
6 provided by certified facilities.

7 “(ii) Not less often than every 4
8 years, the State shall audit its expendi-
9 tures under the program, through an en-
10 tity designated by the State which is not
11 affiliated with the program, as designated
12 by the State.

13 “(b) INTERMEDIATE SANCTION AUTHORITY.—

14 “(1) AUTHORITY.—In addition to any other au-
15 thority under State law, where a State determines
16 that a nursing facility which is certified for partici-
17 pation under the medicaid plan no longer substan-
18 tially meets the requirements for such a facility
19 under this title and further determines that the fa-
20 cility’s deficiencies—

21 “(A) immediately jeopardize the health and
22 safety of its residents, the State shall at least
23 provide for the termination of the facility’s cer-
24 tification for participation under the plan; or

1 “(B) do not immediately jeopardize the
2 health and safety of its residents, the State
3 may, in lieu of providing for terminating the fa-
4 cility’s certification for participation under the
5 plan, provide lesser sanctions including one that
6 provides that no payment will be made under
7 the plan with respect to any individual admitted
8 to such facility after a date specified by the
9 State.

10 “(2) NOTICE AND OPPORTUNITY FOR HEAR-
11 ING.—The State shall not make such a decision with
12 respect to a facility until the facility has had a rea-
13 sonable opportunity, following the initial determina-
14 tion that it no longer substantially meets the re-
15 quirements for such a facility under the plan, to cor-
16 rect its deficiencies, and, following this period, has
17 been given reasonable notice and opportunity for a
18 hearing.

19 “(3) EFFECTIVENESS.—The State’s decision to
20 deny payment may be made effective only after such
21 notice to the public and to the facility as may be
22 provided for by the State, and its effectiveness shall
23 terminate at the earlier of—

24 “(A) when the State finds that the facility
25 is in substantial compliance (or is making good

1 faith efforts to achieve substantial compliance)
2 with the requirements for such a facility under
3 this title; or

4 “(B) in the case described in paragraph
5 (1)(B), with the end of the eleventh month fol-
6 lowing the month such decision is made effec-
7 tive.

8 If a facility to which subparagraph (B) applies still
9 fails to substantially meet the provisions of the re-
10 spective section on the date specified in such clause,
11 the State shall terminate such facility’s certification
12 for participation under the medicaid plan effective
13 with the first day of the first month following the
14 month specified in such clause.

15 “(4) NOTICE TO OMBUDSMAN.—The State shall
16 provide notice of any findings of noncompliance by
17 a facility and notice of any adverse action taken
18 against the facility to the State long-term care om-
19 budsman.

20 **“SEC. 2138. OTHER PROVISIONS PROMOTING PROGRAM IN-**
21 **TEGRITY.**

22 “(a) PUBLIC ACCESS TO SURVEY RESULTS.—Each
23 medicaid plan shall provide that upon completion of a sur-
24 vey of any health care facility or organization by a State
25 agency to carry out the plan, the agency shall make public

1 in readily available form and place the pertinent findings
 2 of the survey relating to the compliance of the facility or
 3 organization with requirements of law.

4 “(b) RECORD KEEPING.—Each medicaid plan shall
 5 provide for agreements with persons or institutions provid-
 6 ing services under the plan under which the person or in-
 7 stitution agrees—

8 “(1) to keep such records, including ledgers,
 9 books, and original evidence of costs, as are nec-
 10 essary to fully disclose the extent of the services pro-
 11 vided to individuals receiving assistance under the
 12 plan; and

13 “(2) to furnish the State agency with such in-
 14 formation regarding any payments claimed by such
 15 person or institution for providing services under the
 16 plan, as the State agency may from time to time re-
 17 quest.

18 “PART E—ESTABLISHMENT AND AMENDMENT OF

19 MEDICAID PLANS

20 “**SEC. 2151. SUBMITTAL AND APPROVAL OF MEDICAID**
 21 **PLANS.**

22 “(a) SUBMITTAL.—As a condition of receiving fund-
 23 ing under part C, each State shall submit to the Secretary
 24 a medicaid plan that meets the applicable requirements
 25 of this title.

1 “(b) APPROVAL.—Except as the Secretary may pro-
2 vide under section 2153, a medicaid plan submitted under
3 subsection (a)—

4 “(1) shall be approved for purposes of this title;
5 and

6 “(2) shall be effective beginning with a calendar
7 quarter that is specified in the plan, but in no case
8 earlier than the first calendar quarter that begins at
9 least 60 days after the date the plan is submitted.

10 **“SEC. 2152. SUBMITTAL AND APPROVAL OF PLAN AMEND-**
11 **MENTS.**

12 “(a) SUBMITTAL OF AMENDMENTS.—A State may
13 amend, in whole or in part, its medicaid plan at any time
14 through transmittal of a plan amendment under this sec-
15 tion.

16 “(b) APPROVAL.—Except as the Secretary may pro-
17 vide under section 2153, an amendment to a medicaid
18 plan submitted under subsection (a)—

19 “(1) shall be approved for purposes of this title;
20 and

21 “(2) shall be effective as provided in subsection
22 (c).

23 “(c) EFFECTIVE DATES FOR AMENDMENTS.—

24 “(1) IN GENERAL.—Subject to the succeeding
25 provisions of this subsection, an amendment to med-

1 icaid plan shall take effect on one or more effective
2 dates specified in the amendment.

3 “(2) AMENDMENTS RELATING TO ELIGIBILITY
4 OR BENEFITS.—Except as provided in paragraph
5 (4):

6 “(A) NOTICE REQUIREMENT.—Any plan
7 amendment that eliminates or restricts eligi-
8 bility or benefits under the plan may not take
9 effect unless the State certifies that it has pro-
10 vided prior or contemporaneous public notice of
11 the change, in a form and manner provided
12 under applicable State law.

13 “(B) TIMELY TRANSMITTAL.—Any plan
14 amendment that eliminates or restricts eligi-
15 bility or benefits under the plan shall not be ef-
16 fective for longer than a 60-day period unless
17 the amendment has been transmitted to the
18 Secretary before the end of such period.

19 “(3) OTHER AMENDMENTS.—Subject to para-
20 graph (4), any plan amendment that is not described
21 in paragraph (2) that becomes effective in a State
22 fiscal year may not remain in effect after the end of
23 such fiscal year (or, if later, the end of the 90-day
24 period on which it becomes effective) unless the
25 amendment has been transmitted to the Secretary.

1 “(4) EXCEPTION.—The requirements of para-
2 graphs (2) and (3) shall not apply to a plan amend-
3 ment that is submitted on a timely basis pursuant
4 to a court order or an order of the Secretary.

5 **“SEC. 2153. SANCTIONS FOR SUBSTANTIAL NONCOMPLI-**
6 **ANCE.**

7 “(a) PROMPT REVIEW OF PLAN SUBMITTALS.—The
8 Secretary shall promptly review medicaid plans and plan
9 amendments submitted under this part to determine if
10 they substantially comply with the requirements of this
11 title.

12 “(b) DETERMINATIONS OF SUBSTANTIAL NON-
13 COMPLIANCE.—

14 “(1) AT TIME OF PLAN OR AMENDMENT SUB-
15 MITTAL.—

16 “(A) IN GENERAL.—If the Secretary, dur-
17 ing the 30-day period beginning on the date of
18 submittal of a medicaid plan or plan amend-
19 ment—

20 “(i) determines that the plan or
21 amendment substantially violates (within
22 the meaning of subsection (c)) a require-
23 ment of this title; and

24 “(ii) provides written notice of such
25 determination to the State,

1 the Secretary shall issue an order specifying
2 that the plan or amendment, insofar as it is in
3 substantial violation of such a requirement,
4 shall not be effective, except as provided in sub-
5 section (c), beginning at the end of a period of
6 not less than 30 days (or 120 days in the case
7 of the initial submission of the medicaid plan)
8 specified in the order beginning on the date of
9 the notice of the determination.

10 “(B) EXTENSION OF TIME PERIODS.—The
11 time periods specified in subparagraph (A) may
12 be extended by written agreement of the Sec-
13 retary and the State involved.

14 “(2) VIOLATIONS IN ADMINISTRATION OF
15 PLAN.—

16 “(A) IN GENERAL.—If the Secretary deter-
17 mines, after reasonable notice and opportunity
18 for a hearing for the State, that in the adminis-
19 tration of a medicaid plan there is a substantial
20 violation of a requirement of this title, the Sec-
21 retary shall provide the State with written no-
22 tice of the determination and with an order to
23 remedy such violation. Such an order shall be-
24 come effective prospectively, as specified in the
25 order, after the date of receipt of such written

1 notice. Such an order may include the withhold-
2 ing of funds, consistent with subsection (f), for
3 parts of the medicaid plan affected by such vio-
4 lation, until the Secretary is satisfied that the
5 violation has been corrected.

6 “(B) EFFECTIVENESS.—If the Secretary
7 issues an order under paragraph (1), the order
8 shall become effective, except as provided in
9 subsection (c), beginning at the end of a period
10 (of not less than 30 days) specified in the order
11 beginning on the date of the notice of the deter-
12 mination to the State.

13 “(C) TIMELINESS OF DETERMINATIONS
14 RELATING TO REPORT-BASED COMPLIANCE.—
15 The Secretary shall make determinations under
16 this paragraph respecting violations relating to
17 information contained in an annual report
18 under section 2102, an independent evaluation
19 under section 2103, or an audit report under
20 section 2131 not later than 30 days after the
21 date of transmittal of the report or evaluation
22 to the Secretary.

23 “(3) CONSULTATION WITH STATE.—Before
24 making a determination adverse to a State under

1 this section, the Secretary shall (within any time pe-
2 riods provided under this section)—

3 “(A) reasonably consult with the State in-
4 volved;

5 “(B) offer the State a reasonable oppor-
6 tunity to clarify the submission and submit fur-
7 ther information to substantiate compliance
8 with the requirements of this title; and

9 “(C) reasonably consider any such clari-
10 fications and information submitted.

11 “(4) JUSTIFICATION OF ANY INCONSISTENCIES
12 IN DETERMINATIONS.—If the Secretary makes a de-
13 termination under this section that is, in whole or in
14 part, inconsistent with any previous determination
15 issued by the Secretary under this title, the Sec-
16 retary shall include in the determination a detailed
17 explanation and justification for any such difference.

18 “(5) SUBSTANTIAL VIOLATION DEFINED.—For
19 purposes of this title, a medicaid plan (or amend-
20 ment to such a plan) or the administration of the
21 medicaid plan is considered to ‘substantially violate’
22 a requirement of this title if a provision of the plan
23 or amendment (or an omission from the plan or
24 amendment) or the administration of the plan—

1 “(A) is material and substantial in nature
2 and effect; and

3 “(B) is inconsistent with an express re-
4 quirement of this title.

5 A failure to meet a strategic objective or perform-
6 ance goal (as described in section 2101) shall not be
7 considered to substantially violate a requirement of
8 this title.

9 “(c) STATE RESPONSE TO ORDERS.—

10 “(1) STATE RESPONSE BY REVISING PLAN.—

11 “(A) IN GENERAL.—Insofar as an order
12 under subsection (b)(1) relates to a substantial
13 violation by a medicaid plan or plan amend-
14 ment, a State may respond (before the date the
15 order becomes effective) to such an order by
16 submitting a written revision of the plan or
17 plan amendment to substantially comply with
18 the requirements of this part.

19 “(B) REVIEW OF REVISION.—In the case
20 of submission of such a revision, the Secretary
21 shall promptly review the submission and shall
22 withhold any action on the order during the pe-
23 riod of such review.

24 “(C) SECRETARIAL RESPONSE.—The revi-
25 sion shall be considered to have corrected the

1 deficiency (and the order rescinded insofar as it
2 relates to such deficiency) unless the Secretary
3 determines and notifies the State in writing,
4 within 15 days after the date the Secretary re-
5 ceives the revision, that the plan or amendment,
6 as proposed to be revised, still substantially vio-
7 lates a requirement of this title. In such case
8 the State may respond by seeking reconsider-
9 ation or a hearing under paragraph (2).

10 “(D) REVISION RETROACTIVE.—If the re-
11 vision provides for substantial compliance, the
12 revision may be treated, at the option of the
13 State, as being effective either as of the effec-
14 tive date of the provision to which it relates or
15 such later date as the State and Secretary may
16 agree.

17 “(2) STATE RESPONSE BY SEEKING RECONSID-
18 ERATION OR AN ADMINISTRATIVE HEARING.—A
19 State may respond to an order under subsection (b)
20 by filing a request with the Secretary for—

21 “(A) a reconsideration of the determina-
22 tion, pursuant to subsection (d)(1); or

23 “(B) a review of the determination through
24 an administrative hearing, pursuant to sub-
25 section (d)(2).

1 In such case, the order shall not take effect before
2 the completion of the reconsideration or hearing.

3 “(3) STATE RESPONSE BY CORRECTIVE ACTION
4 PLAN.—

5 “(A) IN GENERAL.—In the case of an
6 order described in subsection (b)(2) that relates
7 to a substantial violation in the administration
8 of the medicaid plan, a State may respond to
9 such an order by submitting a corrective action
10 plan with the Secretary to correct deficiencies
11 in the administration of the plan which are the
12 subject of the order.

13 “(B) REVIEW OF CORRECTIVE ACTION
14 PLAN.—In such case, the Secretary shall with-
15 hold any action on the order for a period (not
16 to exceed 30 days) during which the Secretary
17 reviews the corrective action plan.

18 “(C) SECRETARIAL RESPONSE.—The cor-
19 rective action plan shall be considered to have
20 corrected the deficiency (and the order re-
21 scinded insofar as it relates to such deficiency)
22 unless the Secretary determines and notifies the
23 State in writing, within 15 days after the date
24 the Secretary receives the corrective action
25 plan, that the State’s administration of the

1 medicaid plan, as proposed to be corrected in
2 the plan, will still substantially violate a re-
3 quirement of this title. In such case the State
4 may respond by seeking reconsideration or a
5 hearing under paragraph (2).

6 “(4) STATE RESPONSE BY WITHDRAWAL OF
7 PLAN AMENDMENT; FAILURE TO RESPOND.—Insofar
8 as an order relates to a substantial violation in a
9 plan amendment submitted, a State may respond to
10 such an order by withdrawing the plan amendment
11 and the medicaid plan shall be treated as though the
12 amendment had not been made.

13 “(d) ADMINISTRATIVE REVIEW AND HEARING.—

14 “(1) RECONSIDERATION.—Within 30 days after
15 the date of receipt of a request under subsection
16 (b)(2)(A), the Secretary shall notify the State of the
17 time and place at which a hearing will be held for
18 the purpose of reconsidering the Secretary’s deter-
19 mination. The hearing shall be held not less than 20
20 days nor more than 60 days after the date notice of
21 the hearing is furnished to the State, unless the Sec-
22 retary and the State agree in writing to holding the
23 hearing at another time. The Secretary shall affirm,
24 modify, or reverse the original determination within
25 60 days of the conclusion of the hearing.

1 “(2) ADMINISTRATIVE HEARING.—Within 30
2 days after the date of receipt of a request under
3 subsection (b)(2)(B), an administrative law judge
4 shall schedule a hearing for the purpose of reviewing
5 the Secretary’s determination. The hearing shall be
6 held not less than 20 days nor more than 60 days
7 after the date notice of the hearing is furnished to
8 the State, unless the Secretary and the State agree
9 in writing to holding the hearing at another time.
10 The administrative law judge shall affirm, modify, or
11 reverse the determination within 60 days of the con-
12 clusion of the hearing.

13 “(e) JUDICIAL REVIEW.—

14 “(1) IN GENERAL.—A State which is dissatis-
15 fied with a final determination made by the Sec-
16 retary under subsection (d)(1) or a final determina-
17 tion of an administrative law judge under subsection
18 (d)(2) may, within 60 days after it has been notified
19 of such determination, file with the United States
20 court of appeals for the circuit in which the State
21 is located a petition for review of such determina-
22 tion. A copy of the petition shall be forthwith trans-
23 mitted by the clerk of the court to the Secretary
24 and, in the case of a determination under subsection
25 (d)(2), to the administrative law judge involved. The

1 Secretary (or judge involved) thereupon shall file in
2 the court the record of the proceedings on which the
3 final determination was based, as provided in section
4 2112 of title 28, United States Code.

5 “(2) STANDARD FOR REVIEW.—The findings of
6 fact by the Secretary or administrative law judge, if
7 supported by substantial evidence, shall be conclu-
8 sive, but the court, for good cause shown, may re-
9 mand the case to the Secretary or judge to take fur-
10 ther evidence, and the Secretary or judge may there-
11 upon make new or modified findings of fact and may
12 modify a previous determination, and shall certify to
13 the court the transcript and record of the further
14 proceedings. Such new or modified findings of fact
15 shall likewise be conclusive if supported by substan-
16 tial evidence.

17 “(3) JURISDICTION OF APPELLATE COURT.—
18 The court shall have jurisdiction to affirm the action
19 of the Secretary or judge or to set it aside, in whole
20 or in part. The judgment of the court shall be sub-
21 ject to review by the Supreme Court of the United
22 States upon certiorari or certification as provided in
23 section 1254 of title 28, United States Code.

24 “(f) WITHHOLDING OF FUNDS.—

1 “(1) IN GENERAL.—Any order under this sec-
2 tion relating to the withholding of funds shall be ef-
3 fective not earlier than the effective date of the
4 order and shall only relate to the portions of a med-
5 icaid plan or administration thereof which substan-
6 tially violate a requirement of this title. In the case
7 of a failure to meet a set-aside requirement under
8 section 2112, any withholding shall only apply to the
9 extent of such failure.

10 “(2) SUSPENSION OF WITHHOLDING.—The Sec-
11 retary may suspend withholding of funds under
12 paragraph (1) during the period reconsideration or
13 administrative and judicial review is pending under
14 subsection (d) or (e).

15 “(3) RESTORATION OF FUNDS.—Any funds
16 withheld under this subsection under an order shall
17 be immediately restored to a State—

18 “(A) to the extent and at the time the
19 order is—

20 “(i) modified or withdrawn by the
21 Secretary upon reconsideration,

22 “(ii) modified or reversed by an ad-
23 ministrative law judge, or

24 “(iii) set aside (in whole or in part) by
25 an appellate court; or

1 “(B) when the Secretary determines that
2 the deficiency which was the basis for the order
3 is corrected;

4 “(C) when the Secretary determines that
5 violation which was the basis for the order is
6 resolved or the amendment which was the basis
7 for the order is withdrawn; or

8 “(D) at any time upon the initiative of the
9 Secretary.

10 **“SEC. 2154. SECRETARIAL AUTHORITY.**

11 “(a) NEGOTIATED AGREEMENT AND DISPUTE RESO-
12 LUTION.—

13 “(1) NEGOTIATIONS.—Nothing in this part
14 shall be construed as preventing the Secretary and
15 a State from at any time negotiating a satisfactory
16 resolution to any dispute concerning the approval of
17 a medicaid plan (or amendments to a medicaid plan)
18 or the compliance of a medicaid plan (including its
19 administration) with requirements of this title.

20 “(2) COOPERATION.—The Secretary shall act in
21 a cooperative manner with the States in carrying out
22 this title. In the event of a dispute between a State
23 and the Secretary, the Secretary shall, whenever
24 practicable, engage in informal dispute resolution ac-

1 tivities in lieu of formal enforcement or sanctions
2 under section 2153.

3 “(b) LIMITATIONS ON DELEGATION OF DECISION-
4 MAKING AUTHORITY.—The Secretary may not delegate
5 (other than to the Administrator of the Health Care Fi-
6 nancing Administration) the authority to make determina-
7 tions or reconsiderations respecting the approval of medic-
8 aid plans (or amendments to such plans) or the compli-
9 ance of a medicaid plan (including its administration) with
10 requirements of this title. Such Administrator may not
11 further delegate such authority to any individual, includ-
12 ing any regional official of such Administration.

13 “(c) REQUIRING FORMAL RULEMAKING FOR
14 CHANGES IN SECRETARIAL ADMINISTRATION.—The Sec-
15 retary shall carry out the administration of the program
16 under this title only through a prospective formal rule-
17 making process, including issuing notices of proposed rule
18 making, publishing proposed rules or modifications to
19 rules in the Federal Register, and soliciting public com-
20 ment.

21 “PART F—GENERAL PROVISIONS

22 “**SEC. 2171. DEFINITIONS.**

23 “(a) MEDICAL ASSISTANCE.—

24 “(1) IN GENERAL.—For purposes of this title,
25 except as provided in paragraphs (2) and (3), the

1 term ‘medical assistance’ means payment of part or
2 all the cost of any of the following for eligible low-
3 income individuals (as defined in subsection (b)) as
4 specified under the medicaid plan:

5 “(A) Inpatient hospital services.

6 “(B) Outpatient hospital services.

7 “(C) Physician services.

8 “(D) Surgical services.

9 “(E) Clinic services and other ambulatory
10 health care services.

11 “(F) Nursing facility services.

12 “(G) Intermediate care facility services for
13 the mentally retarded.

14 “(H) Prescription drugs and biologicals.

15 “(I) Over-the-counter medications.

16 “(J) Laboratory and radiological services.

17 “(K) Family planning services and sup-
18 plies.

19 “(L) Acute inpatient mental health serv-
20 ices, including services furnished in a State-op-
21 erated mental hospital and including residential
22 or other 24-hour therapeutically planned struc-
23 tured services in the case of a child.

24 “(M) Outpatient and intensive community-
25 based mental health services, including psychia-

1 trist rehabilitation, day treatment, intensive in-
2 home services for children, and partial hos-
3 pitalization.

4 “(N) Durable medical equipment and other
5 medically-related or remedial devices (such as
6 prosthetic devices, implants, eyeglasses, hearing
7 aids, dental devices, and adaptive devices).

8 “(O) Disposable medical supplies.

9 “(P) Home and community-based services
10 and related supportive services (such as home
11 health nursing services, home health aide serv-
12 ices, personal care, assistance with activities of
13 daily living, chore services, day care services,
14 respite care services, training for family mem-
15 bers, and minor modifications to the home).

16 “(Q) Community supported living arrange-
17 ments.

18 “(R) Nursing care services (such as nurse
19 practitioner services, nurse midwife services, ad-
20 vanced practice nurse services, private duty
21 nursing care, pediatric nurse services, and res-
22 piratory care services) in a home, school, or
23 other setting.

24 “(S) Dental services.

1 “(T) Inpatient substance abuse treatment
2 services and residential substance abuse treat-
3 ment services.

4 “(U) Outpatient substance abuse treat-
5 ment services.

6 “(V) Case management services.

7 “(W) Care coordination services.

8 “(X) Physical therapy, occupational ther-
9 apy, and services for individuals with speech,
10 hearing, and language disorders.

11 “(Y) Hospice care.

12 “(Z) Any other medical, diagnostic, screen-
13 ing, preventive, restorative, remedial, thera-
14 peutic, or rehabilitative services (whether in a
15 facility, home, school, or other setting) if recog-
16 nized by State law and if the service is—

17 “(i) prescribed by or furnished by a
18 physician or other licensed or registered
19 practitioner within the scope of practice as
20 defined by State law,

21 “(ii) performed under the general su-
22 pervision or at the direction of a physician,
23 or

24 “(iii) furnished by a health care facil-
25 ity that is operated by a State or local gov-

1 ernment or is licensed under State law and
2 operating within the scope of the license.

3 “(AA) Premiums for private health care
4 insurance coverage, including private long-term
5 care insurance coverage.

6 “(BB) Medical transportation.

7 “(CC) Medicare cost-sharing (as defined in
8 subsection (c)).

9 “(DD) Enabling services (such as trans-
10 portation, translation, and outreach services)
11 designed to increase the accessibility of primary
12 and preventive health care services for eligible
13 low-income individuals.

14 “(EE) Any other health care services or
15 items specified by the Secretary.

16 “(2) EXCLUSION OF CERTAIN PAYMENTS.—
17 Such term does not include the payment with re-
18 spect to care or services for—

19 “(A) any individual who is an inmate of a
20 public institution (except as a patient in a State
21 psychiatric hospital); and

22 “(B) any individual who is not an eligible
23 low-income individual.

24 “(3) CLARIFICATION OF VACCINE PUR-
25 CHASES.—Such term includes, for any fiscal year,

1 payment for the purchase of vaccines through con-
2 tracts negotiated with the Centers for Disease Con-
3 trol and Prevention under section 317 of the Public
4 Health Service Act, but only if—

5 “(A) the State has expended all grant
6 funds available for such purchase under such
7 section 317 for all fiscal years preceding such
8 fiscal year; and

9 “(B) the total number of doses of each
10 vaccine purchased during such year does not ex-
11 ceed—

12 “(i) the number of doses of each vac-
13 cine sufficient to immunize, according to
14 the immunization schedule specified by the
15 State, the annual birth cohort of children
16 in targeted low-income families (as defined
17 in section 2112(a)(3)), less

18 “(ii) 75 percent of the number of
19 doses of each vaccine purchased by the
20 State during the preceding fiscal year with
21 funds available under such section 317.

22 “(b) ELIGIBLE LOW-INCOME INDIVIDUAL.—For pur-
23 poses of this title, the term ‘eligible low-income individual’
24 means an individual who has been determined eligible by
25 the State for medical assistance under the medicaid plan

1 and whose family income (as determined under the plan)
2 does not exceed a percentage (specified in the medicaid
3 plan and not to exceed 250 percent) of the poverty line
4 applicable to a family of the size involved. In determining
5 the amount of income under the previous sentence, a State
6 may exclude costs incurred for medical care or other types
7 of remedial care recognized by the State.

8 “(c) MEDICARE COST-SHARING.—For purposes of
9 this title, the term ‘medicare cost-sharing’ means any of
10 the following:

11 “(1)(A) Premiums under section 1839.

12 “(B) Premiums under section 1818 or 1818A.

13 “(2) Coinsurance under title XVIII, including
14 coinsurance described in section 1813.

15 “(3) Deductibles established under title XVIII,
16 including those described in section 1813 and sec-
17 tion 1833(b).

18 “(4) The difference between the amount that is
19 paid under section 1833(a) and the amount that
20 would be paid under such section if any reference to
21 ‘80 percent’ therein were deemed a reference to ‘100
22 percent’.

23 “(5) Premiums for enrollment of an individual
24 with an eligible organization under section 1876 or

1 with a Medicare Choice organization under part D
2 of title XVIII.

3 “(d) ADDITIONAL DEFINITIONS.—For purposes of
4 this title:

5 “(1) CHILD.—The term ‘child’ means an indi-
6 vidual under 19 years of age.

7 “(2) POVERTY LINE DEFINED.—The term ‘pov-
8 erty line’ has the meaning given such term in section
9 673(2) of the Community Services Block Grant Act
10 (42 U.S.C. 9902(2)), including any revision required
11 by such section).

12 “(3) PREGNANT WOMAN.—The term ‘pregnant
13 woman’ includes a woman during the 60-day period
14 beginning on the last day of the pregnancy.

15 “(4) RETIREMENT AGE.—The term ‘retirement
16 age’ has the meaning given such term by section
17 216(l)(1).

18 **“SEC. 2172. TREATMENT OF TERRITORIES.**

19 “Notwithstanding any other requirement of this title,
20 the Secretary may waive or modify any requirement of this
21 title with respect to the medical assistance program for
22 a State other than the 50 States and the District of Co-
23 lumbia, other than a waiver of—

24 “(1) the Federal medical assistance percentage;

1 “(2) the limitation on total payments in a fiscal
2 year to the amount of the allotment under section
3 2121(c); or

4 “(3) the requirement that payment may be
5 made for medical assistance only with respect to
6 amounts expended by the State for care and services
7 described in paragraph (1) of section 2171(a) and
8 medically-related services (as defined in section
9 2112(d)(2)).

10 **“SEC. 2173. DESCRIPTION OF TREATMENT OF INDIAN**
11 **HEALTH PROGRAMS.**

12 “In the case of a State in which one or more Indian
13 health programs described in section 2122(f)(2) are oper-
14 ated, the medicaid plan shall include a description of—

15 “(1) what provision (if any) has been made for
16 payment for items and services furnished by such
17 programs; and

18 “(2) the manner in which medical assistance for
19 low-income eligible individuals who are Indians will
20 be provided, as determined by the State in consulta-
21 tion with the appropriate Indian tribes and tribal or-
22 ganizations.

1 **“SEC. 2174. APPLICATION OF CERTAIN GENERAL PROVI-**
 2 **SIONS.**

3 “The following sections in part A of title XI shall
 4 apply to States under this title in the same manner as
 5 they applied to a State under title XIX:

6 “(1) Section 1101(a)(1) (relating to definition
 7 of State).

8 “(2) Section 1116 (relating to administrative
 9 and judicial review), but only insofar as consistent
 10 with the provisions of part C.

11 “(3) Section 1124 (relating to disclosure of
 12 ownership and related information).

13 “(4) Section 1126 (relating to disclosure of in-
 14 formation about certain convicted individuals).

15 “(5) Section 1132 (relating to periods within
 16 which claims must be filed).”

17 (b) ANTI-FRAUD PROVISIONS.—

18 (1) IN GENERAL.—Section 1128(h)(1) (42
 19 U.S.C. 1320a–7(h)(1)) is amended by inserting “or
 20 a medicaid plan under title XXI” after “title XIX”.

21 (2) PENALTIES FOR THE FRAUDULENT CON-
 22 VERSION OF ASSETS IN ORDER TO OBTAIN MEDICAID
 23 BENEFITS.—Section 1128B(b) (42 U.S.C. 1320a–
 24 7b(b)) is amended by striking “or” at the end of
 25 paragraph (4), by inserting “or” at the end of para-

1 graph (5), and by inserting after paragraph (5) the
2 following new paragraph:

3 “(6) knowingly and willfully converts assets, by
4 transfer (including any transfer in trust), aiding in
5 such a transfer, or otherwise, in order for an individ-
6 ual to become eligible for benefits under a State
7 health care program,”.

8 (3) CONTINUED ROLE OF INSPECTOR GEN-
9 ERAL.—The Inspector General in the Department of
10 Health and Human Services shall have the same re-
11 sponsibilities and duties in relation to fraud and
12 abuse and related matters under the medicaid pro-
13 gram under title XXI of the Social Security Act as
14 such Inspector General has had in relation to the
15 medicaid program under title XIX of such Act be-
16 fore the date of the enactment of this Act.

17 (c) CERTIFIED AMOUNT FOR PUERTO RICO.—Para-
18 graph (1) of section 1108(c) (42 U.S.C. 1308(c)) is
19 amended by striking “\$116,500,000 for fiscal year 1994”
20 and inserting “\$200,000,000 for fiscal year 1996”.

21 (d) TERMINATION OF PROGRAM FOR DISTRIBUTION
22 OF PEDIATRIC VACCINES

23 (1) IN GENERAL.—Subject to paragraph (2),
24 section 1928 (42 U.S.C. 1396s) is repealed, effective
25 on the date of the enactment of this Act.

1 (2) TRANSITION.—

2 (A) NO EFFECT ON CERTAIN DISTRIBUTIONS.—Such repeal shall not affect the dis-
3 tribution of vaccines purchased and delivered to
4 the States before the date of the enactment of
5 this Act.

6 (B) NO PURCHASES AFTER ENACTMENT.—
7 No vaccine may be purchased after the date of
8 the enactment of this Act by the Federal Gov-
9 ernment or any State under section 1928(d) of
10 the Social Security Act.

11 (e) TERMINATION OF CURRENT PROGRAM; LIMITA-
12 TION ON MEDICAID PAYMENTS IN FISCAL YEAR 1996.—

13 (1) IN GENERAL.—Title XIX is amended—

14 (A) by redesignating section 1931 as sec-
15 tion 1932; and

16 (B) by inserting after section 1930 the fol-
17 lowing new section:

18 “TERMINATION OF PROGRAM; LIMITATION ON NEW
19 OBLIGATION AUTHORITY

20 “SEC. 1931. (a) ELIMINATION OF INDIVIDUAL ENTI-
21 TLEMENT.—Effective on the date of the enactment of this
22 section—

23 “(1) except as provided in subsection (b), the
24 Federal Government has no obligation to provide
25

1 payment with respect to items and services provided
2 under this title; and

3 “(2) this title shall not be construed as provid-
4 ing for an entitlement, under Federal law in relation
5 to the Federal Government, in an individual or per-
6 son (including any provider) at the time of provision
7 or receipt of services.

8 “(b) LIMITATION ON OBLIGATION AUTHORITY.—
9 Notwithstanding any other provision of this title—

10 “(1) AFTER ENACTMENT, BEFORE NEW MEDIC-
11 AID.—Subject to paragraph (2), the Secretary is au-
12 thorized to enter into obligations with any State
13 under this title for expenses incurred after the date
14 of the enactment of this section and during fiscal
15 year 1996, but not in excess of the obligation allot-
16 ment for that State for fiscal year 1996 under sec-
17 tion 2121(a)(4)(C).

18 “(2) NONE AFTER NEW MEDICAID.—The Sec-
19 retary is not authorized to enter into any obligation
20 with any State under this title for expenses incurred
21 on or after the earlier of—

22 “(A) October 1, 1996; or

23 “(B) the first day of the first quarter on
24 which the State plan under title XXI is first ef-
25 fective.

1 “(3) AGREEMENT.—A State’s submission of
2 claims for payment under section 1903 after the
3 date of the enactment of this section with respect to
4 which the limitation described in paragraph (1) ap-
5 plies is deemed to constitute the State’s acceptance
6 of the obligation limitation under such paragraph,
7 including the formula for computing the amount of
8 such obligation limitation.

9 “(c) REQUIREMENT FOR TIMELY SUBMITTAL OF
10 CLAIMS.—No payment shall be made to a State under this
11 title with respect to an obligation incurred before the date
12 of the enactment of this section, unless the State has sub-
13 mitted to the Secretary, by not later than June 30, 1996,
14 a claim for Federal financial participation for expenses
15 paid by the State with respect to such obligations. Nothing
16 in subsection (a) or (b) shall be construed as affecting the
17 obligation of the Federal Government to pay claims de-
18 scribed in the previous sentence.”.

19 (2) REPEAL OF TITLE.—Title XIX is repealed
20 effective October 1, 1996.

21 (f) MEDICAID TRANSITION.—

22 (1) TREATMENT OF CERTAIN CAUSES OF AC-
23 TION.—No cause of action under title XIX of the
24 Social Security Act which seeks to require a State
25 to establish or maintain minimum payment rates

1 under such title or claim which seeks reimbursement
2 for any period before the date of the enactment of
3 this Act based on the alleged failure of the State to
4 comply with title XIX and which has not become
5 final as of such date shall be brought or continued.

6 (2) TREATMENT OF CERTAIN DISALLOW-
7 ANCES.—Notwithstanding any provision of law, in
8 the case where payment has been made under sec-
9 tion 1903(a) of the Social Security Act to a State
10 before October 1, 1995, and for which a disallow-
11 ance has not been taken as of such date (or, if so
12 taken, has not been completed (including judicial re-
13 view) by such date), the Secretary of Health and
14 Human Services shall discontinue the disallowance
15 proceeding and, if such disallowance has been taken
16 as of the date of the enactment of this Act, any pay-
17 ment reductions effected shall be rescinded and the
18 payments returned to the State.

19 (3) EXTENSION OF MORATORIUM.—Section
20 6408(a)(3) of the Omnibus Budget Reconciliation
21 Act of 1989, as amended by section 13642 of the
22 Omnibus Budget Reconciliation Act of 1993, is
23 amended by striking “December 31, 1995” and in-
24 serting “the first day of the first quarter on which

1 the medicaid plan for the State of Michigan is first
2 effective under title XXI of such Act”.

3 (g) NO APPLICATION OF PRIOR MEDICAID JUDG-
4 MENTS TO NEW MEDICAID PROGRAM.—No judicial or ad-
5 ministrative decision rendered regarding requirements im-
6 posed under title XIX of the Social Security Act with re-
7 spect to a State shall have any application to the medicaid
8 plan of the State title XXI of such Act. A State may, pur-
9 suant to the previous sentence, seek the abrogation or
10 modification of any such decision after the date of termi-
11 nation of the State plan under title XIX of such Act.

12 (h) TECHNICAL AND CONFORMING AMENDMENTS.—

13 (1) SECRETARIAL SUBMISSION OF LEGISLATIVE
14 PROPOSAL.—Not later than 90 days after the date
15 of the enactment of this Act, the Secretary of
16 Health and Human Services, in consultation, as ap-
17 propriate, with the heads of other Federal agencies,
18 shall submit to the appropriate committees of Con-
19 gress a legislative proposal providing for such tech-
20 nical and conforming amendments in the law as are
21 required by the provisions of, and amendments made
22 by, sections 7191 and 7192.

23 (2) TRANSITIONAL RULE.—Any reference in
24 any provision of law to title XIX of the Social Secu-
25 rity Act or any provision thereof shall be deemed to

1 be a reference to such title or provision as in effect
2 on the day before the date of the enactment of this
3 Act.

4 **SEC. 7192. MEDICAID DRUG REBATE PROGRAM.**

5 (a) IN GENERAL.—Title XXI, as added by section
6 7191, is amended—

7 (1) in section 2123, by adding at the end the
8 following new subsection:

9 “(j) LIMITATION ON PAYMENT FOR CERTAIN OUT-
10 PATIENT PRESCRIPTION DRUGS.—

11 “(1) IN GENERAL.—No payment shall be made
12 to a State under this part for medical assistance for
13 covered outpatient drugs (as defined in section
14 2175(j)(2)) of a manufacturer provided under the
15 medicaid plan unless the manufacturer (as defined
16 in section 2175(j)(5)) of the drug—

17 “(A) has entered into a medicaid rebate
18 agreement with the Secretary under section
19 2175; and

20 “(B) is otherwise complying with the provi-
21 sions of such section.

22 “(2) CONSTRUCTION.—Nothing in this sub-
23 section shall be construed as requiring a State to
24 participate in the medicaid rebate agreement under
25 section 2175.

1 “(3) USE OF SUPPLEMENTAL REBATES PRO-
2 HIBITED.—No payment shall be made under this
3 part to a State that requires manufacturer rebates
4 for covered outpatient drugs (as so defined) in ex-
5 cess of the rebate amount payable under section
6 2175.”; and

7 (2) by adding at the end the following new sec-
8 tion:

9 **“SEC. 2175. MEDICAID DRUG REBATE AGREEMENTS.**

10 “(a) REQUIREMENT FOR REBATE AGREEMENT.—

11 “(1) IN GENERAL.—Pursuant to section
12 2123(j), in order for payment to be made to a State
13 under part C for medical assistance for covered out-
14 patient drugs of a manufacturer, the manufacturer
15 must have entered into and have in effect a rebate
16 agreement described in subsection (b) with the Sec-
17 retary, on behalf of States (except that, the Sec-
18 retary may authorize a State to enter directly into
19 agreements with a manufacturer), and must meet
20 the requirements of paragraph (5) (with respect to
21 drugs purchased by a covered entity on or after the
22 first day of the first month that begins after the
23 date of the enactment of title VI of the Veterans
24 Health Care Act of 1992 and paragraph (6). Any
25 such agreement entered into prior to May 1, 1991,

1 shall be deemed to have been entered into on Janu-
2 ary 1, 1991, and the amount of the rebate to be
3 paid by the manufacturer under such agreement
4 shall be calculated as if the agreement had been en-
5 tered into on January 1, 1991. If a manufacturer
6 has not entered into such an agreement before May
7 1, 1991, such an agreement, subsequently entered
8 into, shall not be effective until the first day of the
9 calendar quarter that begins more than 60 days
10 after the date the agreement is entered into.

11 “(2) EFFECTIVE DATE.—Paragraph (1) shall
12 apply to drugs dispensed under this title on or after
13 January 1, 1991, except that such paragraph shall
14 not apply to drugs dispensed before May 1, 1991, if
15 the Secretary determines that there were extenuat-
16 ing circumstances with respect to the first calendar
17 quarter of 1991.

18 “(3) AUTHORIZING PAYMENT FOR DRUGS NOT
19 COVERED UNDER REBATE AGREEMENTS.—Para-
20 graph (1) shall not apply to the dispensing of a cov-
21 ered outpatient drug if—

22 “(A) the State has made a determination
23 that the availability of such drug is essential to
24 the health of beneficiaries under the medicaid
25 plan;

1 “(B) the drug has been given a rating of
2 1–A or 1–P by the Food and Drug Administra-
3 tion; and

4 “(C)(i) the physician has obtained approval
5 for the use of the drug in advance of dispensing
6 such drug in accordance with a prior authoriza-
7 tion program described in subsection (d)(5), or

8 “(ii) the Secretary has reviewed and ap-
9 proved the State’s determination under sub-
10 paragraph (A).

11 “(3) AUTHORIZING PAYMENT FOR DRUGS NOT
12 COVERED UNDER REBATE AGREEMENTS.—Para-
13 graph (1) shall not apply to the dispensing of a cov-
14 ered outpatient drug if (A)(i) the State has made a
15 determination that the availability of the drug is es-
16 sential to the health of beneficiaries under the med-
17 icaid plan for medical assistance; (ii) such drug has
18 been given a rating of 1-A by the Food and Drug
19 Administration; and (iii)(I) the physician has ob-
20 tained approval for use of the drug in advance of its
21 dispensing in accordance with a prior authorization
22 program described in subsection (d), or (II) the Sec-
23 retary has reviewed and approved the State’s deter-
24 mination under subparagraph (A); or (B) the Sec-

1 retary determines that in the first calendar quarter
2 of 1991, there were extenuating circumstances.

3 “(4) EFFECT ON EXISTING AGREEMENTS.—

4 “(A) IN GENERAL.—In the case of a re-
5 bate agreement in effect between a State and a
6 manufacturer on the date of the enactment of
7 title IV of the Omnibus Budget Reconciliation
8 Act of 1990, such agreement, for the initial
9 agreement period specified therein, shall be con-
10 sidered to be a rebate agreement in effect under
11 this section with respect to that State, if the
12 State agrees to report to the Secretary any re-
13 bates paid pursuant to the agreement and such
14 agreement provides for a minimum aggregate
15 rebate of 10 percent of the sum of the amounts
16 determined under subparagraph (B) for all of
17 the manufacturer’s drugs paid for by the State
18 under the agreement. If, after the initial agree-
19 ment period, the State establishes to the satis-
20 faction of the Secretary that an agreement in
21 effect on the date of the enactment of title IV
22 of the Omnibus Budget Reconciliation Act of
23 1990 provides for rebates that are at least as
24 large as the rebates otherwise required under
25 this section, and the State agrees to report any

1 rebates under the agreement to the Secretary,
2 the agreement shall be considered to be a re-
3 bate agreement in compliance with the section
4 for the renewal periods of such agreement.

5 “(B) AMOUNT DETERMINED.—The
6 amount determined under this subparagraph
7 with respect to a manufacturer’s drug paid for
8 by a State under an agreement described in the
9 first sentence of subparagraph (A) is an
10 amount equal to the product of—

11 “(i) the average manufacturer’s price for
12 such drug; and

13 “(ii) the number of dosage units of such
14 drug paid for by the State under such agree-
15 ment.

16 “(5) LIMITATION ON PRICES OF DRUGS PUR-
17 CHASED BY COVERED ENTITIES.—

18 “(A) AGREEMENT WITH SECRETARY.—A
19 manufacturer meets the requirements of this
20 paragraph if the manufacturer has entered into
21 an agreement with the Secretary that meets the
22 requirements of section 340B of the Public
23 Health Service Act with respect to covered out-
24 patient drugs purchased by a covered entity on
25 or after the first day of the first month that

1 begins after the date of the enactment of title
2 VI of the Veterans Health Care Act of 1992.

3 “(B) COVERED ENTITY DEFINED.—In this
4 subsection, the term ‘covered entity’ means an
5 entity described in section 340B(a)(4) of the
6 Public Health Service Act.

7 “(C) ESTABLISHMENT OF ALTERNATIVE
8 MECHANISM TO ENSURE AGAINST DUPLICATE
9 DISCOUNTS OR REBATES.—If the Secretary
10 does not establish a mechanism under section
11 340B(a)(5)(A) of the Public Health Service Act
12 within 12 months of the date of the enactment
13 of such section, the following requirements shall
14 apply:

15 “(i) Each covered entity shall inform
16 the single State agency under this title
17 when it is seeking reimbursement from the
18 medicaid plan for medical assistance with
19 respect to a unit of any covered outpatient
20 drug which is subject to an agreement
21 under section 340B(a) of such Act.

22 “(ii) Each such single State agency
23 shall provide a means by which a covered
24 entity shall indicate on any drug reim-
25 bursement claims form (or format, where

1 electronic claims management is used) that
2 a unit of the drug that is the subject of the
3 form is subject to an agreement under sec-
4 tion 340B of such Act, and not submit to
5 any manufacturer a claim for a rebate pay-
6 ment under subsection (b) with respect to
7 such a drug.

8 “(D) EFFECT OF SUBSEQUENT AMEND-
9 MENTS.—In determining whether an agreement
10 under subparagraph (A) meets the require-
11 ments of section 340B of the Public Health
12 Service Act, the Secretary shall not take into
13 account any amendments to such section that
14 are enacted after the enactment of title VI of
15 the Veterans Health Care Act of 1992.

16 “(E) DETERMINATION OF COMPLIANCE.—
17 A manufacturer is deemed to meet the require-
18 ments of this paragraph if the manufacturer es-
19 tablishes to the satisfaction of the Secretary
20 that the manufacturer would comply (and has
21 offered to comply) with the provisions of section
22 340B of the Public Health Service Act (as in
23 effect immediately after the enactment title VI
24 of the Veterans Health Care Act of 1992, and
25 would have entered into an agreement under

1 such section (as such section was in effect at
2 such time), but for a legislative change in such
3 section after such enactment.

4 “(6) REQUIREMENTS RELATING TO MASTER
5 AGREEMENTS FOR DRUGS PROCURED BY DEPART-
6 MENT OF VETERANS AFFAIRS AND CERTAIN OTHER
7 FEDERAL AGENCIES.—

8 “(A) IN GENERAL.—A manufacturer meets
9 the requirements of this paragraph if the manu-
10 facturer complies with the provisions of section
11 8126 of title 38, United States Code, including
12 the requirement of entering into a master
13 agreement with the Secretary of Veterans Af-
14 fairs under such section.

15 “(B) EFFECT OF SUBSEQUENT AMEND-
16 MENTS.—In determining whether a master
17 agreement described in subparagraph (A) meets
18 the requirements of section 8126 of title 38,
19 United States Code, the Secretary shall not
20 take into account any amendments to such sec-
21 tion that are enacted after the enactment of
22 title VI of the Veterans Health Care Act of
23 1992.

24 “(C) DETERMINATION OF COMPLIANCE.—
25 A manufacturer is deemed to meet the require-

1 ments of this paragraph if the manufacturer es-
2 tablishes to the satisfaction of the Secretary
3 that the manufacturer would comply (and has
4 offered to comply) with the provisions of section
5 8126 of title 38, United States Code (as in ef-
6 fect immediately after the enactment of title VI
7 of the Veterans Health Care Act of 1992) and
8 would have entered into an agreement under
9 such section (as such section was in effect at
10 such time), but for a legislative change in such
11 section after such enactment.

12 “(b) TERMS OF REBATE AGREEMENT.—

13 “(1) PERIODIC REBATES.—

14 “(A) IN GENERAL.—A rebate agreement
15 under this subsection shall require the manufac-
16 turer to provide, to each medicaid plan ap-
17 proved under this title, a rebate for a rebate pe-
18 riod in an amount specified in subsection (c) for
19 covered outpatient drugs of the manufacturer
20 dispensed after December 31, 1990, for which
21 payment was made under the medicaid plan for
22 such period. Such rebate shall be paid by the
23 manufacturer not later than 30 days after the
24 date of receipt of the information described in
25 paragraph (2) for the period involved.

1 “(B) OFFSET AGAINST MEDICAL ASSIST-
2 ANCE.—Amounts received by a State under this
3 section (or under an agreement authorized by
4 the Secretary under subsection (a)(1) or an
5 agreement described in subsection (a)(4)) in
6 any quarter shall be considered to be a reduc-
7 tion in the amount expended under the medic-
8 aid plan in the quarter for medical assistance
9 for purposes of this title.

10 “(2) STATE PROVISION OF INFORMATION.—

11 “(A) STATE RESPONSIBILITY.—Each State
12 agency under this title shall report to each
13 manufacturer not later than 60 days after the
14 end of each rebate period and in a form consist-
15 ent with a standard reporting format estab-
16 lished by the Secretary, information on the total
17 number of units of each dosage form and
18 strength and package size of each covered out-
19 patient drug dispensed after December 31,
20 1990, for which payment was made under the
21 plan for the period, and shall promptly transmit
22 a copy of such report to the Secretary.

23 “(B) AUDITS.—A manufacturer may audit
24 the information provided (or required to be pro-
25 vided) under subparagraph (A). Adjustments to

1 rebates shall be made to the extent that infor-
2 mation indicates that utilization was greater or
3 less than the amount previously specified.

4 “(3) MANUFACTURER PROVISION OF PRICE IN-
5 FORMATION.—

6 “(A) IN GENERAL.—Each manufacturer
7 with an agreement in effect under this section
8 shall report to the Secretary—

9 “(i) not later than 30 days after the
10 last day of each rebate period under the
11 agreement (beginning on or after January
12 1, 1991), on the average manufacturer
13 price (as defined in subsection (j)(1)) and,
14 for single source drugs and innovator mul-
15 tiple source drugs, the manufacturer’s best
16 price (as defined in subsection (c)(1)(C))
17 for each covered outpatient drug for the
18 rebate period under the agreement; and

19 “(ii) not later than 30 days after the
20 date of entering into an agreement under
21 this section on the average manufacturer
22 price (as defined in subsection (j)(1)) as of
23 October 1, 1990, for each of the manufac-
24 turer’s covered outpatient drugs.

1 “(B) VERIFICATION SURVEYS OF AVERAGE
2 MANUFACTURER PRICE.—The Secretary may
3 survey wholesalers and manufacturers that di-
4 rectly distribute their covered outpatient drugs,
5 when necessary, to verify manufacturer prices
6 reported under subparagraph (A). The Sec-
7 retary may impose a civil monetary penalty in
8 an amount not to exceed \$10,000 on a whole-
9 saler, manufacturer, or direct seller, if the
10 wholesaler, manufacturer, or direct seller of a
11 covered outpatient drug refuses a request for
12 information by the Secretary in connection with
13 a survey under this subparagraph. The provi-
14 sions of section 1128A (other than subsections
15 (a) (with respect to amounts of penalties or ad-
16 ditional assessments) and (b)) shall apply to a
17 civil money penalty under this subparagraph in
18 the same manner as such provisions apply to a
19 penalty or proceeding under section 1128A(a).

20 “(C) PENALTIES.—

21 “(i) FAILURE TO PROVIDE TIMELY IN-
22 FORMATION.—In the case of a manufac-
23 turer with an agreement under this section
24 that fails to provide information required
25 under subparagraph (A) on a timely basis,

1 the amount of the penalty shall be \$10,000
2 for each day in which such information has
3 not been provided and such amount shall
4 be paid to the Treasury. If such informa-
5 tion is not reported within 90 days of the
6 deadline imposed, the agreement shall be
7 suspended for services furnished after the
8 end of such 90-day period and until the
9 date such information is reported (but in
10 no case shall such suspension be for a pe-
11 riod of less than 30 days).

12 “(ii) FALSE INFORMATION.—Any
13 manufacturer with an agreement under
14 this section, or a wholesaler or direct sell-
15 er, that knowingly provides false informa-
16 tion under subparagraph (A) or (B) is sub-
17 ject to a civil money penalty in an amount
18 not to exceed \$100,000 for each item of
19 false information. Any such civil money
20 penalty shall be in addition to other pen-
21 alties as may be prescribed by law. The
22 provisions of section 1128A (other than
23 subsections (a) and (b)) shall apply to a
24 civil money penalty under this subpara-
25 graph in the same manner as such provi-

1 sions apply to a penalty or proceeding
2 under section 1128A(a).

3 “(D) CONFIDENTIALITY OF INFORMA-
4 TION.—Notwithstanding any other provision of
5 law, information disclosed by manufacturers or
6 wholesalers under this paragraph or under an
7 agreement with the Secretary of Veterans Af-
8 fairs described in subsection (a)(6)(A)(ii) is
9 confidential and shall not be disclosed by the
10 Secretary or the Secretary of Veterans Affairs
11 or a State agency (or contractor therewith) in
12 a form which discloses the identity of a specific
13 manufacturer or wholesaler or the prices
14 charged for drugs by such manufacturer or
15 wholesaler, except—

16 “(i) as the Secretary determines to be
17 necessary to carry out this section;

18 “(ii) to permit the Comptroller Gen-
19 eral to review the information provided;
20 and

21 “(iii) to permit the Director of the
22 Congressional Budget Office to review the
23 information provided.

24 “(4) LENGTH OF AGREEMENT.—

1 “(A) IN GENERAL.—A rebate agreement
2 shall be effective for an initial period of not less
3 than 1 year and shall be automatically renewed
4 for a period of not less than 1 year unless ter-
5 minated under subparagraph (B).

6 “(B) TERMINATION.—

7 “(i) BY THE SECRETARY.—The Sec-
8 retary may provide for termination of a re-
9 bate agreement for violation of the require-
10 ments of the agreement or other good
11 cause shown. Such termination shall not be
12 effective earlier than 60 days after the
13 date of notice of such termination. The
14 Secretary shall provide, upon request, a
15 manufacturer with a hearing concerning
16 such a termination, but such hearing shall
17 not delay the effective date of the termi-
18 nation. Failure of a State to provide any
19 advance notice of such a termination as re-
20 quired by regulation shall not affect the
21 State’s right to terminate coverage of the
22 drugs affected by such termination as of
23 the effective date of such termination.

24 “(ii) BY A MANUFACTURER.—A man-
25 ufacturer may terminate a rebate agree-

1 ment under this section for any reason.
2 Any such termination shall not be effective
3 until the calendar quarter beginning at
4 least 60 days after the date the manufac-
5 turer provides notice to the Secretary.

6 “(iii) EFFECTIVENESS OF TERMI-
7 NATION.—Any termination under this sub-
8 paragraph shall not affect rebates due
9 under the agreement before the effective
10 date of its termination.

11 “(iv) NOTICE TO STATES.—In the
12 case of a termination under this subpara-
13 graph, the Secretary shall provide notice of
14 such termination to the States within not
15 less than 30 days before the effective date
16 of such termination.

17 “(v) APPLICATION TO TERMINATIONS
18 OF OTHER AGREEMENTS.—The provisions
19 of this subparagraph shall apply to the ter-
20 minations of agreements described in sec-
21 tion 340B(a)(1) of the Public Health Serv-
22 ice Act and master agreements described
23 in section 8126(a) of title 38, United
24 States Code.

1 “(C) DELAY BEFORE REENTRY.—In the
2 case of any rebate agreement with a manufac-
3 turer under this section which is terminated,
4 another such agreement with the manufacturer
5 (or a successor manufacturer) may not be en-
6 tered into until a period of 1 calendar quarter
7 has elapsed since the date of the termination,
8 unless the Secretary finds good cause for an
9 earlier reinstatement of such an agreement.

10 “(5) SETTLEMENT OF DISPUTES.—

11 “(A) SECRETARY.—The Secretary shall
12 have the authority to resolve, settle, and com-
13 promise disputes regarding the amounts of re-
14 bates owed under this section.

15 “(B) STATE.—Each State, with respect to
16 covered outpatient drugs paid for under the
17 State’s medicaid plan, shall have authority,
18 independent of the Secretary’ authority under
19 subparagraph (A), to resolve, settle, and com-
20 promise disputes regarding the amounts of re-
21 bates owed under this section. Any such action
22 shall be deemed to comply with the require-
23 ments of this title, and such covered outpatient
24 drugs shall be eligible for payment under the
25 medicaid plan approved under this title.

1 “(C) AMOUNT OF REBATE.—The Secretary
2 shall limit the amount of the rebate payable in
3 any case in which the Secretary determines
4 that, because of unusual circumstances or ques-
5 tionable data, the provisions of subsection (c)
6 result in a rebate amount that is inequitable or
7 otherwise inconsistent with the purposes of this
8 section.

9 “(c) DETERMINATION OF AMOUNT OF REBATE.—

10 “(1) BASIC REBATE FOR SINGLE SOURCE
11 DRUGS AND INNOVATOR MULTIPLE SOURCE
12 DRUGS.—

13 “(A) IN GENERAL.—Except as provided in
14 paragraph (2), the amount of the rebate speci-
15 fied in this subsection for a rebate period (as
16 defined in subsection (j)(8)) with respect to
17 each dosage form and strength of a single
18 source drug or an innovator multiple source
19 drug shall be equal to the product of—

20 “(i) the total number of units of each
21 dosage form and strength paid for under
22 the medicaid plan in the rebate period (as
23 reported by the State); and

24 “(ii) subject to subparagraph (B)(ii),
25 the greater of—

1 “(I) the difference between the
2 average manufacturer price and the
3 best price (as defined in subparagraph
4 (C)) for the dosage form and strength
5 of the drug, or

6 “(II) the minimum rebate per-
7 centage (specified in subparagraph
8 (B)(i)) of such average manufacturer
9 price,

10 of or the rebate period.

11 “(B) MINIMUM REBATE PERCENTAGE.—
12 For purposes of subparagraph (A)(ii)(II), the
13 minimum rebate percentage for rebate periods
14 beginning after December 31, 1995, is 15.1
15 percent.

16 “(C) BEST PRICE DEFINED.—For pur-
17 poses of this section:

18 “(i) IN GENERAL.—The term ‘best
19 price’ means, with respect to a single
20 source drug or innovator multiple source
21 drug of a manufacturer, the lowest price
22 available from the manufacturer during the
23 rebate period to any wholesaler, retailer,
24 provider, health maintenance organization,

1 nonprofit entity, or governmental entity
2 within the United States, excluding—

3 “(I) any prices charged on or
4 after October 1, 1992, to the Indian
5 Health Service, the Department of
6 Veterans Affairs, a State home receiv-
7 ing funds under section 1741 of title
8 38, United States Code, the Depart-
9 ment of Defense, the Public Health
10 Service, or a covered entity described
11 in subsection (a)(5)(B);

12 “(II) any prices charged under
13 the Federal Supply Schedule of the
14 General Services Administration;

15 “(III) any prices used under a
16 State pharmaceutical assistance pro-
17 gram; and

18 “(IV) any depot prices and single
19 award contract prices, as defined by
20 the Secretary, of any agency of the
21 Federal Government.

22 “(ii) SPECIAL RULES.—The term ‘best
23 price’—

24 “(I) shall be inclusive of cash dis-
25 counts, free goods that are contingent

1 on any purchase requirement, volume
2 discounts, and rebates (other than re-
3 bates under this section);

4 “(II) shall be determined without
5 regard to special packaging, labeling,
6 or identifiers on the dosage form or
7 product or package; and

8 “(III) shall not take into account
9 prices that are merely nominal in
10 amount.

11 “(2) ADDITIONAL REBATE FOR SINGLE SOURCE
12 AND INNOVATOR MULTIPLE SOURCE DRUGS.—

13 “(A) IN GENERAL.—The amount of the re-
14 bate specified in this subsection for a rebate pe-
15 riod, with respect to each dosage form and
16 strength of a single source drug or an innovator
17 multiple source drug, shall be increased by an
18 amount equal to the product of—

19 “(i) the total number of units of such
20 dosage form and strength dispensed after
21 December 31, 1990, for which payment
22 was made under the medicaid plan for the
23 rebate period; and

24 “(ii) the amount (if any) by which—

1 “(I) the average manufacturer
2 price for the dosage form and
3 strength of the drug for the period,
4 exceeds

5 “(II) the average manufacturer
6 price for such dosage form and
7 strength for the calendar quarter be-
8 ginning July 1, 1990 (without regard
9 to whether or not the drug has been
10 sold or transferred to an entity, in-
11 cluding a division or subsidiary of the
12 manufacturer, after the first day of
13 such quarter), increased by the per-
14 centage by which the consumer price
15 index for all urban consumers (United
16 States city average) for the month be-
17 fore the month in which the rebate pe-
18 riod begins exceeds such index for
19 September 1990.

20 “(B) TREATMENT OF SUBSEQUENTLY AP-
21 PROVED DRUGS.—In the case of a covered out-
22 patient drug approved by the Food and Drug
23 Administration after October 1, 1990, clause
24 (ii)(II) of subparagraph (A) shall be applied by
25 substituting ‘the first full calendar quarter after

1 the day on which the drug was first marketed’
2 for ‘the calendar quarter beginning July 1,
3 1990’ and ‘the month prior to the first month
4 of the first full calendar quarter after the day
5 on which the drug was first marketed’ for ‘Sep-
6 tember 1990’.

7 “(3) REBATE FOR OTHER DRUGS.—

8 “(A) IN GENERAL.—The amount of the re-
9 bate paid to a State for a rebate period with re-
10 spect to each dosage form and strength of cov-
11 ered outpatient drugs (other than single source
12 drugs and innovator multiple source drugs)
13 shall be equal to the product of—

14 “(i) the applicable percentage (as de-
15 scribed in subparagraph (B)) of the aver-
16 age manufacturer price for the dosage
17 form and strength for the rebate period;
18 and

19 “(ii) the total number of units of such
20 dosage form and strength dispensed after
21 December 31, 1990, for which payment
22 was made under the medicaid plan for the
23 rebate period.

1 “(B) APPLICABLE PERCENTAGE DE-
2 FINED.—For purposes of subparagraph (A)(i),
3 the ‘applicable percentage’ is 11 percent.

4 “(4) REBATE LIMITED TO AMOUNT OF STATE
5 PAYMENT IF DRUG PRIMARILY DISPENSED TO NURS-
6 ING FACILITY PATIENTS.—

7 “(A) IN GENERAL.—Upon request of the
8 manufacturer of a covered outpatient drug, the
9 Secretary shall limit, in accordance with sub-
10 paragraph (B), the amount of the rebate under
11 this subsection with respect to a dosage form
12 and strength of such drug if the majority of the
13 estimated number of units of such dosage form
14 and strength that are subject to rebates under
15 this section were dispensed to inpatients of
16 nursing facilities.

17 “(B) AMOUNT OF REBATE.—In the case of
18 a covered outpatient drug subject to subpara-
19 graph (A), the amount of the rebate specified in
20 this subsection for a rebate period, with respect
21 to each dosage form and strength of such drug,
22 shall not exceed the amount paid under the
23 medicaid plan with respect to such dosage form
24 and strength of the drug in the rebate period

1 (without consideration of any dispensing fees
2 paid).

3 “(5) SUPPLEMENTAL REBATES PROHIBITED.—

4 No rebates shall be required to be paid by manufac-
5 turers with respect to covered outpatient drugs fur-
6 nished to individuals in any State that provides for
7 the collection of such rebates in excess of the rebate
8 amount payable under this section.

9 “(d) LIMITATIONS ON COVERAGE OF DRUGS.—

10 “(1) PERMISSIBLE RESTRICTIONS.—

11 “(A) IN GENERAL.—A State may subject
12 to prior authorization any covered outpatient
13 drug. Any such prior authorization program
14 shall comply with the requirements of para-
15 graph (5).

16 “(B) ADDITIONAL RESTRICTIONS.—A
17 State may exclude or otherwise restrict cov-
18 erage of a covered outpatient drug if—

19 “(i) the drug is contained in the list
20 referred to in paragraph (2);

21 “(ii) the drug is subject to such re-
22 strictions pursuant to an agreement be-
23 tween a manufacturer and a State author-
24 ized by the Secretary under subsection

1 (a)(1) or in effect pursuant to subsection
2 (a)(4); or

3 “(iii) the State has excluded coverage
4 of the drug from its formulary established
5 in accordance with paragraph (4).

6 “(2) LIST OF DRUGS SUBJECT TO RESTRIC-
7 TION.—The following drugs or classes of drugs, or
8 their medical uses, may be excluded from coverage
9 or otherwise restricted:

10 “(A) Agents when used for anorexia,
11 weight loss, or weight gain.

12 “(B) Agents when used to promote fertil-
13 ity.

14 “(C) Agents when used for cosmetic pur-
15 poses or hair growth.

16 “(D) Agents when used for the sympto-
17 matic relief of cough and colds.

18 “(E) Agents when used to promote smok-
19 ing cessation.

20 “(F) Prescription vitamins and mineral
21 products, except prenatal vitamins and fluoride
22 preparations.

23 “(G) Nonprescription drugs.

24 “(H) Covered outpatient drugs which the
25 manufacturer seeks to require as a condition of

1 sale that associated tests or monitoring services
2 be purchased exclusively from the manufacturer
3 or its designee.

4 “(I) Barbiturates.

5 “(J) Benzodiazepines.

6 “(3) ADDITIONS TO DRUG LISTINGS.—The Sec-
7 retary shall, by regulation, periodically add to the
8 list of drugs or classes of drugs described in para-
9 graph (2), or their medical uses, which the Secretary
10 has determined to be subject to clinical abuse or in-
11 appropriate use.

12 “(4) REQUIREMENTS FOR FORMULARIES.—A
13 State may establish a formulary if the formulary
14 meets the following requirements:

15 “(A) The formulary is developed by a com-
16 mittee consisting of physicians, pharmacists,
17 and other appropriate individuals appointed by
18 the Governor of the State (or, at the option of
19 the State, the State’s drug use review board es-
20 tablished under subsection (f)(3)).

21 “(B) Except as provided in subparagraph
22 (C), the formulary includes the covered out-
23 patient drugs of any manufacturer which has
24 entered into and complies with an agreement
25 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).

1 “(E) The formulary meets such other re-
2 quirements as the Secretary may impose in
3 order to achieve program savings consistent
4 with protecting the health of program bene-
5 ficiaries.

6 A prior authorization program established by a State
7 under paragraph (5) is not a formulary subject to
8 the requirements of this paragraph.

9 “(5) REQUIREMENTS OF PRIOR AUTHORIZATION
10 PROGRAMS.—A medicaid plan approved under this
11 title may require, as a condition of coverage or pay-
12 ment for a covered outpatient drug for which Fed-
13 eral financial participation is available in accordance
14 with this section, with respect to drugs dispensed on
15 or after July 1, 1991, the approval of the drug be-
16 fore its dispensing for any medically accepted indica-
17 tion (as defined in subsection (j)(6)) only if the sys-
18 tem providing for such approval—

19 “(A) provides response by telephone or
20 other telecommunication device within 24 hours
21 of a request for prior authorization; and

22 “(B) except with respect to the drugs on
23 the list referred to in paragraph (2), provides
24 for the dispensing of at least 72-hour supply of
25 a covered outpatient prescription drug in an

1 emergency situation (as defined by the Sec-
2 retary).

3 “(6) OTHER PERMISSIBLE RESTRICTIONS.—A
4 State may impose limitations, with respect to all
5 such drugs in a therapeutic class, on the minimum
6 or maximum quantities per prescription or on the
7 number of refills, if such limitations are necessary to
8 discourage waste, and may address instances of
9 fraud or abuse by individuals in any manner author-
10 ized under this Act.

11 “(e) ESTABLISHMENT OF UPPER PAYMENT LIM-
12 ITS.—The Health Care Financing Administration shall es-
13 tablish a Federal upper reimbursement limit for each mul-
14 tiple source drug for which the FDA has rated three or
15 more products therapeutically and pharmaceutically equiv-
16 alent, regardless of whether all such additional formula-
17 tions are rated as such and shall use only such formula-
18 tions when determining any such upper limit.

19 “(f) DRUG USE REVIEW.—

20 “(1) IN GENERAL.—A State participating in the
21 medicaid rebate agreement may provide for a drug
22 use review program to educate physicians and phar-
23 macists to identify and reduce the frequency of pat-
24 terns of fraud, abuse, gross overuse, or inappropriate
25 ate or medically unnecessary care, among physicians,

1 pharmacists, and patients, or associated with specific
2 drugs or groups of drugs, as well as potential and
3 actual severe adverse reactions to drugs.

4 “(2) APPLICATION OF STATE STANDARDS.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), a State with a drug use re-
7 view program under this subsection shall estab-
8 lish and operate the program under such stand-
9 ards as it may establish.

10 “(B) DATA ON DRUG USE.—The program
11 shall assess data on drug use against predeter-
12 mined standards, consistent with—

13 “(i) compendia which shall consist
14 of—

15 “(I) American Hospital For-
16 mulary Service Drug Information,

17 “(II) United States Pharma-
18 cepeia-Drug Information,

19 “(III) the DRUGDEX Informa-
20 tion System, and

21 “(IV) American Medical Associa-
22 tion Drug Evaluations; and

23 “(ii) the peer-reviewed medical lit-
24 erature.

1 “(g) ELECTRONIC CLAIMS MANAGEMENT.—In ac-
2 cordance with chapter 35 of title 44, United States Code
3 (relating to coordination of Federal information policy),
4 the Secretary shall encourage each State to establish, as
5 its principal means of processing claims for covered out-
6 patient drugs under its medicaid plan, a point-of-sale elec-
7 tronic claims management system, for the purpose of per-
8 forming on-line, real time eligibility verifications, claims
9 data capture, adjudication of claims, and assisting phar-
10 macists (and other authorized persons) in applying for and
11 receiving payment.

12 “(h) ANNUAL REPORT.—

13 “(1) IN GENERAL.—Not later than May 1 of
14 each year, the Secretary shall transmit to the Com-
15 mittee on Finance of the Senate and the Committee
16 on Commerce of the House of Representatives a re-
17 port on the operation of this section in the preceding
18 fiscal year.

19 “(2) DETAILS.—Each report shall include infor-
20 mation on—

21 “(A) ingredient costs paid under this title
22 for single source drugs, multiple source drugs,
23 and nonprescription covered outpatient drugs;

1 “(B) the total value of rebates received
2 and number of manufacturers providing such
3 rebates;

4 “(C) the effect of inflation on the value of
5 rebates required under this section;

6 “(D) trends in prices paid under this title
7 for covered outpatient drugs; and

8 “(E) Federal and State administrative
9 costs associated with compliance with the provi-
10 sions of this title.

11 “(i) EXEMPTION FOR CAPITATED HEALTH CARE OR-
12 GANIZATIONS, HOSPITALS, AND NURSING FACILITIES.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (2), the requirements of the medicaid rebate
15 agreement under this section shall not apply with re-
16 spect to covered outpatient drugs dispensed by or
17 through—

18 “(A) a capitated health care organization
19 (as defined in section 2114(c)(1)); or

20 “(B) a hospital or nursing facility that dis-
21 penses covered outpatient drugs using a drug
22 formulary system and bills the State no more
23 than the hospital’s purchasing costs for covered
24 outpatient drugs.

1 “(2) CONSTRUCTION IN DETERMINING BEST
2 PRICE.—Nothing in paragraph (1) shall be con-
3 strued as excluding amounts paid by the entities de-
4 scribed in such paragraph for covered outpatient
5 drugs from the determination of the best price (as
6 defined in subsection (c)(1)(C)) for such drugs.

7 “(j) DEFINITIONS.—For purposes of this section:

8 “(1) AVERAGE MANUFACTURER PRICE.—The
9 term ‘average manufacturer price’ means, with re-
10 spect to a covered outpatient drug of a manufacturer
11 for a rebate period, the average price paid to the
12 manufacturer for the drug in the United States by
13 wholesalers for drugs distributed to the retail phar-
14 macy class of trade, after deducting customary
15 prompt pay discounts.

16 “(2) COVERED OUTPATIENT DRUG.—Subject to
17 the exceptions in paragraph (3), the term ‘covered
18 outpatient drug’ means—

19 “(A) of those drugs which are treated as
20 prescribed drugs for purposes of this title, a
21 drug which may be dispensed only upon pre-
22 scription (except as provided in subparagraph
23 (D)); and—

1 “(i) which is approved as a prescrip-
2 tion drug under section 505 or 507 of the
3 Federal Food, Drug, and Cosmetic Act,

4 “(ii)(I) which was commercially used
5 or sold in the United States before the
6 date of the enactment of the Drug Amend-
7 ments of 1962 or which is identical, simi-
8 lar, or related (within the meaning of sec-
9 tion 310.6(b)(1) of title 21 of the Code of
10 Federal Regulations) to such a drug, and
11 (II) which has not been the subject of a
12 final determination by the Secretary that it
13 is a ‘new drug’ (within the meaning of sec-
14 tion 201(p) of the Federal Food, Drug,
15 and Cosmetic Act) or an action brought by
16 the Secretary under section 301, 302(a),
17 or 304(a) of such Act to enforce section
18 502(f) or 505(a) of such Act, or

19 “(iii)(I) which is described in section
20 107(e)(3) of the Drug Amendments of
21 1962 and for which the Secretary has de-
22 termined there is a compelling justification
23 for its medical need, or is identical, simi-
24 lar, or related (within the meaning of sec-
25 tion 310.6(b)(1) of title 21 of the Code of

1 Federal Regulations) to such a drug, and
2 (II) for which the Secretary has not issued
3 a notice of an opportunity for a hearing
4 under section 505(e) of the Federal Food,
5 Drug, and Cosmetic Act on a proposed
6 order of the Secretary to withdraw ap-
7 proval of an application for such drug
8 under such section because the Secretary
9 has determined that the drug is less than
10 effective for some or all conditions of use
11 prescribed, recommended, or suggested in
12 its labeling;

13 “(B) a biological product, other than a
14 vaccine which—

15 “(i) may only be dispensed upon pre-
16 scription,

17 “(ii) is licensed under section 351 of
18 the Public Health Service Act, and

19 “(iii) is produced at an establishment
20 licensed under such section to produce
21 such product;

22 “(C) insulin certified under section 506 of
23 the Federal Food, Drug, and Cosmetic Act; and

24 “(D) a drug which may be sold without a
25 prescription (commonly referred to as an ‘over-

1 the-counter drug'), if the drug is prescribed by
2 a physician (or other person authorized to pre-
3 scribe under State law).

4 “(3) LIMITING DEFINITION.—The term ‘covered
5 outpatient drug’ does not include any drug, biologi-
6 cal product, or insulin provided as part of, or as in-
7 cident to and in the same setting as, any of the fol-
8 lowing (and for which payment may be made under
9 this title as part of payment for the following and
10 not as direct reimbursement for the drug):

11 “(A) Inpatient hospital services.

12 “(B) Hospice services.

13 “(C) Dental services, except that drugs for
14 which the medicaid plan authorizes direct reim-
15 bursement to the dispensing dentist are covered
16 outpatient drugs.

17 “(D) Physicians’ services.

18 “(E) Outpatient hospital services.

19 “(F) Nursing facility services and services
20 provided by an intermediate care facility for the
21 mentally retarded.

22 “(G) Other laboratory and x-ray services.

23 “(H) Renal dialysis services.

24 Such term also does not include any such drug or
25 product for which a National Drug Code number is

1 not required by the Food and Drug Administration
2 or a drug or biological used for a medical indication
3 which is not a medically accepted indication. Any
4 drug, biological product, or insulin excluded from the
5 definition of such term as a result of this paragraph
6 shall be treated as a covered outpatient drug for
7 purposes of determining the best price (as defined
8 in subsection (c)(1)(C)) for such drug, biological
9 product, or insulin.

10 “(4) OVER-THE-COUNTER DRUG.—The term
11 ‘over-the-counter drug’ means a drug that may be
12 sold without a prescription.

13 “(5) MANUFACTURER.—The term ‘manufac-
14 turer’ means, with respect to a covered outpatient
15 drug, the entity holding legal title to or possession
16 of the National Drug Code number for such drug.

17 “(6) MEDICALLY ACCEPTED INDICATION.—The
18 term ‘medically accepted indication’ means any use
19 for a covered outpatient drug which is approved
20 under the Federal Food, Drug, and Cosmetic Act, or
21 the use of which is supported by one or more cita-
22 tions included or approved for inclusion in any of the
23 compendia described in subsection (f)(2)(B)(i).

1 “(7) MULTIPLE SOURCE DRUG; INNOVATOR
2 MULTIPLE SOURCE DRUG; NONINNOVATOR MUL-
3 TIPLE SOURCE DRUG; SINGLE SOURCE DRUG.—

4 “(A) DEFINED.—

5 “(i) MULTIPLE SOURCE DRUG.—The
6 term ‘multiple source drug’ means, with
7 respect to a rebate period, a covered out-
8 patient drug (not including any drug de-
9 scribed in paragraph (2)(D)) for which
10 there are 2 or more drug products which—

11 “(I) are rated as therapeutically
12 equivalent (under the Food and Drug
13 Administration’s most recent publica-
14 tion of ‘Approved Drug Products with
15 Therapeutic Equivalence Evalua-
16 tions’);

17 “(II) except as provided in sub-
18 paragraph (B), are pharmaceutically
19 equivalent and bioequivalent, as de-
20 fined in subparagraph (C) and as de-
21 termined by the Food and Drug Ad-
22 ministration; and

23 “(III) are sold or marketed in
24 the State during the period.

1 “(ii) INNOVATOR MULTIPLE SOURCE
2 DRUG.—The term ‘innovator multiple
3 source drug’ means a multiple source drug
4 that was originally marketed under a new
5 drug application or product licensing appli-
6 cation approved by the Food and Drug Ad-
7 ministration.

8 “(iii) NONINNOVATOR MULTIPLE
9 SOURCE DRUG.—The term ‘noninnovator
10 multiple source drug’ means a multiple
11 source drug that is not an innovator mul-
12 tiple source drug.

13 “(iv) SINGLE SOURCE DRUG.—The
14 term ‘single source drug’ means a covered
15 outpatient drug (not including any drug
16 described in paragraph (2)(D)) which is
17 produced or distributed under a new drug
18 application or product licensing application
19 approved by the Food and Drug Adminis-
20 tration, including a drug product marketed
21 by any cross-licensed producers or distribu-
22 tors operating under the new drug applica-
23 tion or product licensing application.

24 “(B) EXCEPTION.—Subparagraph
25 (A)(i)(II) shall not apply if the Food and Drug

1 Administration changes by regulation the re-
2 quirement that, for purposes of the publication
3 described in subparagraph (A)(i)(I), in order
4 for drug products to be rated as therapeutically
5 equivalent, they must be pharmaceutically
6 equivalent and bioequivalent, as defined in sub-
7 paragraph (C).

8 “(C) SPECIAL RULES.—For purposes of
9 this paragraph—

10 “(i) drug products are pharmaceuti-
11 cally equivalent if the products contain
12 identical amounts of the same active drug
13 ingredient in the same dosage form and
14 meet compendial or other applicable stand-
15 ards of strength, quality, purity, and iden-
16 tity;

17 “(ii) drugs are bioequivalent if they do
18 not present a known or potential
19 bioequivalence problem, or, if they do
20 present such a problem, they are shown to
21 meet an appropriate standard of
22 bioequivalence; and

23 “(iii) a drug product is considered to
24 be sold or marketed in a State if it appears
25 in a published national listing of average

1 wholesale prices selected by the Secretary,
2 if the listed product is generally available
3 to the public through retail pharmacies in
4 that State.

5 “(8) REBATE PERIOD.—The term ‘rebate pe-
6 riod’ means, with respect to an agreement under
7 subsection (a), a calendar quarter or other period
8 specified by the Secretary with respect to the pay-
9 ment of rebates under such agreement.

10 “(9) STATE AGENCY.—The term ‘State agency’
11 means the agency designated under this title to ad-
12 minister or supervise the administration of the med-
13 icaid plan for medical assistance.”.

14 (b) MEDICAID DRUG REBATE PROGRAM TASK
15 FORCE.—

16 (1) IN GENERAL.—Not later than June 1,
17 1998, the Secretary of Health and Human Services
18 (in this subsection referred to as the “Secretary”)
19 shall provide for the establishment of a Medicaid
20 Drug Rebate Program Task Force (in this sub-
21 section referred to as the “Task Force”).

22 (2) COMPOSITION.—The Task Force shall con-
23 sist of volunteer representatives appointed by—

24 (A) the chair and vice chair of the Na-
25 tional Governors Association (NGA);

1 (B) the National Association of State Med-
2 icaid Directors;

3 (C) associations representing the prescrip-
4 tion and generic drug industries;

5 (D) an association representing phar-
6 macies; and

7 (E) an association representing the inter-
8 ests of medicaid recipients.

9 (3) DUTIES.—The Task Force shall study
10 whether the medicaid drug rebate program under
11 section 2175 of the Social Security Act, as added by
12 this section, should be retained or repealed. The
13 study shall assess—

14 (A) the extent to which State medicaid
15 programs rely on the drug rebate program to
16 manage prescription drug expenditures;

17 (B) the impact of repealing the program
18 on recipient access to prescription drugs and
19 pharmacy services;

20 (C) the impact of retaining the program on
21 the prescription and generic drug industries;
22 and

23 (D) the likely actions States would take to
24 manage prescription drug expenditures in the
25 absence of drug rebate revenue.

1 (4) ADMINISTRATIVE ASSISTANCE.—Adminis-
2 trative support for the Task Force shall be provided
3 by the Agency for Health Care Policy and Research
4 (or, in the absence of such Agency, the Secretary).

5 (5) REPORT.—Not later than October 1, 1998,
6 the Task Force shall report the results of the study
7 to the Secretary. The report shall be transmitted to
8 the Committee on Finance and Special Committee
9 on Aging of the Senate and the Committee on Com-
10 merce of the House of Representatives.

11 (c) CLERICAL AMENDMENT.—The table of sections
12 for title XXI, as added by section 7191(a), is amended
13 by adding at the end the following new item:

 “Sec. 2175. Medicaid drug rebate agreements.”.

14 (d) SPECIAL EFFECTIVE DATES.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the amendments made by this section
17 shall take effect as if included in the amendment
18 made by section 7191.

19 (2) RETROACTIVE APPLICATION OF CERTAIN
20 PROVISIONS.—Subsections (b)(5), (c)(4), and (c)(5)
21 of section 2175 of the Social Security Act, as added
22 by this section, shall take effect as if included in the
23 enactment of the Omnibus Budget Reconciliation
24 Act of 1990.

1 **SEC. 7193. WAIVERS.**

2 (a) CONTINUATION OF WAIVERS.—

3 (1) IN GENERAL.—Except as provided in para-
4 graph (2), if any waiver granted to a State under
5 section 1115 of the Social Security Act (42 U.S.C.
6 1315) or otherwise which relates to the provision of
7 assistance under a State plan under title XIX of
8 such Act has been implemented as of September 1,
9 1995, the waiver may continue, at the option of the
10 State, subject to the terms and conditions of such
11 waiver.

12 (2) FINANCING LIMITATION.—Notwithstanding
13 any other provision of law, beginning with fiscal year
14 1996, a State operating under a waiver described in
15 paragraph (1) shall receive the payment provided for
16 in the waiver to the extent such payment does not
17 exceed the payment under title XXI of the Social Se-
18 curity Act, as added by section 7191(a), such State
19 would otherwise receive for the fiscal year.

20 (b) STATE OPTION TO TERMINATE WAIVER.—

21 (1) IN GENERAL.—A State may terminate a
22 waiver described in subsection (a) before the expira-
23 tion of the waiver.

24 (2) REPORT.—A State which terminates a waiv-
25 er under paragraph (1) shall submit a report to the
26 Secretary of Health and Human Services summariz-

1 ing the waiver and any available information con-
2 cerning the result or effect of such waiver.

3 (3) HOLD HARMLESS PROVISION.—

4 (A) IN GENERAL.—Notwithstanding any
5 other provision of law, a State that, not later
6 than the date described in subparagraph (B),
7 submits a written request to terminate a waiver
8 described in subsection (a) shall be held harm-
9 less for accrued cost neutrality liabilities in-
10 curred under the terms and conditions of such
11 waiver.

12 (B) DATE DESCRIBED.—The date de-
13 scribed in this subparagraph is the later of—

14 (i) January 1, 1996; or

15 (ii) 90 days following the adjournment
16 of the first regular session of the State leg-
17 islature that begins after the date of the
18 enactment of this Act.

19 (c) CONTINUATION OF INDIVIDUAL WAIVERS.—A
20 State may elect to continue one or more individual waivers
21 described in subsection (a)(1).

22 **SEC. 7194. CHILDREN WITH SPECIAL HEALTH CARE NEEDS.**

23 (a) CLASSIFICATION SYSTEM TO IDENTIFY CHIL-
24 DREN WITH SPECIAL HEALTH CARE NEEDS.—

1 (1) IN GENERAL.—Not later than 18 months
2 after the date of the enactment of this Act, the Sec-
3 retary of Health and Human Services (in this sec-
4 tion referred to as the “Secretary”) shall, through
5 the Health Care Financing Administration, develop
6 a national, quantifiable classification system to iden-
7 tify children with special health care needs.

8 (2) CHILDREN WITH SPECIAL HEALTH CARE
9 NEEDS.—For purposes of this section, children with
10 special health care needs are children—

11 (A) with conditions which are, or can be
12 anticipated to be, of at least a year’s duration,
13 and

14 (B) who require services significantly
15 greater than well children.

16 (3) REQUIREMENTS OF CLASSIFICATION SYS-
17 TEM.—The classification system developed in accord-
18 ance with this section—

19 (A) shall be based on commonly recognized
20 diagnostic codes;

21 (B) shall be compatible with State and
22 health plan data systems;

23 (C) shall be capable of serving as a basis
24 for identifying such children and their medical

1 expenditures and monitoring the quality of care
2 received; and

3 (D) shall incorporate the consideration of
4 the severity status, prognosis, and desired out-
5 come for each such child, including tertiary pre-
6 vention, maintenance of function, or improve-
7 ment of function.

8 (b) DEMONSTRATION PROJECTS TO USE CLASSI-
9 FICATION SYSTEM AND TO PROVIDE METHODS OF AS-
10 SURING QUALITY CARE FOR CHILDREN WITH SPECIAL
11 HEALTH CARE NEEDS.—

12 (1) IN GENERAL.—Upon completion of the de-
13 velopment of the classification system under sub-
14 section (a), the Secretary shall make grants to not
15 more than 5 States to conduct 5-year demonstration
16 projects in accordance with this subsection for the
17 purpose of—

18 (A) testing the reliability and validity of
19 such classification system;

20 (B) developing methods of assuring quality
21 care for children with special health care needs;
22 and

23 (C) providing for initial methods for identi-
24 fying children with special health care needs
25 based on diagnoses accounting for the majority

1 of the chronic conditions affecting children in
2 the State which are likely to require significant
3 medical interventions whether in number of
4 interventions or costs.

5 Each State grant may be used without fiscal year
6 limitation.

7 (2) REQUIREMENTS OF PROJECT.—

8 (A) IN GENERAL.—A project conducted in
9 accordance with this subsection shall provide
10 that the State in developing methods described
11 in paragraph (1)(B), shall develop—

12 (i) adequate capitation rates specific
13 to children with special health care needs;
14 and

15 (ii) quality indicators, including sys-
16 tem performance standards, care guidelines
17 for specific populations, outcomes meas-
18 ures, and patient and parent satisfaction.

19 (B) APPROPRIATE REPRESENTATIVES.—
20 The design and implementation of such a
21 project shall include representatives of providers
22 of services to such children and appropriate
23 State agencies and programs.

24 (3) APPLICATIONS.—Each State desiring to
25 conduct a demonstration project under this sub-

1 section, including projects which are statewide, sub-
2 state, or regional in cooperation with a contiguous
3 State or States, shall prepare and submit to the Sec-
4 retary an application at such time, in such manner,
5 and containing such information as the Secretary
6 may require.

7 (4) REPORTS.—A State that conducts a dem-
8 onstration project under this section shall prepare
9 and submit to the Secretary annual and final reports
10 in such form and containing such information as the
11 Secretary may require.

12 (5) AUTHORIZATION OF APPROPRIATIONS.—
13 There are authorized to be appropriated \$2,000,000
14 for each of fiscal years 1997, 1998, 1999, 2000, and
15 2001 for the purpose of conducting demonstration
16 projects in accordance with this subsection.

17 **SEC. 7195. CBO REPORTS.**

18 (a) STUDY.—The Director of the Congressional
19 Budget Office shall prepare an annual analysis of the ef-
20 fects of the amendments made by section 7191 on the
21 health insurance status of children, individuals who have
22 attained retirement age, and the disabled.

23 (b) REPORT.—The Director of the Congressional
24 Budget Office shall submit a report of the results of the
25 analysis required under subsection (a) by May 15 of each

1 year to the Committee on Finance of the Senate and the
2 Committee on Commerce of the House of Representatives.

3 **Subtitle C—Block Grants for Tem-**
4 **porary Assistance for Needy**
5 **Families**

6 **SEC. 7200. SHORT TITLE.**

7 This subtitle may be cited as the “Work Opportunity
8 Act of 1995”.

9 **SEC. 7201. BLOCK GRANTS TO STATES.**

10 (a) REPEALS.—

11 (1) IN GENERAL.—Parts A and F of title IV
12 (42 U.S.C. 601 et seq. and 682 et seq.) are hereby
13 repealed.

14 (2) RULES AND REGULATIONS.—The Secretary
15 of Health and Human Services shall ensure that any
16 rules and regulations relating to the provisions of
17 law repealed in paragraph (1) shall cease to have ef-
18 fect on and after the date of the repeal of such pro-
19 visions.

20 (b) BLOCK GRANTS TO STATES FOR TEMPORARY AS-
21 SISTANCE FOR NEEDED FAMILIES WITH MINOR CHIL-
22 DREN.—Title IV (42 U.S.C. 601 et seq.) is amended by
23 inserting before part B the following:

1 **“PART A—BLOCK GRANTS TO STATES FOR TEM-**
2 **PORARY ASSISTANCE FOR NEEDY FAMILIES**
3 **WITH MINOR CHILDREN**

4 **“SEC. 400. NO INDIVIDUAL ENTITLEMENT.**

5 “Notwithstanding any other provision of law, no indi-
6 vidual is entitled to any assistance under this part.

7 **“SEC. 401. PURPOSE.**

8 “The purpose of this part is to increase the flexibility
9 of States in operating a program designed to—

10 “(1) provide assistance to needy families with
11 minor children;

12 “(2) provide job preparation and opportunities
13 for such families; and

14 “(3) prevent and reduce the incidence of out-of-
15 wedlock pregnancies, with a special emphasis on
16 teenage pregnancies, and establish annual goals for
17 preventing and reducing such pregnancies with re-
18 spect to fiscal years 1996 through 2000.

19 **“SEC. 402. ELIGIBLE STATES; STATE PLAN.**

20 “(a) IN GENERAL.—As used in this part, the term
21 ‘eligible State’ means, with respect to a fiscal year, a State
22 that has submitted to the Secretary a plan that includes
23 the following:

24 “(1) OUTLINE OF FAMILY ASSISTANCE PRO-
25 GRAM.—A written document that outlines how the
26 State intends to do the following:

1 “(A) Conduct a program designed to serve
2 all political subdivisions in the State to—

3 “(i) provide assistance to needy fami-
4 lies with not less than 1 minor child (or
5 any expectant family); and

6 “(ii) provide a parent or caretaker in
7 such families with work experience, assist-
8 ance in finding employment, and other
9 work preparation activities and support
10 services that the State considers appro-
11 priate to enable such families to leave the
12 program and become self-sufficient.

13 “(B) Require a parent or caretaker receiv-
14 ing assistance under the program to engage in
15 work (as defined by the State) when the State
16 determines the parent or caretaker is ready to
17 engage in work, or after 24 months (whether or
18 not consecutive) of receiving assistance under
19 the program, whichever is earlier.

20 “(C) Satisfy the minimum participation
21 rates specified in section 404.

22 “(D) Treat—

23 “(i) families with minor children mov-
24 ing into the State from another State; and

25 “(ii) noncitizens of the United States.

1 “(E) Safeguard and restrict the use and
2 disclosure of information about individuals and
3 families receiving assistance under the program.

4 “(F) Establish goals and take action to
5 prevent and reduce the incidence of out-of-wed-
6 lock pregnancies, with special emphasis on teen-
7 age pregnancies.

8 “(G) COMMUNITY SERVICE.—Not later
9 than 2 years after the date of the enactment of
10 this Act, consistent with the exception provided
11 in section 404(d), require participation by, and
12 offer to, unless the State opts out of this provi-
13 sion by notifying the Secretary, a parent or
14 caretaker receiving assistance under the pro-
15 gram, after receiving such assistance for 3
16 months—

17 “(i) is not exempt from work require-
18 ments; and

19 “(ii) is not engaged in work as deter-
20 mined under section 404(c),
21 in community service employment, with mini-
22 mum hours per week and tasks to be deter-
23 mined by the State.

24 “(2) FAMILY ASSISTANCE PROGRAM STRATEGIC
25 PLAN.—

1 “(A) IN GENERAL.—A single comprehen-
2 sive State Family Assistance Program Strategic
3 Plan (hereafter referred to in this section as the
4 ‘State Plan’) describing a 3-year strategic plan
5 for the statewide program designed to meet the
6 State goals and reach the State benchmarks for
7 program activities of the family assistance pro-
8 gram.

9 “(B) CONTENTS OF THE STATE PLAN.—
10 The State plan shall include:

11 “(i) STATE GOALS.—A description of
12 the goals of the 3-year plan, including out-
13 come related goals of and benchmarks for
14 program activities of the family assistance
15 program.

16 “(ii) CURRENT YEAR PLAN.—A de-
17 scription of how the goals and benchmarks
18 described in clause (i) will be achieved, or
19 how progress toward the goals and bench-
20 marks will be achieved, during the fiscal
21 year in which the plan has been submitted.

22 “(iii) PERFORMANCE INDICATORS.—A
23 description of performance indicators to be
24 used in measuring or assessing the rel-

1 evant output service levels and outcomes of
2 relevant program activities.

3 “(iv) EXTERNAL FACTORS.—Informa-
4 tion on those key factors external to the
5 program and beyond the control of the
6 State that could significantly affect the at-
7 tainment of the goals and benchmarks.

8 “(v) EVALUATION MECHANISMS.—In-
9 formation on a mechanism for conducting
10 program evaluation, to be used to compare
11 actual results with the goals and bench-
12 marks and designate the results on a scale
13 ranging from highly successful to failing to
14 reach the goals and benchmarks of the
15 program.

16 “(vi) MINIMUM PARTICIPATION
17 RATES.—Information on how the minimum
18 participation rates specified in section 404
19 will be satisfied.

20 “(vii) ESTIMATE OF EXPENDI-
21 TURES.—An estimate of the total amount
22 of State or local expenditures under the
23 program for the fiscal year in which the
24 plan is submitted.

1 “(3) CERTIFICATION THAT THE STATE WILL
2 OPERATE A CHILD SUPPORT ENFORCEMENT PRO-
3 GRAM.—A certification by the chief executive officer
4 of the State that, during the fiscal year, the State
5 will operate a child support enforcement program
6 under the State plan approved under part D.

7 “(4) CERTIFICATION THAT THE STATE WILL
8 OPERATE A CHILD PROTECTION PROGRAM.—A cer-
9 tification by the chief executive officer of the State
10 that, during the fiscal year, the State will operate a
11 child protection program under the State plan ap-
12 proved under part B.

13 “(5) CERTIFICATION THAT THE STATE WILL
14 OPERATE A FOSTER CARE AND ADOPTION ASSIST-
15 ANCE PROGRAM.—A certification by the chief execu-
16 tive officer of the State that, during the fiscal year,
17 the State will operate a foster care and adoption as-
18 sistance program under the State plan approved
19 under part E.

20 “(6) CERTIFICATION THAT THE STATE WILL
21 PARTICIPATE IN THE INCOME AND ELIGIBILITY VER-
22 IFICATION SYSTEM.—A certification by the chief ex-
23 ecutive officer of the State that, during the fiscal
24 year, the State will participate in the income and eli-
25 gibility verification system required by section 1137.

1 “(7) CERTIFICATION OF THE ADMINISTRATION
2 OF THE PROGRAM.—A certification by the chief ex-
3 ecutive officer of the State specifying which State
4 agency or agencies are responsible for the adminis-
5 tration and supervision of the State program for the
6 fiscal year and ensuring that local governments and
7 private sector organizations have been consulted re-
8 garding the plan and design of welfare services in
9 the State so that services are provided in a manner
10 appropriate to local populations.

11 “(8) CERTIFICATION THAT REQUIRED REPORTS
12 WILL BE SUBMITTED.—A certification by the chief
13 executive officer of the State that the State shall
14 provide the Secretary with any reports required
15 under this part.

16 “(b) CERTIFICATION THAT THE STATE WILL PRO-
17 VIDE ACCESS TO INDIANS.—

18 “(1) IN GENERAL.—In recognition of the Fed-
19 eral Government’s trust responsibility to, and gov-
20 ernment-to-government relationship with, Indian
21 tribes, the Secretary shall ensure that Indians re-
22 ceive at least their equitable share of services under
23 the State program, by requiring a certification by
24 the chief executive officer of each State described in
25 paragraph (2) that, during the fiscal year, the State

1 shall provide Indians in each Indian tribe that does
2 not have a tribal family assistance plan approved
3 under section 414 for a fiscal year with equitable ac-
4 cess to assistance under the State program funded
5 under this part.

6 “(2) STATE DESCRIBED.—For purposes of
7 paragraph (1), a State described in this paragraph
8 is a State in which there is an Indian tribe that does
9 not have a tribal family assistance plan approved
10 under section 414 for a fiscal year.

11 “(c) DISTRIBUTION OF STATE PLAN.—

12 “(1) PUBLIC AVAILABILITY OF SUMMARY.—The
13 State shall make available to the public a summary
14 of the State plan submitted under this section.

15 “(2) COPY TO AUDITOR.—The State shall pro-
16 vide the approved entity conducting the audit under
17 section 408 with a copy of the State plan submitted
18 under this section.

19 “(d) DEFINITIONS.—For purposes of this part, the
20 following definitions shall apply:

21 “(1) ADULT.—The term ‘adult’ means an indi-
22 vidual who is not a minor child.

23 “(2) MINOR CHILD.—The term ‘minor child’
24 means an individual—

25 “(A) who—

1 “(i) has not attained 18 years of age;

2 or

3 “(ii) has not attained 19 years of age

4 and is a full-time student in a secondary

5 school (or in the equivalent level of voca-

6 tional or technical training); and

7 “(B) who resides with such individual’s

8 custodial parent or other caretaker relative.

9 “(3) FISCAL YEAR.—The term ‘fiscal year’

10 means any 12-month period ending on September 30

11 of a calendar year.

12 “(4) INDIAN, INDIAN TRIBE, AND TRIBAL ORGA-

13 NIZATION.—

14 “(A) IN GENERAL.—Except as provided in

15 subparagraph (B), the terms ‘Indian’, ‘Indian

16 tribe’, and ‘tribal organization’ have the mean-

17 ing given such terms by section 4 of the Indian

18 Self-Determination and Education Assistance

19 Act (25 U.S.C. 450b).

20 “(B) IN ALASKA.—For purposes of making

21 tribal family assistance grants under section

22 414 on behalf of Indians in Alaska, the term

23 ‘Indian tribe’ shall mean only the following

24 Alaska Native regional nonprofit corporations:

25 “(i) Arctic Slope Native Association.

1 “(ii) Kawerak, Inc.

2 “(iii) Maniilaq Association.

3 “(iv) Association of Village Council
4 Presidents.

5 “(v) Tanana Chiefs Conference.

6 “(vi) Cook Inlet Tribal Council.

7 “(vii) Bristol Bay Native Association.

8 “(viii) Aleutian and Pribilof Island
9 Association.

10 “(ix) Chugachmuit.

11 “(x) Tlingit Haida Central Council.

12 “(xi) Kodiak Area Native Association.

13 “(xii) Copper River Native Associa-
14 tion.

15 “(5) STATE.—Except as otherwise specifically
16 provided, the term ‘State’ includes the several
17 States, the District of Columbia, the Commonwealth
18 of Puerto Rico, the United States Virgin Islands,
19 Guam, and American Samoa.

20 **“SEC. 403. PAYMENTS TO STATES AND INDIAN TRIBES.**

21 “(a) GRANT AMOUNT.—

22 “(1) IN GENERAL.—Subject to the provisions of
23 paragraphs (3) and (5), section 407 (relating to pen-
24 alties), and section 414(g), for each of fiscal years

1 1996, 1997, 1998, 1999, and 2000, the Secretary
2 shall pay—

3 “(A) each eligible State a grant in an
4 amount equal to the State family assistance
5 grant for the fiscal year, for each of fiscal years
6 1998 and 1999, the amount of the State’s job
7 placement performance bonus determined under
8 subsection (f)(1) for the fiscal year, and for fis-
9 cal year 2000, the amount of the State’s share
10 of the performance bonus and high performance
11 bonus determined under section 418 for such
12 fiscal year; and

13 “(B) each Indian tribe with an approved
14 tribal family assistance plan a tribal family as-
15 sistance grant in accordance with section 414.

16 “(2) STATE FAMILY ASSISTANCE GRANT.—

17 “(A) IN GENERAL.—

18 “(i) BASIC AMOUNT.—For purposes of
19 paragraph (1)(A), a State family assist-
20 ance grant for any State for a fiscal year
21 is an amount equal to the sum of—

22 “(I) the total amount of the Fed-
23 eral payments to the State under sec-
24 tion 403 (other than Federal pay-
25 ments to the State described in sub-

1 paragraphs (A), (B) and (C) of sec-
2 tion 419(a)(2)) for fiscal year 1994
3 (as such section 403 was in effect
4 during such fiscal year), plus

5 “(II) the total amount of the
6 Federal payments to the State under
7 subparagraphs (A), (B) and (C) of
8 section 419(a)(2),

9 as such payments were reported by the State on
10 February 14, 1995, and as adjusted under
11 clause (ii).

12 “(ii) ADJUSTMENTS.—The payments
13 described in clause (i) shall be—

14 “(I) reduced by the amount, if
15 any, determined under subparagraph
16 (B);

17 “(II) reduced by the amount de-
18 termined under subsection (f)(2)(B);

19 “(III) reduced by the amount, if
20 any, determined under subsection
21 (i)(3)(C)(iii);

22 “(IV) for fiscal year 2000, re-
23 duced by the amount determined
24 under section 418(a)(3); and

1 “(V) increased by the amount, if
2 any, determined under subparagraph
3 (D).

4 “(B) AMOUNT ATTRIBUTABLE TO CERTAIN
5 INDIAN FAMILIES SERVED BY INDIAN TRIBES.—

6 “(i) IN GENERAL.—For purposes of
7 subparagraph (A), the amount determined
8 under this subparagraph is an amount
9 equal to the Federal payments to the State
10 under this section for fiscal year 1994 (as
11 in effect during such fiscal year) attrib-
12 utable to expenditures by the State under
13 parts A and F of this title (as so in effect)
14 for Indian families described in clause (ii).

15 “(ii) INDIAN FAMILIES DESCRIBED.—
16 For purposes of clause (i), Indian families
17 described in this clause are Indian families
18 who reside in a service area or areas of an
19 Indian tribe receiving a tribal family as-
20 sistance grant under section 414.

21 “(C) NOTIFICATION.—Not later than 3
22 months prior to the payment of each quarterly
23 installment of a State grant under subsection
24 (a)(1), the Secretary shall notify the State of

1 the amount of the reduction determined under
2 subparagraph (B) with respect to the State.

3 “(D) AMOUNT ATTRIBUTABLE TO STATE
4 PLAN AMENDMENTS.—

5 “(i) IN GENERAL.—For purposes of
6 subparagraph (A) and subject to the limi-
7 tation in clause (ii), the amount deter-
8 mined under this subparagraph is an
9 amount equal to the Federal payment
10 under section 403(a)(5) to the State for
11 emergency assistance in fiscal year 1995
12 under any State plan amendment made
13 under section 402 during fiscal year 1994
14 (as such sections were in effect before the
15 date of the enactment of the Work Oppor-
16 tunity Act of 1995).

17 “(ii) LIMITATION.—Amounts made
18 available under clause (i) to all States shall
19 not exceed \$800,000,000 for the 5-fiscal
20 year period beginning in fiscal year 1996.
21 If amounts available under this subpara-
22 graph are less than the total amount of
23 emergency assistance payments referred to
24 in clause (i), the amount payable to a
25 State shall be equal to an amount which

1 bears the same relationship to the total
2 amount available under this clause as the
3 State emergency assistance payment bears
4 to the total amount of such payments.

5 “(iii) BUDGET SCORING.—Notwith-
6 standing section 257(b)(2) of the Balanced
7 Budget and Emergency Deficit Control Act
8 of 1985, the baseline shall assume that no
9 grant shall be made under this subpara-
10 graph after fiscal year 2000.

11 “(3) SUPPLEMENTAL GRANT AMOUNT FOR POP-
12 ULATION INCREASES IN CERTAIN STATES.—

13 “(A) IN GENERAL.—The amount of the
14 grant payable under paragraph (1) to a qualify-
15 ing State for each of fiscal years 1997, 1998,
16 1999, and 2000 shall be increased by an
17 amount equal to 2.5 percent of the amount that
18 the State received under this section in the pre-
19 ceding fiscal year.

20 “(B) INCREASE TO REMAIN IN EFFECT
21 EVEN IF STATE FAILS TO QUALIFY IN LATER
22 YEARS.—Subject to section 407, in no event
23 shall the amount of a grant payable under
24 paragraph (1) to a State for any fiscal year be

1 less than the amount the State received under
2 this section for the preceding fiscal year.

3 “(C) QUALIFYING STATE.—

4 “(i) IN GENERAL.—For purposes of
5 this paragraph, the term ‘qualifying State’,
6 with respect to any fiscal year, means a
7 State that—

8 “(I) had an average level of State
9 welfare spending per poor person in
10 the preceding fiscal year that was less
11 than the national average level of
12 State welfare spending per poor per-
13 son in the preceding fiscal year; and

14 “(II) had an estimated rate of
15 State population growth as deter-
16 mined by the Bureau of the Census
17 for the most recent fiscal year for
18 which information is available that
19 was greater than the average rate of
20 population growth for all States as de-
21 termined by the Bureau of the Census
22 for such fiscal year.

23 “(ii) CERTAIN STATES DEEMED
24 QUALIFYING STATES.—For purposes of
25 this paragraph, a State shall be deemed to

1 be a qualifying State for fiscal years 1997,
2 1998, 1999, and 2000 if—

3 “(I) the level of State welfare
4 spending per poor person in fiscal
5 year 1996 was less than 35 percent of
6 the national average level of State
7 welfare spending per poor person in
8 fiscal year 1996; or

9 “(II) a State has extremely high
10 population growth (which for purposes
11 of this clause shall be defined as a
12 greater than ten percent increase in
13 population from April 1, 1990 to July
14 1, 1994, as determined by the Bureau
15 of the Census).

16 “(iii) STATE MUST QUALIFY IN FISCAL
17 YEAR 1997.—A State shall not be eligible to
18 be a qualifying State under clause (i) for
19 fiscal years after 1997 if the State was not
20 a qualifying State under clause (i) in fiscal
21 year 1997.

22 “(D) DEFINITIONS.—For purposes of this
23 paragraph:

24 “(i) LEVEL OF STATE WELFARE
25 SPENDING PER POOR PERSON.—The term

1 'level of State welfare spending per poor
2 person' means, with respect to a State for
3 any fiscal year—

4 “(I) the amount of the grant re-
5 ceived by the State under this section
6 (prior to the application of section
7 407); divided by

8 “(II) the number of the individ-
9 uals in the State who had an income
10 below the poverty line according to the
11 1990 decennial census.

12 “(ii) NATIONAL AVERAGE LEVEL OF
13 STATE WELFARE SPENDING PER POOR
14 PERSON.—The term ‘national average level
15 of State welfare spending per poor person’
16 means an amount equal to—

17 “(I) the amount paid in grants
18 under this section (prior to the appli-
19 cation of section 407); divided by

20 “(II) the number of individuals
21 in all States with an income below the
22 poverty line according to the 1990 de-
23 cennial census.

24 “(iii) POVERTY LINE.—The term ‘pov-
25 erty line’ has the same meaning given such

1 term in section 673(2) of the Community
2 Services Block Grant Act (42 U.S.C.
3 9902(2)).

4 “(iv) STATE.—The term ‘State’
5 means each of the 50 States of the United
6 States.

7 “(4) APPROPRIATION.—

8 “(A) STATES.—There are authorized to be
9 appropriated and there are appropriated
10 \$16,803,769,000 for each fiscal year described
11 in paragraph (1) for the purpose of paying—

12 “(i) grants to States under paragraph
13 (1)(A); and

14 “(ii) tribal family assistance grants
15 under paragraph (1)(B).

16 “(B) ADJUSTMENT FOR QUALIFYING
17 STATES.—For the purpose of increasing the
18 amount of the grant payable to a State under
19 paragraph (1) in accordance with paragraph
20 (3), there are authorized to be appropriated and
21 there are appropriated—

22 “(i) for fiscal year 1997, \$85,860,000;

23 “(ii) for fiscal year 1998,
24 \$173,276,000;

1 “(iii) for fiscal year 1999,
2 \$263,468,000; and

3 “(iv) for fiscal year 2000,
4 \$355,310,000.

5 “(5) WELFARE PARTNERSHIP.—

6 “(A) IN GENERAL.—The amount of the
7 grant otherwise determined under paragraph
8 (1) for fiscal year 1997, 1998, 1999, or 2000
9 shall be reduced by the amount by which State
10 expenditures under the State program funded
11 under this part for the preceding fiscal year is
12 less than 80 percent of historic State expendi-
13 tures.

14 “(B) HISTORIC STATE EXPENDITURES.—
15 For purposes of this paragraph—

16 “(i) IN GENERAL.—The term ‘historic
17 State expenditures’ means expenditures by
18 a State under parts A and F of title IV for
19 fiscal year 1994, as in effect during such
20 fiscal year.

21 “(ii) HOLD HARMLESS.—In no event
22 shall the historic State expenditures appli-
23 cable to any fiscal year exceed the amount
24 which bears the same ratio to the amount
25 determined under clause (i) as—

1 “(I) the grant amount otherwise
2 determined under paragraph (1) for
3 the preceding fiscal year (without re-
4 gard to section 407), bears to

5 “(II) the total amount of Federal
6 payments to the State under section
7 403 for fiscal year 1994 (as in effect
8 during such fiscal year).

9 “(C) DETERMINATION OF STATE EXPENDI-
10 TURES FOR PRECEDING FISCAL YEAR.—

11 “(i) IN GENERAL.—For purposes of
12 this paragraph, the expenditures of a State
13 under the State program funded under this
14 part for a preceding fiscal year shall be
15 equal to the sum of the State’s expendi-
16 tures under the program in the preceding
17 fiscal year for—

18 “(I) cash assistance;

19 “(II) child care assistance;

20 “(III) education, job training,
21 and work;

22 “(IV) administrative costs; and

23 “(V) any other use of funds al-
24 lowable under section 403(b)(1).

1 “(ii) TRANSFERS FROM OTHER STATE
2 AND LOCAL PROGRAMS.—In determining
3 State expenditures under clause (i), such
4 expenditures shall not include funding sup-
5 planted by transfers from other State and
6 local programs.

7 “(D) EXCLUSION OF FEDERAL
8 AMOUNTS.—For purposes of this paragraph,
9 State expenditures shall not include any ex-
10 penditures from amounts made available by the
11 Federal Government, State funds expended for
12 the medicaid program under title XIX of this
13 Act or any successor to such program, and any
14 State funds which are used to match Federal
15 funds or are expended as a condition of receiv-
16 ing Federal funds under Federal programs
17 other than under this part.

18 “(b) USE OF GRANT.—

19 “(1) IN GENERAL.—Subject to this part, a
20 State to which a grant is made under this section
21 may use the grant—

22 “(A) in any manner that is reasonably cal-
23 culated to accomplish the purpose of this part;
24 or

1 “(B) in any manner that such State used
2 amounts received under part A or F of this
3 title, as such parts were in effect before October
4 1, 1995;
5 except that not more than 15 percent of the grant
6 may be used for administrative purposes.

7 “(2) AUTHORITY TO TREAT INTERSTATE IMMI-
8 GRANTS UNDER RULES OF FORMER STATE.—A State
9 to which a grant is made under this section may
10 apply to a family some or all of the rules (including
11 benefit amounts) of the program operated under this
12 part of another State if the family has moved to the
13 State from the other State and has resided in the
14 State for less than 12 months.

15 “(3) AUTHORITY TO RESERVE CERTAIN
16 AMOUNTS FOR ASSISTANCE.—A State may reserve
17 amounts paid to the State under this part for any
18 fiscal year for the purpose of providing, without fis-
19 cal year limitation, assistance under the State pro-
20 gram operated under this part. In the case of
21 amounts paid to the State that are set aside in ac-
22 cordance with section 419(a), the State may reserve
23 such amounts for any fiscal year only for the pur-
24 pose of providing without fiscal year limitation child
25 care assistance under this part.

1 “(4) AUTHORITY TO OPERATE EMPLOYMENT
2 PLACEMENT PROGRAM.—A State to which a grant is
3 made under this section may use a portion of the
4 grant to make payments (or provide job placement
5 vouchers) to State-approved public and private job
6 placement agencies that provide employment place-
7 ment services to individuals who receive assistance
8 under the State program funded under this part.

9 “(5) TRANSFERABILITY OF GRANT AMOUNTS.—
10 A State may use up to 30 percent of amounts re-
11 ceived from a grant under this part for a fiscal year
12 to carry out State activities under the Child Care
13 and Development Block Grant Act of 1990 (42
14 U.S.C. 9858 et seq.) (relating to child care block
15 grants).

16 “(c) TIMING OF PAYMENTS.—The Secretary shall
17 pay each grant payable to a State under this section in
18 quarterly installments.

19 “(d) FEDERAL LOAN FUND FOR STATE WELFARE
20 PROGRAMS.—

21 “(1) ESTABLISHMENT.—There is hereby estab-
22 lished in the Treasury of the United States a revolv-
23 ing loan fund which shall be known as the ‘Federal
24 Loan Fund for State Welfare Programs’ (hereafter

1 for purposes of this section referred to as the
2 ‘fund’).

3 “(2) DEPOSITS INTO FUND.—

4 “(A) APPROPRIATION.—Out of any money
5 in the Treasury of the United States not other-
6 wise appropriated, \$1,700,000,000 are hereby
7 appropriated for fiscal year 1996 for payment
8 to the fund.

9 “(B) LOAN REPAYMENTS.—The Secretary
10 shall deposit into the fund any principal or in-
11 terest payment received with respect to a loan
12 made under this subsection.

13 “(3) AVAILABILITY.—Amounts in the fund are
14 authorized to remain available without fiscal year
15 limitation for the purpose of making loans and re-
16 ceiving payments of principal and interest on such
17 loans, in accordance with this subsection.

18 “(4) USE OF FUND.—

19 “(A) LOANS TO STATES.—The Secretary
20 shall make loans from the fund to any loan-eli-
21 gible State, as defined in subparagraph (D), for
22 a period to maturity of not more than 3 years.

23 “(B) RATE OF INTEREST.—The Secretary
24 shall charge and collect interest on any loan
25 made under subparagraph (A) at a rate equal

1 to the current average market yield on out-
2 standing marketable obligations of the United
3 States with remaining periods to maturity com-
4 parable to the period to maturity of the loan.

5 “(C) MAXIMUM LOAN.—The cumulative
6 amount of any loans made to a State under
7 subparagraph (A) during fiscal years 1996
8 through 2000 shall not exceed 10 percent of the
9 State family assistance grant under subsection
10 (a)(2) for a fiscal year.

11 “(D) LOAN-ELIGIBLE STATE.—For pur-
12 poses of subparagraph (A), a loan-eligible State
13 is a State which has not had a penalty de-
14 scribed in section 407(a)(1) imposed against it
15 at any time prior to the loan being made.

16 “(5) LIMITATION ON USE OF LOAN.—A State
17 shall use a loan received under this subsection only
18 for any purpose for which grant amounts received by
19 the State under subsection (a) may be used includ-
20 ing—

21 “(A) welfare anti-fraud activities; and

22 “(B) the provision of assistance under the
23 State program to Indian families that have
24 moved from the service area of an Indian tribe

1 with a tribal family assistance plan approved
2 under section 414.

3 “(e) SPECIAL RULE FOR INDIAN TRIBES THAT RE-
4 CEIVED JOBS FUNDS.—

5 “(1) IN GENERAL.—The Secretary shall pay to
6 each eligible Indian tribe for each of fiscal years
7 1996, 1997, 1998, 1999, and 2000 a grant in an
8 amount equal to the amount received by such Indian
9 tribe in fiscal year 1994 under section 482(i) (as in
10 effect during such fiscal year) for the purpose of op-
11 erating a program to make work activities available
12 to members of the Indian tribe.

13 “(2) ELIGIBLE INDIAN TRIBE.—For purposes
14 of paragraph (1), the term ‘eligible Indian tribe’
15 means an Indian tribe or Alaska Native organization
16 that conducted a job opportunities and basic skills
17 training program in fiscal year 1995 under section
18 482(i) (as in effect during such fiscal year).

19 “(3) APPROPRIATION.—There are authorized to
20 be appropriated and there are hereby appropriated
21 \$7,638,474 for each fiscal year described in para-
22 graph (1) for the purpose of paying grants in ac-
23 cordance with such paragraph.

24 “(f) JOB PLACEMENT PERFORMANCE BONUS.—

1 “(1) IN GENERAL.—The job placement per-
2 formance bonus determined with respect to a State
3 and a fiscal year is an amount equal to the amount
4 of the State’s allocation of the job placement per-
5 formance fund determined in accordance with the
6 formula developed under paragraph (2).

7 “(2) ALLOCATION FORMULA; BONUS FUND.—

8 “(A) ALLOCATION FORMULA.—

9 “(i) IN GENERAL.—Not later than
10 September 30, 1996, the Secretary of
11 Health and Human Services shall develop
12 and publish in the Federal Register a for-
13 mula for allocating amounts in the job
14 placement performance bonus fund to
15 States based on the number of families
16 that received assistance under a State pro-
17 gram funded under this part in the preced-
18 ing fiscal year that became ineligible for
19 assistance under the State program as a
20 result of unsubsidized employment during
21 such year.

22 “(ii) FACTORS TO CONSIDER.—In de-
23 veloping the allocation formula under
24 clause (i), the Secretary shall—

1 “(I) provide a greater financial
2 bonus for individuals in families de-
3 scribed in clause (i) who remain em-
4 ployed for greater periods of time or
5 are at greater risk of long-term wel-
6 fare dependency; and

7 “(II) take into account the unem-
8 ployment conditions of each State or
9 geographic area.

10 “(B) JOB PLACEMENT PERFORMANCE
11 BONUS FUND.—

12 “(i) IN GENERAL.—The amount in
13 the job placement performance bonus fund
14 for a fiscal year shall be an amount equal
15 to the applicable percentage of the amount
16 appropriated under section 403(a)(2)(A)(i)
17 for such fiscal year.

18 “(ii) APPLICABLE PERCENTAGE.—For
19 purposes of clause (i)(I), the applicable
20 percentage shall be determined in accord-
21 ance with the following table:

“For fiscal year:	The applicable percentage is:
1998	3
1999	4.

22 “(g) SECRETARY.—For purposes of this section, the
23 term ‘Secretary’ means the Secretary of the Treasury.

1 “(h) CONTINGENCY FUND.—

2 “(1) ESTABLISHMENT.—There is hereby estab-
3 lished in the Treasury of the United States a fund
4 which shall be known as the ‘Contingency Fund for
5 State Welfare Programs’ (hereafter in this section
6 referred to as the ‘Fund’).

7 “(2) DEPOSITS INTO FUND.—Out of any money
8 in the Treasury of the United States not otherwise
9 appropriated, there are hereby appropriated for fis-
10 cal years 1996, 1997, 1998, 1999, 2000, 2001, and
11 2002 such sums as are necessary for payment to the
12 Fund in a total amount not to exceed
13 \$1,000,000,000.

14 “(3) COMPUTATION OF GRANT.—

15 “(A) IN GENERAL.—Subject to subpara-
16 graph (B), the Secretary of the Treasury shall
17 pay to each eligible State in a fiscal year an
18 amount equal to the Federal medical assistance
19 percentage for such State for such fiscal year
20 (as defined in section 2122(c)) of so much of
21 the expenditures by the State in such year
22 under the State program funded under this
23 part as exceed the historic State expenditures
24 for such State.

1 “(B) LIMITATION.—The total amount paid
2 to a State under subparagraph (A) for any fis-
3 cal year shall not exceed an amount equal to 20
4 percent of the annual amount determined for
5 such State under the State program funded
6 under this part (without regard to this sub-
7 section) for such fiscal year.

8 “(C) METHOD OF COMPUTATION, PAY-
9 MENT, AND RECONCILIATION.—

10 “(i) METHOD OF COMPUTATION.—
11 The method of computing and paying such
12 amounts shall be as follows:

13 “(I) The Secretary of Health and
14 Human Services shall estimate the
15 amount to be paid to the State for
16 each quarter under the provisions of
17 subparagraph (A), such estimate to be
18 based on a report filed by the State
19 containing its estimate of the total
20 sum to be expended in such quarter
21 and such other information as the
22 Secretary may find necessary.

23 “(II) The Secretary of Health
24 and Human Services shall then certify
25 to the Secretary of the Treasury the

1 amount so estimated by the Secretary
2 of Health and Human Services.

3 “(ii) METHOD OF PAYMENT.—The
4 Secretary of the Treasury shall thereupon,
5 through the Fiscal Service of the Depart-
6 ment of the Treasury and prior to audit or
7 settlement by the General Accounting Of-
8 fice, pay to the State, at the time or times
9 fixed by the Secretary of Health and
10 Human Services, the amount so certified.

11 “(iii) METHOD OF RECONCILI-
12 ATION.—If at the end of each fiscal year,
13 the Secretary of Health and Human Serv-
14 ices finds that a State which received
15 amounts from the Fund in such fiscal year
16 did not meet the maintenance of effort re-
17 quirement under paragraph (5)(B) for
18 such fiscal year, the Secretary shall reduce
19 the State family assistance grant for such
20 State for the succeeding fiscal year by such
21 amounts.

22 “(4) USE OF GRANT.—

23 “(A) IN GENERAL.—An eligible State may
24 use the grant—

1 “(i) in any manner that is reasonably
2 calculated to accomplish the purpose of
3 this part; or

4 “(ii) in any manner that such State
5 used amounts received under part A or F
6 of this title, as such parts were in effect
7 before October 1, 1995.

8 “(B) REFUND OF UNUSED PORTION.—Any
9 amount of a grant under this subsection not
10 used during the fiscal year shall be returned to
11 the Fund.

12 “(5) ELIGIBLE STATE.—

13 “(A) IN GENERAL.—For purposes of this
14 subsection, a State is an eligible State with re-
15 spect to a fiscal year, if—

16 “(i)(I) the average rate of total unem-
17 ployment in such State (seasonally ad-
18 justed) for the period consisting of the
19 most recent 3 months for which data for
20 all States are published equals or exceeds
21 6.5 percent, and

22 “(II) the average rate of total unem-
23 ployment in such State (seasonally ad-
24 justed) for the 3-month period equals or
25 exceeds 110 percent of such average rate

1 for either (or both) of the corresponding 3-
2 month periods ending in the 2 preceding
3 calendar years; and

4 “(ii) has met the maintenance of ef-
5 fort requirement under subparagraph (B)
6 for the State program funded under this
7 part for the fiscal year.

8 “(B) MAINTENANCE OF EFFORT.—The
9 maintenance of effort requirement for any State
10 under this subparagraph for any fiscal year is
11 the expenditure of an amount at least equal to
12 100 percent of the level of historic State ex-
13 penditures for such State (as determined under
14 subsection (a)(5)).

15 “(6) ANNUAL REPORTS.—The Secretary of the
16 Treasury shall annually report to the Congress on
17 the status of the Fund.

18 **“SEC. 404. MANDATORY WORK REQUIREMENTS.**

19 “(a) PARTICIPATION RATE REQUIREMENTS.—A
20 State to which a grant is made under section 403 for a
21 fiscal year shall achieve the minimum participation rate
22 specified in the following tables for the fiscal year with
23 respect to—

24 “(1) all families receiving assistance under the
25 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;

1 and

2 “(2) with respect to 2-parent families receiving
3 such assistance:

“If the fiscal year is:	The minimum participation rate is:
1996	60
1997 or 1998	75
1999 or thereafter	90.

4 “(b) CALCULATION OF PARTICIPATION RATES.—

5 “(1) FOR ALL FAMILIES.—

6 “(A) AVERAGE MONTHLY RATE.—For pur-
7 poses of subsection (a)(1), the participation
8 rate for all families of a State for a fiscal year
9 is the average of the participation rates for all
10 families of the State for each month in the fis-
11 cal year.

12 “(B) MONTHLY PARTICIPATION RATES.—
13 The participation rate of a State for all families
14 of the State for a month, expressed as a per-
15 centage, is—

16 “(i) the sum of—

17 “(I) the number of all families
18 receiving assistance under the State

1 program funded under this part that
2 include an adult who is engaged in
3 work for the month;

4 “(II) the number of all families
5 receiving assistance under the State
6 program funded under this part that
7 are subject in such month to a penalty
8 described in paragraph (1)(A) or
9 (2)(A) of subsection (d) but have not
10 been subject to such penalty for more
11 than 3 months within the preceding
12 12-month period (whether or not con-
13 secutive); and

14 “(III) the number of all families
15 that received assistance under the
16 State program under this part during
17 the previous 6-month period that have
18 become ineligible to receive assistance
19 during such period because of employ-
20 ment and which include an adult who
21 is employed for the month; divided by

22 “(ii) the total number of all families
23 receiving assistance under the State pro-
24 gram funded under this part during the

1 month that include an adult receiving as-
2 sistance.

3 “(2) 2-PARENT FAMILIES.—

4 “(A) AVERAGE MONTHLY RATE.—For pur-
5 poses of subsection (a)(2), the participation
6 rate for 2-parent families of a State for a fiscal
7 year is the average of the participation rates for
8 2-parent families of the State for each month in
9 the fiscal year.

10 “(B) MONTHLY PARTICIPATION RATES.—
11 The participation rate of a State for 2-parent
12 families of the State for a month, expressed as
13 a percentage, is—

14 “(i) the total number of 2-parent fam-
15 ilies described in paragraph (1)(B)(i); di-
16 vided by

17 “(ii) the total number of 2-parent
18 families receiving assistance under the
19 State program funded under this part dur-
20 ing the month that include an adult.

21 “(3) PRO RATA REDUCTION OF PARTICIPATION
22 RATE DUE TO CASELOAD REDUCTIONS NOT RE-
23 QUIRED BY FEDERAL LAW.—

24 “(A) IN GENERAL.—The Secretary shall
25 prescribe regulations for reducing the minimum

1 participation rate otherwise required by this
2 section for a fiscal year by the number of per-
3 centage points equal to the number of percent-
4 age points (if any) by which—

5 “(i) the number of families receiving
6 assistance during the fiscal year under the
7 State program funded under this part is
8 less than

9 “(ii) the number of families that re-
10 ceived aid under the State plan approved
11 under part A of this title (as in effect be-
12 fore October 1, 1995) during the fiscal
13 year immediately preceding such effective
14 date.

15 The minimum participation rate shall not be re-
16 duced to the extent that the Secretary deter-
17 mines that the reduction in the number of fami-
18 lies receiving such assistance is required by
19 Federal law.

20 “(B) ELIGIBILITY CHANGES NOT COUNT-
21 ED.—The regulations described in subpara-
22 graph (A) shall not take into account families
23 that are diverted from a State program funded
24 under this part as a result of differences in eli-
25 gibility criteria under a State program funded

1 under this part and eligibility criteria under
2 such State's plan under the aid to families with
3 dependent children program, as such plan was
4 in effect on the day before the date of the en-
5 actment of the Work Opportunity Act of 1995.

6 “(4) STATE OPTION TO INCLUDE INDIVIDUALS
7 RECEIVING ASSISTANCE UNDER A TRIBAL FAMILY
8 ASSISTANCE PLAN.—For purposes of paragraphs
9 (1)(B) and (2)(B), a State may, at its option, in-
10 clude families receiving assistance under a tribal
11 family assistance plan approved under section 414.
12 For purposes of the previous sentence, an individual
13 who receives assistance under a tribal family assist-
14 ance plan approved under section 414 shall be treat-
15 ed as being engaged in work if the individual is par-
16 ticipating in work under standards that are com-
17 parable to State standards for being engaged in
18 work.

19 “(5) STATE OPTION FOR PARTICIPATION RE-
20 QUIREMENT EXEMPTIONS.—For any fiscal year, a
21 State may, at its option, not require an individual
22 who is the parent or caretaker relative of a minor
23 child who is less than 12 months of age to engage
24 in work and may exclude such an individual from

1 the determination of the minimum participation rate
 2 specified for such fiscal year in subsection (a).

3 “(c) ENGAGED IN WORK.—

4 “(1) ALL FAMILIES.—For purposes of sub-
 5 section (b)(1)(B)(i)(I), an adult is engaged in work
 6 for a month in a fiscal year if the adult is participat-
 7 ing in work for at least the minimum average num-
 8 ber of hours per week specified in the following table
 9 during the month, not fewer than 20 hours per week
 10 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.

11 “(2) 2-PARENT FAMILIES.—For purposes of
 12 subsection (b)(2)(A), an adult is engaged in work for
 13 a month in a fiscal year if the adult is participating
 14 in work for at least 35 hours per week during the
 15 month, not fewer than 30 hours per week of which
 16 are attributable to work activities described in para-
 17 graph (3).

18 “(3) DEFINITION OF WORK ACTIVITIES.—For
 19 purposes of this subsection, the term ‘work activi-
 20 ties’ means—

1 “(A) unsubsidized employment;

2 “(B) subsidized employment;

3 “(C) on-the-job training;

4 “(D) community service programs;

5 “(E) job search (only for the first 4 weeks

6 in which an individual is required to participate

7 in work activities under this section); and

8 “(F) vocational educational training (not

9 to exceed 12 months with respect to any indi-

10 vidual).

11 “(4) LIMITATION ON VOCATIONAL EDUCATION

12 ACTIVITIES COUNTED AS WORK.—For purposes of

13 determining monthly participation rates under para-

14 graphs (1)(B)(i)(I) and (2)(B)(i) of subsection (b),

15 not more than 25 percent of adults in all families

16 and in 2-parent families determined to be engaged

17 in work in the State for a month may meet the work

18 activity requirement through participation in voca-

19 tional educational training.

20 “(d) PENALTIES AGAINST INDIVIDUALS.—

21 “(1) IN GENERAL.—Except as provided in para-

22 graph (2), if an adult in a family receiving assist-

23 ance under the State program funded under this

24 part refuses to engage in work required under sub-

1 section (c)(1) or (c)(2), a State to which a grant is
2 made under section 403 shall—

3 “(A) reduce the amount of assistance oth-
4 erwise payable to the family pro rata (or more,
5 at the option of the State) with respect to any
6 period during a month in which the adult so re-
7 fuses; or

8 “(B) terminate such assistance,
9 subject to such good cause and other exceptions as
10 the State may establish.

11 “(2) EXCEPTION.—Notwithstanding paragraph
12 (1), a State may not reduce or terminate assistance
13 under the State program based on a refusal of an
14 adult to work if such adult is a single custodial par-
15 ent caring for a child age 5 or under and has a dem-
16 onstrated inability (as determined by the State) to
17 obtain needed child care, for one or more of the fol-
18 lowing reasons:

19 “(A) Unavailability of appropriate child
20 care within a reasonable distance of the individ-
21 ual’s home or work site.

22 “(B) Unavailability or unsuitability of in-
23 formal child care by a relative or under other
24 arrangements.

1 “(C) Unavailability of appropriate and af-
2 fordable formal child care arrangements.

3 “(e) NONDISPLACEMENT IN WORK ACTIVITIES.—

4 “(1) IN GENERAL.—Subject to paragraph (2),
5 an adult in a family receiving assistance under this
6 part may fill a vacant employment position in order
7 to engage in a work activity described in subsection
8 (c)(3).

9 “(2) NO FILLING OF CERTAIN VACANCIES.—No
10 adult in a work activity described in subsection
11 (c)(3) shall be employed or assigned—

12 “(A) when any other individual is on layoff
13 from the same or any substantially equivalent
14 job; or

15 “(B) when the employer has terminated
16 the employment of any regular employee or oth-
17 erwise caused an involuntary reduction of its
18 workforce in order to fill the vacancy so created
19 with an adult described in paragraph (1).

20 “(3) NO PREEMPTION.—Nothing in this sub-
21 section shall preempt or supersede any provision of
22 State or local law that provides greater protection
23 for employees from displacement.

24 “(f) SENSE OF THE CONGRESS.—It is the sense of
25 the Congress that in complying with this section, each

1 State that operates a program funded under this part is
 2 encouraged to assign the highest priority to requiring
 3 adults in 2-parent families and adults in single-parent
 4 families that include older preschool or school-age children
 5 to be engaged in work activities.

6 “(g) ENCOURAGEMENT TO PROVIDE CHILD CARE
 7 SERVICES.—An individual participating in a State com-
 8 munity service program may be treated as being engaged
 9 in work under subsection (c) if such individual provides
 10 child care services to other individuals participating in the
 11 community service program in the manner, and for the
 12 period of time each week, determined appropriate by the
 13 State.

14 **“SEC. 405. REQUIREMENTS AND LIMITATIONS.**

15 “(a) STATE REQUIRED TO ENTER INTO A PERSONAL
 16 RESPONSIBILITY CONTRACT WITH EACH FAMILY RE-
 17 CEIVING ASSISTANCE.—

18 “(1) IN GENERAL.—Each State to which a
 19 grant is made under section 403 shall require each
 20 family receiving assistance under the State program
 21 funded under this part to enter into—

22 “(A) a personal responsibility contract (as
 23 developed by the State) with the State; or

24 “(B) a limited benefit plan.

1 “(2) PERSONAL RESPONSIBILITY CONTRACT.—

2 For purposes of this subsection, the term ‘personal
3 responsibility contract’ means a binding contract be-
4 tween the State and each family receiving assistance
5 under the State program funded under this part
6 that—

7 “(A) outlines the steps each family and the
8 State will take to get the family off of welfare
9 and to become self-sufficient;

10 “(B) specifies a negotiated time-limited pe-
11 riod of eligibility for receipt of assistance that
12 is consistent with unique family circumstances
13 and is based on a reasonable plan to facilitate
14 the transition of the family to self-sufficiency;

15 “(C) provides that the family will auto-
16 matically enter into a limited benefit plan if the
17 family is out of compliance with the personal
18 responsibility contract; and

19 “(D) provides that the contract shall be in-
20 valid if the State agency fails to comply with
21 the contract.

22 “(3) LIMITED BENEFIT PLAN.—For purposes
23 of this subsection, the term ‘limited benefit plan’
24 means a plan which provides for a reduced level of
25 assistance and later termination of assistance to a

1 family that has entered into the plan in accordance
2 with a schedule to be determined by the State.

3 “(4) ASSESSMENT.—The State agency shall
4 provide, through a case manager, an initial and
5 thorough assessment of the skills, prior work experi-
6 ence, and employability of each parent for use in de-
7 veloping and negotiating a personal responsibility
8 contract.

9 “(5) DISPUTE RESOLUTION.—The State agency
10 described in section 402(a)(7) shall establish a dis-
11 pute resolution procedure for disputes related to par-
12 ticipation in the personal responsibility contract that
13 provides the opportunity for a hearing.

14 “(b) NO ASSISTANCE FOR MORE THAN 5 YEARS.—

15 “(1) IN GENERAL.—Except as provided under
16 paragraphs (2) and (3), a State to which a grant is
17 made under section 403 may not use any part of the
18 grant to provide assistance to a family that includes
19 an adult who has received assistance under the pro-
20 gram operated under this part for the lesser of—

21 “(A) the period of time established at the
22 option of the State; or

23 “(B) 60 months (whether or not consec-
24 tive) after September 30, 1995.

1 “(2) MINOR CHILD EXCEPTION.—If an individ-
2 ual received assistance under the State program op-
3 erated under this part as a minor child in a needy
4 family, any period during which such individual’s
5 family received assistance shall not be counted for
6 purposes of applying the limitation described in
7 paragraph (1) to an application for assistance under
8 such program by such individual as the head of a
9 household of a needy family with minor children.

10 “(3) HARDSHIP EXCEPTION.—

11 “(A) IN GENERAL.—The State may ex-
12 empt a family from the application of para-
13 graph (1) by reason of hardship.

14 “(B) LIMITATION.—The number of fami-
15 lies with respect to which an exemption made
16 by a State under subparagraph (A) is in effect
17 for a fiscal year shall not exceed 20 percent of
18 the average monthly number of families to
19 which the State is providing assistance under
20 the program operated under this part.

21 “(c) DENIAL OF ASSISTANCE FOR 10 YEARS TO A
22 PERSON FOUND TO HAVE FRAUDULENTLY MISREPRE-
23 SENTED RESIDENCE IN ORDER TO OBTAIN ASSISTANCE
24 IN 2 OR MORE STATES.—An individual shall not be con-
25 sidered an eligible individual for the purposes of this part

1 during the 10-year period that begins on the date the indi-
2 vidual is convicted in Federal or State court of having
3 made a fraudulent statement or representation with re-
4 spect to the place of residence of the individual in order
5 to receive assistance simultaneously from 2 or more States
6 under programs that are funded under this title, title XXI,
7 or the Food Stamp Act of 1977, or benefits in 2 or more
8 States under the supplemental security income program
9 under title XVI.

10 “(d) DENIAL OF ASSISTANCE FOR FUGITIVE FELONS
11 AND PROBATION AND PAROLE VIOLATORS.—

12 “(1) IN GENERAL.—An individual shall not be
13 considered an eligible individual for the purposes of
14 this part if such individual is—

15 “(A) fleeing to avoid prosecution, or cus-
16 tody or confinement after conviction, under the
17 laws of the place from which the individual
18 flees, for a crime, or an attempt to commit a
19 crime, which is a felony under the laws of the
20 place from which the individual flees, or which,
21 in the case of the State of New Jersey, is a
22 high misdemeanor under the laws of such State;
23 or

24 “(B) violating a condition of probation or
25 parole imposed under Federal or State law.

1 “(2) EXCHANGE OF INFORMATION WITH LAW
2 ENFORCEMENT AGENCIES.—Notwithstanding any
3 other provision of law, a State shall furnish any
4 Federal, State, or local law enforcement officer,
5 upon the request of the officer, with the current ad-
6 dress, Social Security number, and photograph (if
7 applicable) of any recipient of assistance under this
8 part, if the officer furnishes the agency with the
9 name of the recipient and notifies the agency that—

10 “(A) such recipient—

11 “(i) is described in subparagraph (A)
12 or (B) of paragraph (1); or

13 “(ii) has information that is necessary
14 for the officer to conduct the officer’s offi-
15 cial duties; and

16 “(B) the location or apprehension of the
17 recipient is within such officer’s official duties.

18 “(e) STATE OPTION TO REQUIRE ASSIGNMENT OF
19 SUPPORT.—At the option of the State, a State to which
20 a grant is made under section 403 may provide that an
21 individual applying for or receiving assistance under the
22 State program funded under this part shall be required
23 to assign to the State any rights to support from any other
24 person the individual may have in such individual’s own

1 behalf or in behalf of any other family member for whom
2 the individual is applying for or receiving assistance.

3 “(f) DENIAL OF ASSISTANCE FOR ABSENT CHILD.—

4 Each State to which a grant is made under section 403—

5 “(1) may not use any part of the grant to pro-
6 vide assistance to a family with respect to any minor
7 child who has been, or is expected by the caretaker
8 relative in the family to be, absent from the home
9 for a period of 45 consecutive days or, at the option
10 of the State, such period of not less than 30 and not
11 more than 90 consecutive days as the State may
12 provide for in the State plan;

13 “(2) at the option of the State, may establish
14 such good cause exceptions to paragraph (1) as the
15 State considers appropriate if such exceptions are
16 provided for in the State plan; and

17 “(3) shall provide that a caretaker relative shall
18 not be considered an eligible individual for purposes
19 of this part if the caretaker relative fails to notify
20 the State agency of an absence of a minor child
21 from the home for the period specified in or provided
22 for under paragraph (1), by the end of the 5-day pe-
23 riod that begins on the date that it becomes clear to
24 the caretaker relative that the minor child will be

1 absent for the period so specified or provided for in
2 paragraph (1).

3 **“SEC. 406. PROMOTING RESPONSIBLE PARENTING.**

4 “(a) FINDINGS.—The Congress makes the following
5 findings:

6 “(1) Marriage is the foundation of a successful
7 society.

8 “(2) Marriage is an essential institution of a
9 successful society which promotes the interests of
10 children.

11 “(3) Promotion of responsible fatherhood and
12 motherhood is integral to successful child rearing
13 and the wellbeing of children.

14 “(4) In 1992, only 54 percent of single-parent
15 families with children had a child support order es-
16 tablished and, of that 54 percent, only about one
17 half received the full amount due. Of the cases en-
18 forced through the public child support enforcement
19 system, only 18 percent of the caseload has a collec-
20 tion.

21 “(5) The number of individuals receiving aid to
22 families with dependent children (hereafter in this
23 subsection referred to as ‘AFDC’) has more than
24 tripled since 1965. More than two-thirds of these re-
25 cipients are children. Eighty-nine percent of children

1 receiving AFDC benefits now live in homes in which
2 no father is present.

3 “(A)(i) The average monthly number of
4 children receiving AFDC benefits—

5 “(I) was 3,300,000 in 1965;

6 “(II) was 6,200,000 in 1970;

7 “(III) was 7,400,000 in 1980; and

8 “(IV) was 9,300,000 in 1992.

9 “(ii) While the number of children receiv-
10 ing AFDC benefits increased nearly threefold
11 between 1965 and 1992, the total number of
12 children in the United States aged 0 to 18 has
13 declined by 5.5 percent.

14 “(B) The Department of Health and
15 Human Services has estimated that 12,000,000
16 children will receive AFDC benefits within 10
17 years.

18 “(C) The increase in the number of chil-
19 dren receiving public assistance is closely relat-
20 ed to the increase in births to unmarried
21 women. Between 1970 and 1991, the percent-
22 age of live births to unmarried women increased
23 nearly threefold, from 10.7 percent to 29.5 per-
24 cent.

1 “(6) The increase of out-of-wedlock pregnancies
2 and births is well documented as follows:

3 “(A) It is estimated that the rate of
4 nonmarital teen pregnancy rose 23 percent
5 from 54 pregnancies per 1,000 unmarried teen-
6 agers in 1976 to 66.7 pregnancies in 1991. The
7 overall rate of nonmarital pregnancy rose 14
8 percent from 90.8 pregnancies per 1,000 un-
9 married women in 1980 to 103 in both 1991
10 and 1992. In contrast, the overall pregnancy
11 rate for married couples decreased 7.3 percent
12 between 1980 and 1991, from 126.9 preg-
13 nancies per 1,000 married women in 1980 to
14 117.6 pregnancies in 1991.

15 “(B) The total of all out-of-wedlock births
16 between 1970 and 1991 has risen from 10.7
17 percent to 29.5 percent and if the current trend
18 continues, 50 percent of all births by the year
19 2015 will be out-of-wedlock.

20 “(7) The negative consequences of an out-of-
21 wedlock birth on the mother, the child, the family,
22 and society are well documented as follows:

23 “(A) Young women 17 and under who give
24 birth outside of marriage are more likely to go
25 on public assistance and to spend more years

1 on welfare once enrolled. These combined ef-
2 fects of ‘younger and longer’ increase total
3 AFDC costs per household by 25 percent to 30
4 percent for 17-year olds.

5 “(B) Children born out-of-wedlock have a
6 substantially higher risk of being born at a very
7 low or moderately low birth weight.

8 “(C) Children born out-of-wedlock are
9 more likely to experience low verbal cognitive
10 attainment, as well as more child abuse, and
11 neglect.

12 “(D) Children born out-of-wedlock were
13 more likely to have lower cognitive scores, lower
14 educational aspirations, and a greater likelihood
15 of becoming teenage parents themselves.

16 “(E) Being born out-of-wedlock signifi-
17 cantly reduces the chances of the child growing
18 up to have an intact marriage.

19 “(F) Children born out-of-wedlock are 3
20 more times likely to be on welfare when they
21 grow up.

22 “(8) Currently 35 percent of children in single-
23 parent homes were born out-of-wedlock, nearly the
24 same percentage as that of children in single-parent
25 homes whose parents are divorced (37 percent).

1 While many parents find themselves, through divorce
2 or tragic circumstances beyond their control, facing
3 the difficult task of raising children alone, neverthe-
4 less, the negative consequences of raising children in
5 single-parent homes are well documented as follows:

6 “(A) Only 9 percent of married-couple
7 families with children under 18 years of age
8 have income below the national poverty level. In
9 contrast, 46 percent of female-headed house-
10 holds with children under 18 years of age are
11 below the national poverty level.

12 “(B) Among single-parent families, nearly
13 $\frac{1}{2}$ of the mothers who never married received
14 AFDC while only $\frac{1}{5}$ of divorced mothers re-
15 ceived AFDC.

16 “(C) Children born into families receiving
17 welfare assistance are 3 times more likely to be
18 on welfare when they reach adulthood than chil-
19 dren not born into families receiving welfare.

20 “(D) Mothers under 20 years of age are at
21 the greatest risk of bearing low birth-weight ba-
22 bies.

23 “(E) The younger the single parent moth-
24 er, the less likely she is to finish high school.

1 “(F) Young women who have children be-
2 fore finishing high school are more likely to re-
3 ceive welfare assistance for a longer period of
4 time.

5 “(G) Between 1985 and 1990, the public
6 cost of births to teenage mothers under the aid
7 to families with dependent children program,
8 the food stamp program, and the medicaid pro-
9 gram has been estimated at \$120,000,000,000.

10 “(H) The absence of a father in the life of
11 a child has a negative effect on school perform-
12 ance and peer adjustment.

13 “(I) Children of teenage single parents
14 have lower cognitive scores, lower educational
15 aspirations, and a greater likelihood of becom-
16 ing teenage parents themselves.

17 “(J) Children of single-parent homes are 3
18 times more likely to fail and repeat a year in
19 grade school than are children from intact two-
20 parent families.

21 “(K) Children from single-parent homes
22 are almost 4 times more likely to be expelled or
23 suspended from school.

24 “(L) Neighborhoods with larger percent-
25 ages of youth aged 12 through 20 and areas

1 with higher percentages of single-parent house-
2 holds have higher rates of violent crime.

3 “(M) Of those youth held for criminal of-
4 fenses within the State juvenile justice system,
5 only 29.8 percent lived primarily in a home with
6 both parents. In contrast to these incarcerated
7 youth, 73.9 percent of the 62,800,000 children
8 in the Nation’s resident population were living
9 with both parents.

10 “(9) Therefore, in light of this demonstration of
11 the crisis in our Nation, it is the sense of the Con-
12 gress that prevention of out-of-wedlock pregnancy
13 and reduction in out-of-wedlock birth are very im-
14 portant Government interests and the policy con-
15 tained in provisions of this title is intended to ad-
16 dress the crisis.

17 “(b) STATE OPTION TO DENY ASSISTANCE FOR
18 OUT-OF-WEDLOCK BIRTHS TO MINORS.—At the option of
19 the State, a State to which a grant is made under section
20 403 may provide that the grant shall not be used to pro-
21 vide assistance for a child born out-of-wedlock to an indi-
22 vidual who has not attained 18 years of age, or for the
23 individual, until the individual attains such age.

24 “(c) STATE OPTION TO DENY ASSISTANCE FOR
25 CHILDREN BORN TO FAMILIES RECEIVING ASSIST-

1 ANCE.—At the option of the State, a State to which a
2 grant is made under section 403 may provide that the
3 grant shall not be used to provide assistance for a minor
4 child who is born to—

5 “(1) a recipient of assistance under the pro-
6 gram funded under this part; or

7 “(2) an individual who received such benefits at
8 any time during the 10-month period ending with
9 the birth of the child.

10 “(d) REQUIREMENT THAT TEENAGE PARENTS LIVE
11 IN ADULT-SUPERVISED SETTINGS.—

12 “(1) IN GENERAL.—

13 “(A) REQUIREMENT.—Except as provided
14 in paragraph (2), if a State provides assistance
15 under the State program funded under this
16 part to an individual described in subparagraph
17 (B), such individual may only receive assistance
18 under the program if such individual and the
19 child of the individual reside in a place of resi-
20 dence maintained by a parent, legal guardian,
21 or other adult relative of such individual as
22 such parent’s, guardian’s, or adult relative’s
23 own home.

24 “(B) INDIVIDUAL DESCRIBED.— For pur-
25 poses of subparagraph (A), an individual de-

1 scribed in this subparagraph is an individual
2 who is—

3 “(i) under the age of 18; and

4 “(ii) not married and has a minor
5 child in his or her care.

6 “(2) EXCEPTION.—

7 “(A) PROVISION OF, OR ASSISTANCE IN
8 LOCATING, ADULT-SUPERVISED LIVING AR-
9 RANGEMENT.—In the case of an individual who
10 is described in subparagraph (B), the State
11 agency shall provide, or assist such individual in
12 locating, a second chance home, maternity
13 home, or other appropriate adult-supervised
14 supportive living arrangement, taking into con-
15 sideration the needs and concerns of such indi-
16 vidual, unless the State agency determines that
17 the individual’s current living arrangement is
18 appropriate, and thereafter shall require that
19 such parent and the child of such parent reside
20 in such living arrangement as a condition of the
21 continued receipt of assistance under the plan
22 (or in an alternative appropriate arrangement,
23 should circumstances change and the current
24 arrangement cease to be appropriate).

1 “(B) INDIVIDUAL DESCRIBED.—For pur-
2 poses of subparagraph (A), an individual is de-
3 scribed in this subparagraph if the individual is
4 described in paragraph (1)(B) and—

5 “(i) such individual has no parent,
6 legal guardian or other appropriate adult
7 relative as described in (ii) of his or her
8 own who is living or whose whereabouts
9 are known;

10 “(ii) no living parent, legal guardian,
11 or other appropriate adult relative who
12 would otherwise meet applicable State cri-
13 teria to act as such individual’s legal
14 guardian, of such individual allows the in-
15 dividual to live in the home of such parent,
16 guardian, or relative;

17 “(iii) the State agency determines
18 that—

19 “(I) the individual or the individ-
20 ual’s custodial minor child is being or
21 has been subjected to serious physical
22 or emotional harm, sexual abuse, or
23 exploitation in the residence of such
24 individual’s own parent or legal
25 guardian; or

1 “(II) substantial evidence exists
2 of an act or failure to act that pre-
3 sents an imminent or serious harm if
4 such individual and such individual’s
5 minor child lived in the same resi-
6 dence with such individual’s own par-
7 ent or legal guardian; or

8 “(iv) the State agency otherwise de-
9 termines that it is in the best interest of
10 the minor child to waive the requirement of
11 paragraph (1) with respect to such individ-
12 ual or minor child.

13 “(C) SECOND-CHANCE HOME.—For pur-
14 poses of this paragraph, the term ‘second-
15 chance home’ means an entity that provides in-
16 dividuals described in subparagraph (B) with a
17 supportive and supervised living arrangement in
18 which such individuals are required to learn
19 parenting skills, including child development,
20 family budgeting, health and nutrition, and
21 other skills to promote their long-term economic
22 independence and the well-being of their chil-
23 dren.

24 “(3) ASSISTANCE TO STATES IN PROVIDING OR
25 LOCATING ADULT-SUPERVISED SUPPORTIVE LIVING

1 ARRANGEMENTS FOR UNMARRIED TEENAGE PAR-
2 ENTS.—

3 “(A) IN GENERAL.—For each of fiscal
4 years 1996 through 2002, each State that pro-
5 vides assistance under the State program to in-
6 dividuals described in paragraph (1)(B) shall be
7 entitled to receive a grant in an amount deter-
8 mined under subparagraph (B) for the purpose
9 of providing or locating adult-supervised sup-
10 portive living arrangements for individuals de-
11 scribed in paragraph (1)(B) in accordance with
12 this subsection.

13 “(B) AMOUNT DETERMINED.—

14 “(i) IN GENERAL.—The amount de-
15 termined under this subparagraph is an
16 amount that bears the same ratio to the
17 amount specified under clause (ii) as the
18 amount of the State family assistance
19 grant for the State for such fiscal year (de-
20 scribed in section 403(a)(2)) bears to the
21 amount appropriated for such fiscal year
22 in accordance with section 403(a)(4)(A).

23 “(ii) AMOUNT SPECIFIED.—The
24 amount specified in this subparagraph is—

1 “(I) for fiscal year 1996,
2 \$25,000,000;

3 “(II) for fiscal year 1997,
4 \$25,000,000; and

5 “(III) for each of fiscal years
6 1998, 1999, 2000, 2001, and 2002,
7 \$20,000,000.

8 “(C) ASSISTANCE TO STATES IN PROVID-
9 ING OR LOCATING ADULT-SUPERVISED SUP-
10 PORTIVE LIVING ARRANGEMENTS FOR UNMAR-
11 RIED TEENAGE PARENTS.—There are author-
12 ized to be appropriated and there are appro-
13 priated for fiscal years 1996, 1997, 1998, 1999,
14 2000, 2001, and 2002 such sums specified in
15 subparagraph (B)(ii) for the purpose of paying
16 grants to States in accordance with the provi-
17 sions of this paragraph.

18 “(e) REQUIREMENT THAT TEENAGE PARENTS AT-
19 TEND HIGH SCHOOL OR OTHER EQUIVALENT TRAINING
20 PROGRAM.—If a State provides assistance under the State
21 program funded under this part to an individual described
22 in subsection (d)(1)(B) who has not successfully com-
23 pleted a high-school education (or its equivalent) and
24 whose minor child is at least 12 weeks of age, the State
25 shall not provide such individual with assistance under the

1 program (or, at the option of the State, shall provide a
2 reduced level of such assistance) if the individual does not
3 participate in—

4 “(1) educational activities directed toward the
5 attainment of a high school diploma or its equiva-
6 lent; or

7 “(2) an alternative educational or training pro-
8 gram that has been approved by the State.

9 “(f) GRANT INCREASED TO REWARD STATES THAT
10 REDUCE OUT-OF-WEDLOCK BIRTHS.—

11 “(1) IN GENERAL.—The amount of the grant
12 payable to a State under section 403(a)(1)(A) for
13 fiscal years 1998, 1999, and 2000 shall be increased
14 by—

15 “(A) an amount equal to the product of
16 \$25 multiplied by the number of children in the
17 State in families with incomes below the poverty
18 line, according to the most recently available
19 census data, if—

20 “(i) the illegitimacy ratio of the State
21 for the most recent fiscal year for which
22 such information is available is at least 1
23 percentage point lower than the illegit-
24 imacy ratio of the State for fiscal year
25 1995 (or, if such information is not avail-

1 able, the first available year after 1995 for
2 which such data is available); and

3 “(ii) the rate of induced pregnancy
4 terminations for the same most recent fis-
5 cal year in the State is not higher than the
6 rate of induced pregnancy terminations in
7 the State for fiscal year 1995 (or, the
8 same first available year); or

9 “(B) an amount equal to the product of
10 \$50 multiplied by the number of children in the
11 State in families with incomes below the poverty
12 line, according to the most recently available
13 census data, if—

14 “(i) the illegitimacy ratio of the State
15 for the most recent fiscal year for which
16 information is available is at least 2 per-
17 centage points lower than the illegitimacy
18 ratio of the State for fiscal year 1995 (or,
19 if such information is not available, the
20 first available year after 1995 for which
21 such data is available); and

22 “(ii) the rate of induced pregnancy
23 terminations in the State for the same
24 most recent fiscal year is not higher than
25 the rate of induced pregnancy terminations

1 in the State for fiscal year 1995 (or, the
2 same first available fiscal year).

3 “(2) DETERMINATION OF THE SECRETARY.—

4 The Secretary shall not increase the grant amount
5 under paragraph (1) if the Secretary determines
6 that the relevant difference between the illegitimacy
7 ratio of a State for an applicable fiscal year and the
8 illegitimacy ratio of such State for fiscal year 1995
9 or, where appropriate, the first available year after
10 1995 for which such data is available, is the result
11 of a change in State methods of reporting data used
12 to calculate the illegitimacy ratio or if the Secretary
13 determines that the relevant non-increase in the rate
14 of induced pregnancy terminations for an applicable
15 fiscal year as compared to fiscal year 1995 or, the
16 appropriate fiscal year, is the result of a change in
17 State methods of reporting data used to calculate
18 the rate of induced pregnancy terminations.

19 “(3) ILLEGITIMACY RATIO.—For purposes of
20 this subsection, the term ‘illegitimacy ratio’ means,
21 with respect to a State and a fiscal year—

22 “(A) the number of out-of-wedlock births
23 that occurred in the State during the most re-
24 cent fiscal year for which such information is
25 available; divided by

1 “(B) the number of births that occurred in
2 the State during the most recent fiscal year for
3 which such information is available.

4 “(4) POVERTY LINE.—For purposes of this
5 subsection, the term ‘poverty line’ has the meaning
6 given such term in section 403(a)(3)(D)(iii).

7 “(5) AVAILABILITY OF AMOUNTS.—There are
8 authorized to be appropriated and there are appro-
9 priated such sums as may be necessary for fiscal
10 years 1998, 1999, and 2000 for the purpose of in-
11 creasing the amount of the grant payable to a State
12 under section 403(a)(1) in accordance with this sub-
13 section.

14 “(g) STATE OPTION TO DENY ASSISTANCE IN CER-
15 TAIN SITUATIONS.—Nothing in this subsection shall be
16 construed to restrict the authority of a State to exercise
17 its option to limit assistance under this part to individuals
18 if such limitation is not inconsistent with the provisions
19 of this part.

20 **“SEC. 407. STATE PENALTIES.**

21 “(a) IN GENERAL.—Subject to the provisions of sub-
22 section (b), the Secretary shall deduct from the grant oth-
23 erwise payable under section 403 the following penalties:

24 “(1) FOR USE OF GRANT IN VIOLATION OF
25 THIS PART.—If an audit conducted under section

1 408 finds that an amount paid to a State under sec-
2 tion 403 for a fiscal year has been used in violation
3 of this part, then the Secretary shall reduce the
4 amount of the grant otherwise payable to the State
5 under such section for the immediately succeeding
6 fiscal year quarter by the amount so used. If the
7 State does not prove to the satisfaction of the Sec-
8 retary that such unlawful expenditure was not made
9 by the State in intentional violation of the require-
10 ments of this part, then the Secretary shall impose
11 an additional penalty of 5 percent of such grant (de-
12 termined without regard to this section).

13 “(2) FOR FAILURE TO SUBMIT REQUIRED RE-
14 PORT.—

15 “(A) IN GENERAL.—If the Secretary deter-
16 mines that a State has not, within 6 months
17 after the end of a fiscal year, submitted the re-
18 port required by section 409 for the fiscal year,
19 the Secretary shall reduce by 5 percent the
20 amount of the grant that would (in the absence
21 of this section) be payable to the State under
22 section 403 for the immediately succeeding fis-
23 cal year.

24 “(B) RESCISSION OF PENALTY.—The Sec-
25 retary shall rescind a penalty imposed on a

1 State under subparagraph (A) with respect to a
2 report for a fiscal year if the State submits the
3 report before the end of the immediately suc-
4 ceeding fiscal year.

5 “(3) FOR FAILURE TO SATISFY MINIMUM PAR-
6 TICIPATION RATES.—

7 “(A) IN GENERAL.—If the Secretary deter-
8 mines that a State has failed to satisfy the min-
9 imum participation rates specified in section
10 404(a) for a fiscal year, the Secretary shall re-
11 duce the amount of the grant that would (in the
12 absence of this section) be payable to the State
13 under section 403 for the immediately succeed-
14 ing fiscal year by—

15 “(i) in the first year in which the
16 State fails to satisfy such rates, 5 percent;
17 and

18 “(ii) in subsequent years in which the
19 State fails to satisfy such rates, the per-
20 cent reduction determined under this sub-
21 paragraph (if any) in the preceding year,
22 increased by 5 percent.

23 “(B) PENALTY BASED ON SEVERITY OF
24 FAILURE.—The Secretary shall impose reduc-

1 tions under subparagraph (A) on the basis of
2 the degree of noncompliance.

3 “(4) FOR FAILURE TO PARTICIPATE IN THE IN-
4 COME AND ELIGIBILITY VERIFICATION SYSTEM.—If
5 the Secretary determines that a State program fund-
6 ed under this part is not participating during a fis-
7 cal year in the income and eligibility verification sys-
8 tem required by section 1137, the Secretary shall re-
9 duce by not more than 5 percent the amount of the
10 grant that would (in the absence of this section) be
11 payable to the State under section 403 for the im-
12 mediately succeeding fiscal year.

13 “(5) FOR FAILURE TO COMPLY WITH PATER-
14 NITY ESTABLISHMENT AND CHILD SUPPORT EN-
15 FORCEMENT REQUIREMENTS UNDER PART D.—Not-
16 withstanding any other provision of this Act, if the
17 Secretary determines that the State agency that ad-
18 ministers a program funded under this part does not
19 enforce the penalties requested by the agency admin-
20 istering part D against recipients of assistance
21 under the State program who fail to cooperate in es-
22 tablishing paternity in accordance with such part,
23 the Secretary shall reduce by not more than 5 per-
24 cent the amount of the grant that would (in the ab-
25 sence of this section) be payable to the State under

1 section 403 for the immediately succeeding fiscal
2 year.

3 “(6) FOR FAILURE TO TIMELY REPAY A FED-
4 ERAL LOAN FUND FOR STATE WELFARE PRO-
5 GRAMS.—If the Secretary determines that a State
6 has failed to repay any amount borrowed from the
7 Federal Loan Fund for State Welfare Programs es-
8 tablished under section 403(d) within the period of
9 maturity applicable to such loan, plus any interest
10 owed on such loan, then the Secretary shall reduce
11 the amount of the grant otherwise payable to the
12 State under section 403 for the immediately suc-
13 ceeding fiscal year quarter by the outstanding loan
14 amount, plus the interest owed on such outstanding
15 amount. The Secretary may not forgive any out-
16 standing loan amount nor interest owed thereon.

17 “(b) REQUIREMENTS.—

18 “(1) LIMITATION ON AMOUNT OF PENALTY.—

19 “(A) IN GENERAL.—In imposing the pen-
20 alties described in subsection (a), the Secretary
21 shall not reduce any quarterly payment to a
22 State by more than 25 percent.

23 “(B) CARRYFORWARD OF UNRECOVERED
24 PENALTIES.—To the extent that subparagraph
25 (A) prevents the Secretary from recovering dur-

1 ing a fiscal year the full amount of all penalties
2 imposed on a State under subsection (a) for a
3 prior fiscal year, the Secretary shall apply any
4 remaining amount of such penalties to the
5 grant otherwise payable to the State under sec-
6 tion 403 for the immediately succeeding fiscal
7 year.

8 “(2) STATE FUNDS TO REPLACE REDUCTIONS
9 IN GRANT.—A State which has a penalty imposed
10 against it under subsection (a) shall expend addi-
11 tional State funds in an amount equal to the amount
12 of the penalty for the purpose of providing assist-
13 ance under the State program under this part.

14 “(3) REASONABLE CAUSE FOR NONCOMPLI-
15 ANCE.—The Secretary may not impose a penalty on
16 a State under subsection (a) if the Secretary deter-
17 mines that the State has reasonable cause for failing
18 to comply with a requirement for which a penalty is
19 imposed under such subsection.

20 “(c) CERTIFICATION OF AMOUNT OF PENALTIES.—
21 If the Secretary is required to reduce the amount of any
22 grant under this section, the Secretary shall certify the
23 amount of such reduction to the Secretary of the Treasury
24 and the Secretary of the Treasury shall reduce the amount
25 paid to the State under section 403 by such amount.

1 “(d) EFFECTIVE DATES.—

2 “(1) IN GENERAL.—The penalties described in
3 paragraphs (2) through (6) of subsection (a) shall
4 apply—

5 “(A) with respect to periods beginning 6
6 months after the Secretary issues final rules
7 with respect to such penalties; or

8 “(B) with respect to fiscal years beginning
9 on or after October 1, 1996;

10 whichever is later.

11 “(2) MISUSE OF FUNDS.—The penalties de-
12 scribed in subsection (a)(1) shall apply with respect
13 to fiscal years beginning on or after October 1,
14 1995.

15 **“SEC. 408. AUDITS.**

16 “(a) IN GENERAL.—Each State shall, not less than
17 annually, audit the State expenditures from amounts re-
18 ceived under this part. Such audit shall—

19 “(1) determine the extent to which such ex-
20 penditures were or were not expended in accordance
21 with this part; and

22 “(2) be conducted by an approved entity (as de-
23 fined in subsection (b)) in accordance with generally
24 accepted auditing principles.

1 “(b) APPROVED ENTITY.—For purposes of sub-
2 section (a), the term ‘approved entity’ means an entity
3 that—

4 “(1) is approved by the Secretary of the Treas-
5 ury;

6 “(2) is approved by the chief executive officer
7 of the State; and

8 “(3) is independent of any agency administer-
9 ing activities funded under this part.

10 “(c) AUDIT REPORT.—Not later than 30 days follow-
11 ing the completion of an audit under this subsection, a
12 State shall submit a copy of the audit to the State legisla-
13 ture, the Secretary of the Treasury, and the Secretary of
14 Health and Human Services.

15 “(d) ADDITIONAL ACCOUNTING REQUIREMENTS.—
16 The provisions of chapter 75 of title 31, United States
17 Code, shall apply to the audit requirements of this section.

18 **“SEC. 409. DATA COLLECTION AND REPORTING.**

19 “(a) IN GENERAL.—The Secretary, in consultation
20 with State and local government officials and other inter-
21 ested persons, shall develop a quality assurance system of
22 data collection and reporting that promotes accountability
23 and ensures the improvement and integrity of programs
24 funded under this part.

25 “(b) STATE SUBMISSIONS.—

1 “(1) IN GENERAL.—Not later than the 15th
2 day of the first month of each calendar quarter,
3 each State to which a grant is made under section
4 410(h) shall submit to the Secretary the data de-
5 scribed in paragraphs (2) and (3) with respect to
6 families described in paragraph (4).

7 “(2) DISAGGREGATED DATA DESCRIBED.—The
8 data described in this paragraph with respect to
9 families described in paragraph (4) is a sample of
10 monthly disaggregated case record data containing
11 the following:

12 “(A) The age of the adults and children
13 (including pregnant women) in each family.

14 “(B) The marital and familial status of
15 each member of the family (including whether
16 the family is a 2-parent family and whether a
17 child is living with an adult relative other than
18 a parent).

19 “(C) The gender, educational level, work
20 experience, and race of the head of each family.

21 “(D) The health status of each member of
22 the family (including whether any member of
23 the family is seriously ill, disabled, or incapaci-
24 tated and is being cared for by another member
25 of the family).

1 “(E) The type and amount of any benefit
2 or assistance received by the family, including—

3 “(i) the amount of and reason for any
4 reduction in assistance, and

5 “(ii) if assistance is terminated,
6 whether termination is due to employment,
7 sanction, or time limit.

8 “(F) Any benefit or assistance received by
9 a member of the family with respect to housing,
10 food stamps, job training, or the Head Start
11 program.

12 “(G) The number of months since the fam-
13 ily filed the most recent application for assist-
14 ance under the program and if assistance was
15 denied, the reason for the denial.

16 “(H) The number of times a family has
17 applied for and received assistance under the
18 State program and the number of months as-
19 sistance has been received each time assistance
20 has been provided to the family.

21 “(I) The employment status of the adults
22 in the family (including the number of hours
23 worked and the amount earned).

24 “(J) The date on which an adult in the
25 family began to engage in work, the number of

1 hours the adult engaged in work, the work ac-
2 tivity in which the adult participated, and the
3 amount of child care assistance provided to the
4 adult (if any).

5 “(K) The number of individuals in each
6 family receiving assistance and the number of
7 individuals in each family not receiving assist-
8 ance, and the relationship of each individual to
9 the youngest child in the family.

10 “(L) The citizenship status of each mem-
11 ber of the family.

12 “(M) The housing arrangement of each
13 member of the family.

14 “(N) The amount of unearned income,
15 child support, assets, and other financial factors
16 considered in determining eligibility for assist-
17 ance under the State program.

18 “(O) The location in the State of each
19 family receiving assistance.

20 “(P) Any other data that the Secretary de-
21 termines is necessary to ensure efficient and ef-
22 fective program administration.

23 “(3) AGGREGATED MONTHLY DATA.—The data
24 described in this paragraph is the following aggre-

1 gated monthly data with respect to the families de-
2 scribed in paragraph (4):

3 “(A) The number of families.

4 “(B) The number of adults in each family.

5 “(C) The number of children in each fam-
6 ily.

7 “(D) The number of families for which as-
8 sistance has been terminated because of em-
9 ployment, sanctions, or time limits.

10 “(4) FAMILIES DESCRIBED.—The families de-
11 scribed in this paragraph are—

12 “(A) families receiving assistance under a
13 State program funded under this part for each
14 month in the calendar quarter preceding the
15 calendar quarter in which the data is submit-
16 ted;

17 “(B) families applying for such assistance
18 during such preceding calendar quarter; and

19 “(C) families that became ineligible to re-
20 ceive such assistance during such preceding cal-
21 endar quarter.

22 “(5) APPROPRIATE SUBSETS OF DATA COL-
23 LECTED.—The Secretary shall determine appro-
24 priate subsets of the data described in paragraphs
25 (2) and (3) that a State is required to submit under

1 paragraph (1) with respect to families described in
2 subparagraphs (B) and (C) of paragraph (4).

3 “(6) SAMPLING AND OTHER METHODS.—The
4 Secretary shall provide the States with such case
5 sampling plans and data collection procedures as the
6 Secretary deems necessary to produce statistically
7 valid estimates of each State’s program perform-
8 ance. The Secretary is authorized to develop and im-
9 plement procedures for verifying the quality of data
10 submitted by the States.

11 “(c) REPORT ON USE OF FEDERAL FUNDS TO
12 COVER ADMINISTRATIVE COSTS AND OVERHEAD.—The
13 report required by subsection (a) for a fiscal year shall
14 include a statement of—

15 “(1) the total amount and percentage of the
16 Federal funds paid to the State under this part for
17 the fiscal year that are used to cover administrative
18 costs or overhead; and

19 “(2) the total amount of State funds that are
20 used to cover such costs or overhead.

21 “(d) REPORT ON STATE EXPENDITURES ON PRO-
22 GRAMS FOR NEEDY FAMILIES.—The report required by
23 subsection (a) for a fiscal year shall include a statement
24 of the total amount expended by the State during the fis-

1 cal year on the program under this part and the purposes
2 for which such amount was spent.

3 “(e) REPORT ON NONCUSTODIAL PARENTS PARTICI-
4 PATING IN WORK ACTIVITIES.—The report required by
5 subsection (a) for a fiscal year shall include the number
6 of noncustodial parents in the State who participated in
7 work activities during the fiscal year.

8 “(f) REPORT ON CHILD SUPPORT COLLECTED.—The
9 report required by subsection (a) for a fiscal year shall
10 include the total amount of child support collected by the
11 State agency administering the State program under part
12 D on behalf of a family receiving assistance under this
13 part.

14 “(g) REPORT ON CHILD CARE.—The report required
15 by subsection (a) for a fiscal year shall include the total
16 amount expended by the State for child care under the
17 program under this part, along with a description of the
18 types of child care provided, including child care provided
19 in the case of a family that—

20 “(1) has ceased to receive assistance under this
21 part because of employment; or

22 “(2) is not receiving assistance under this part
23 but would be at risk of becoming eligible for such as-
24 sistance if child care was not provided.

1 “(h) REPORT ON TRANSITIONAL SERVICES.—The re-
2 port required by subsection (a) for a fiscal year shall in-
3 clude the total amount expended by the State for providing
4 transitional services to a family that has ceased to receive
5 assistance under this part because of employment, along
6 with a description of such services.

7 “(i) SECRETARY’S REPORT ON DATA PROCESSING.—

8 “(1) IN GENERAL.—Not later than 6 months
9 after the date of the enactment of the Work Oppor-
10 tunity Act of 1995, the Secretary shall prepare and
11 submit to the Congress a report on—

12 “(A) the status of the automated data
13 processing systems operated by the States to
14 assist management in the administration of
15 State programs under this part (whether in ef-
16 fect before or after October 1, 1995); and

17 “(B) what would be required to establish a
18 system capable of—

19 “(i) tracking participants in public
20 programs over time; and

21 “(ii) checking case records of the
22 States to determine whether individuals
23 are participating in public programs in 2
24 or more States.

1 “(2) PREFERRED CONTENTS.—The report re-
2 quired by paragraph (1) should include—

3 “(A) a plan for building on the automated
4 data processing systems of the States to estab-
5 lish a system with the capabilities described in
6 paragraph (1)(B); and

7 “(B) an estimate of the amount of time re-
8 quired to establish such a system and of the
9 cost of establishing such a system.

10 “(j) REPORT TO CONGRESS.—Not later than 6
11 months after the end of fiscal year 1997, and each fiscal
12 year thereafter, the Secretary shall transmit to the Con-
13 gress a report describing—

14 “(1) whether the States are meeting—

15 “(A) the participation rates described in
16 section 404(a); and

17 “(B) the objectives of—

18 “(i) increasing employment and earn-
19 ings of needy families, and child support
20 collections; and

21 “(ii) decreasing out-of-wedlock preg-
22 nancies and child poverty;

23 “(3) the demographic and financial characteris-
24 tics of families applying for assistance, families re-

1 ceiving assistance, and families that become ineli-
 2 gible to receive assistance;

3 “(4) the characteristics of each State program
 4 funded under this part; and

5 “(5) the trends in employment and earnings of
 6 needy families with minor children.

7 **“SEC. 410. RESEARCH, EVALUATIONS, AND NATIONAL STUD-**
 8 **IES.**

9 “(a) RESEARCH.—The Secretary shall conduct re-
 10 search on the benefits, effects, and costs of operating dif-
 11 ferent State programs funded under this part, including
 12 time limits relating to eligibility for assistance. The re-
 13 search shall include studies on the effects of different pro-
 14 grams and the operation of such programs on welfare de-
 15 pendency, illegitimacy, teen pregnancy, employment rates,
 16 child well-being, and any other area the Secretary deems
 17 appropriate.

18 “(b) DEVELOPMENT AND EVALUATION OF INNOVA-
 19 TIVE APPROACHES TO REDUCING WELFARE DEPEND-
 20 ENCY AND INCREASING CHILD WELL-BEING.—

21 “(1) IN GENERAL.—The Secretary may assist
 22 States in developing, and shall evaluate, innovative
 23 approaches for reducing welfare dependency and in-
 24 creasing the well-being of minor children with re-
 25 spect to recipients of assistance under programs

1 funded under this part. The Secretary may provide
2 funds for training and technical assistance to carry
3 out the approaches developed pursuant to this para-
4 graph.

5 “(2) EVALUATIONS.—In performing the evalua-
6 tions under paragraph (1), the Secretary shall, to
7 the maximum extent feasible, use random assign-
8 ment as an evaluation methodology.

9 “(c) DISSEMINATION OF INFORMATION.—The Sec-
10 retary shall develop innovative methods of disseminating
11 information on any research, evaluations, and studies con-
12 ducted under this section, including the facilitation of the
13 sharing of information and best practices among States
14 and localities through the use of computers and other
15 technologies.

16 “(d) ANNUAL RANKING OF STATES AND REVIEW OF
17 MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—

18 “(1) ANNUAL RANKING OF STATES.—The Sec-
19 retary shall rank annually the States to which
20 grants are paid under section 403 in the order of
21 their success in placing recipients of assistance
22 under the State program funded under this part into
23 long-term private sector jobs, reducing the overall
24 welfare caseload, and, when a practicable method for
25 calculating this information becomes available, di-

1 verting individuals from formally applying to the
2 State program and receiving assistance. In ranking
3 States under this subsection, the Secretary shall
4 take into account the average number of minor chil-
5 dren in families in the State that have incomes
6 below the poverty line and the amount of funding
7 provided each State for such families.

8 “(2) ANNUAL REVIEW OF MOST AND LEAST
9 SUCCESSFUL WORK PROGRAMS.—The Secretary shall
10 review the programs of the 3 States most recently
11 ranked highest under paragraph (1) and the 3
12 States most recently ranked lowest under paragraph
13 (1) that provide parents with work experience, as-
14 sistance in finding employment, and other work
15 preparation activities and support services to enable
16 the families of such parents to leave the program
17 and become self-sufficient.

18 “(e) ANNUAL RANKING OF STATES AND REVIEW OF
19 ISSUES RELATING TO OUT-OF-WEDLOCK BIRTHS.—

20 “(1) ANNUAL RANKING OF STATES.—

21 “(A) IN GENERAL.—The Secretary shall
22 annually rank States to which grants are paid
23 under section 403 based on the following rank-
24 ing factors (developed with information reported
25 by the State under section 406(f)):

1 “(i) ABSOLUTE OUT-OF-WEDLOCK RA-
2 TIOS.—The ratio represented by—

3 “(I) the total number of out-of-
4 wedlock births in families receiving as-
5 sistance under the State program
6 under this part in the State for the
7 most recent fiscal year for which in-
8 formation is available; over

9 “(II) the total number of births
10 in families receiving assistance under
11 the State program under this part in
12 the State for such year.

13 “(ii) NET CHANGES IN THE OUT-OF-
14 WEDLOCK RATIO.—The difference between
15 the ratio described in subparagraph (A)(i)
16 for the most recent fiscal year for which
17 information is available and such State’s
18 ratio determined for the preceding year.

19 “(2) ANNUAL REVIEW.—The Secretary shall re-
20 view the programs of the 5 States most recently
21 ranked highest under paragraph (1) and the 5
22 States most recently ranked the lowest under para-
23 graph (1).

24 “(f) STUDY ON ALTERNATIVE OUTCOMES MEAS-
25 URES.—

1 “(1) STUDY.—The Secretary shall, in coopera-
2 tion with the States, study and analyze outcomes
3 measures for evaluating the success of a State in
4 moving individuals out of the welfare system through
5 employment as an alternative to the minimum par-
6 ticipation rates described in section 404. The study
7 shall include a determination as to whether such al-
8 ternative outcomes measures should be applied on a
9 national or a State-by-State basis and a preliminary
10 assessment of the job placement performance bonus
11 established under section 403(f).

12 “(2) REPORT.—Not later than September 30,
13 1998, the Secretary shall submit to the Committee
14 on Finance of the Senate and the Committee on
15 Ways and Means of the House of Representatives a
16 report containing the findings of the study described
17 in paragraph (1).

18 “(g) STATE-INITIATED STUDIES.—A State shall be
19 eligible to receive funding to evaluate the State’s family
20 assistance program funded under this part if—

21 “(1) the State submits a proposal to the Sec-
22 retary for such evaluation,

23 “(2) the Secretary determines that the design
24 and approach of the evaluation is rigorous and is

1 likely to yield information that is credible and will
2 be useful to other States, and

3 “(3) unless otherwise waived by the Secretary,
4 the State provides a non-Federal share of at least 10
5 percent of the cost of such study.

6 “(h) ADDITIONAL AMOUNT FOR STUDIES AND DEM-
7 ONSTRATIONS.—

8 “(1) IN GENERAL.—There are authorized to be
9 appropriated and there are appropriated for each fis-
10 cal year described in section 403(a)(1) an additional
11 \$20,000,000 for the purpose of paying—

12 “(A) the Federal share of any State-initi-
13 ated study approved under subsection (g);

14 “(B) an amount determined by the Sec-
15 retary to be necessary to operate and evaluate
16 demonstration projects, relating to part A of
17 title IV of this Act, that are in effect or ap-
18 proved under section 1115 as of October 1,
19 1995, and are continued after such date;

20 “(C) the cost of conducting the research
21 described in subsection (a); and

22 “(D) the cost of developing and evaluating
23 innovative approaches for reducing welfare de-
24 pendency and increasing the well-being of minor
25 children under subsection (b).

1 “(2) ALLOCATION.—Of the amount appro-
2 priated under paragraph (1) for a fiscal year—

3 “(A) 50 percent shall be allocated for the
4 purposes described in subparagraphs (A) and
5 (B) of paragraph (1), and

6 “(B) 50 percent shall be allocated for the
7 purposes described in subparagraphs (C) and
8 (D) of paragraph (1).

9 **“SEC. 411. STUDY BY THE CENSUS BUREAU.**

10 “(a) IN GENERAL.—The Bureau of the Census shall
11 expand the Survey of Income and Program Participation
12 as necessary to obtain such information as will enable in-
13 terested persons to evaluate the impact of the amendments
14 made by the Work Opportunity Act of 1995 on a random
15 national sample of recipients of assistance under State
16 programs funded under this part and (as appropriate)
17 other low-income families, and in doing so, shall pay par-
18 ticular attention to the issues of out-of-wedlock births,
19 welfare dependency, the beginning and end of welfare
20 spells, and the causes of repeat welfare spells.

21 “(b) APPROPRIATION.—Out of any money in the
22 Treasury of the United States not otherwise appropriated,
23 the Secretary of the Treasury shall pay to the Bureau of
24 the Census \$10,000,000 for each of fiscal years 1996,
25 1997, 1998, 1999, and 2000 to carry out subsection (a).

1 **“SEC. 412. WAIVERS.**

2 “(a) CONTINUATION OF WAIVERS.—

3 “(1) IN GENERAL.—Except as provided in para-
4 graph (2), if any waiver granted to a State under
5 section 1115 or otherwise which relates to the provi-
6 sion of assistance under a State plan under this part
7 is in effect or approved by the Secretary as of Octo-
8 ber 1, 1995, the amendments made by subtitle D of
9 title I and subtitles C, D, E, F, and G of title VII
10 of the Balanced Budget Reconciliation Act of 1995
11 shall not apply with respect to the State before the
12 expiration (determined without regard to any exten-
13 sions) of the waiver to the extent such amendments
14 are inconsistent with the terms of the waiver.

15 “(2) FINANCING LIMITATION.—Notwithstand-
16 ing any other provision of law, beginning with fiscal
17 year 1996, a State operating under a waiver de-
18 scribed in paragraph (1) shall receive the payment
19 described for such State for such fiscal year under
20 section 403, in lieu of any other payment provided
21 for in the waiver.

22 “(b) STATE OPTION TO TERMINATE WAIVER.—

23 “(1) IN GENERAL.—A State may terminate a
24 waiver described in subsection (a) before the expira-
25 tion of the waiver.

1 “(2) REPORT.—A State which terminates a
2 waiver under paragraph (1) shall submit a report to
3 the Secretary summarizing the waiver and any avail-
4 able information concerning the result or effect of
5 such waiver.

6 “(3) HOLD HARMLESS PROVISION.—

7 “(A) IN GENERAL.—Notwithstanding any
8 other provision of law, a State that, not later
9 than the date described in subparagraph (B),
10 submits a written request to terminate a waiver
11 described in subsection (a) shall be held harm-
12 less for accrued cost neutrality liabilities in-
13 curred under the terms and conditions of such
14 waiver.

15 “(B) DATE DESCRIBED.—The date de-
16 scribed in this subparagraph is the later of—

17 “(i) January 1, 1996; or

18 “(ii) 90 days following the adjourn-
19 ment of the first regular session of the
20 State legislature that begins after the date
21 of the enactment of the Work Opportunity
22 Act of 1995.

23 “(c) SECRETARIAL ENCOURAGEMENT OF CURRENT
24 WAIVERS.—The Secretary shall encourage any State oper-
25 ating a waiver described in subsection (a) to continue such

1 waiver and to evaluate, using random sampling and other
2 characteristics of accepted scientific evaluations, the result
3 or effect of such waiver.

4 “(d) CONTINUATION OF INDIVIDUAL WAIVERS.—A
5 State may elect to continue one or more individual waivers
6 described in subsection (a)(1).

7 **“SEC. 413. STATE AND COUNTY DEMONSTRATION PRO-**
8 **GRAMS.**

9 “(a) NO LIMITATION OF STATE DEMONSTRATION
10 PROJECTS.—Nothing in this part shall be construed as
11 limiting a State’s ability to conduct demonstration
12 projects for the purpose of identifying innovative or effec-
13 tive program designs in 1 or more political subdivisions
14 of the State: *Provided*, That such State contains more
15 than one county with a population of greater than
16 500,000.

17 “(b) COUNTY WELFARE DEMONSTRATION
18 PROJECT.—

19 “(1) IN GENERAL.—The Secretary of Health
20 and Human Services and the Secretary of Agri-
21 culture shall jointly enter into negotiations with all
22 counties having a population greater than 500,000
23 desiring to conduct a demonstration project de-
24 scribed in paragraph (2) for the purpose of estab-

1 lishing appropriate rules to govern the establishment
2 and operation of such project.

3 “(2) DEMONSTRATION PROJECT DESCRIBED.—
4 The demonstration project described in this para-
5 graph shall provide that—

6 “(A) a county participating in the dem-
7 onstration project shall have the authority and
8 duty to administer the operation of the program
9 described under this part as if the county were
10 considered a State for the purpose of this part;

11 “(B) the State in which the county partici-
12 pating in the demonstration project is located
13 shall pass through directly to the county the
14 portion of the grant received by the State under
15 section 403 which the State determines is at-
16 tributable to the residents of such county; and

17 “(C) the duration of the project shall be
18 for 5 years.

19 “(3) COMMENCEMENT OF PROJECT.—After the
20 conclusion of the negotiations described in para-
21 graph (2), the Secretary of Health and Human
22 Services and the Secretary of Agriculture may au-
23 thorize a county to conduct the demonstration
24 project described in paragraph (2) in accordance
25 with the rules established during the negotiations.

1 “(4) REPORT.—Not later than 6 months after
2 the termination of a demonstration project operated
3 under this subsection, the Secretary of Health and
4 Human Services and the Secretary of Agriculture
5 shall submit to the Congress a report that in-
6 cludes—

7 “(A) a description of the demonstration
8 project;

9 “(B) the rules negotiated with respect to
10 the project; and

11 “(C) the innovations (if any) that the
12 county was able to initiate under the project.

13 “(5) ELIGIBLE COUNTY.—A county may par-
14 ticipate in a demonstration project under this sub-
15 section if the county is—

16 “(A) a county that is already administer-
17 ing the welfare program under this part;

18 “(B) represents less than 25 percent of the
19 State’s total welfare caseload.

20 **“SEC. 414. DIRECT FUNDING AND ADMINISTRATION BY IN-**
21 **DIAN TRIBES.**

22 “(a) PURPOSE.—The purpose of this section is—

23 “(1) to strengthen and enhance the control and
24 flexibility of local governments over local programs;
25 and

1 “(2) in recognition of the principles contained
2 in the Indian Self-Determination and Education As-
3 sistance Act (25 U.S.C. 450 et seq.)—

4 “(A) to provide direct Federal funding to
5 Indian tribes for the tribal administration of
6 the program funded under this part; or

7 “(B) to enable Indian tribes to enter into
8 agreements, contracts, or compacts with inter-
9 tribal consortia, States, or other entities for the
10 administration of such program on behalf of the
11 Indian tribe.

12 “(b) GRANT AMOUNTS FOR INDIAN TRIBES.—

13 “(1) IN GENERAL.—For each of fiscal years
14 1996, 1997, 1998, 1999, and 2000, the Secretary
15 shall pay to each Indian tribe that has an approved
16 tribal family assistance plan a tribal family assist-
17 ance grant for the fiscal year in an amount equal to
18 the amount determined under paragraph (2).

19 “(2) AMOUNT DETERMINED.—

20 “(A) IN GENERAL.—The amount deter-
21 mined under this paragraph is an amount equal
22 to the total amount of the Federal payments to
23 a State or States under section 403 for fiscal
24 year 1994 (as in effect during such fiscal year)
25 attributable to expenditures by the State or

1 States under part A and part F of this title (as
2 so in effect) in such year for Indian families re-
3 siding in the service area or areas identified by
4 the Indian tribe in subsection (c)(1)(C).

5 “(B) USE OF STATE SUBMITTED DATA.—

6 “(i) IN GENERAL.—The Secretary
7 shall use State submitted data to make
8 each determination under subparagraph
9 (A).

10 “(ii) DISAGREEMENT WITH DETER-
11 MINATION.—If an Indian tribe or tribal or-
12 ganization disagrees with State submitted
13 data described under clause (i), the Indian
14 tribe or tribal organization may submit to
15 the Secretary such additional information
16 as may be relevant to making the deter-
17 mination under subparagraph (A) and the
18 Secretary may consider such information
19 before making such determination.

20 “(c) 3-YEAR TRIBAL FAMILY ASSISTANCE PLAN.—

21 “(1) IN GENERAL.—Any Indian tribe that de-
22 sires to receive a tribal family assistance grant shall
23 submit to the Secretary a 3-year tribal family assist-
24 ance plan that—

1 “(A) outlines the Indian tribe’s approach
2 to providing welfare-related services for the 3-
3 year period, consistent with the purposes of this
4 section;

5 “(B) specifies whether the welfare-related
6 services provided under the plan will be pro-
7 vided by the Indian tribe or through agree-
8 ments, contracts, or compacts with intertribal
9 consortia, States, or other entities;

10 “(C) identifies the population and service
11 area or areas to be served by such plan;

12 “(D) provides that a family receiving as-
13 sistance under the plan may not receive duplica-
14 tive assistance from other State or tribal pro-
15 grams funded under this part;

16 “(E) identifies the employment opportuni-
17 ties in or near the service area or areas of the
18 Indian tribe and the manner in which the In-
19 dian tribe will cooperate and participate in en-
20 hancing such opportunities for recipients of as-
21 sistance under the plan consistent with any ap-
22 plicable State standards; and

23 “(F) applies the fiscal accountability provi-
24 sions of section 5(f)(1) of the Indian Self-De-
25 termination and Education Assistance Act (25

1 U.S.C. 450c(f)(1)), relating to the submission
2 of a single-agency audit report required by
3 chapter 75 of title 31, United States Code.

4 “(2) APPROVAL.—The Secretary shall approve
5 each tribal family assistance plan submitted in ac-
6 cordance with paragraph (1).

7 “(3) CONSORTIUM OF TRIBES.—Nothing in this
8 section shall preclude the development and submis-
9 sion of a single plan by the participating Indian
10 tribes of an intertribal consortium.

11 “(d) MINIMUM WORK PARTICIPATION REQUIRE-
12 MENTS AND TIME LIMITS.—The Secretary, with the par-
13 ticipation of Indian tribes, shall establish for each Indian
14 tribe receiving a grant under this section minimum work
15 participation requirements, appropriate time limits for re-
16 ceipt of welfare-related services under such grant, and
17 penalties against individuals—

18 “(1) consistent with the purposes of this sec-
19 tion;

20 “(2) consistent with the economic conditions
21 and resources available to each tribe; and

22 “(3) similar to comparable provisions in section
23 404(d).

24 “(e) EMERGENCY ASSISTANCE.—Nothing in this sec-
25 tion shall preclude an Indian tribe from seeking emergency

1 assistance from any Federal loan program or emergency
2 fund.

3 “(f) ACCOUNTABILITY.—Nothing in this section shall
4 be construed to limit the ability of the Secretary to main-
5 tain program funding accountability consistent with—

6 “(1) generally accepted accounting principles;
7 and

8 “(2) the requirements of the Indian Self-Deter-
9 mination and Education Assistance Act (25 U.S.C.
10 450 et seq.).

11 “(g) TRIBAL PENALTIES.—For the purpose of ensur-
12 ing the proper use of tribal family assistance grants, the
13 following provisions shall apply to an Indian tribe with an
14 approved tribal assistance plan:

15 “(1) The provisions of subsections (a)(1),
16 (a)(6), and (b) of section 407, in the same manner
17 as such subsections apply to a State.

18 “(2) The provisions of section 407(a)(3), except
19 that such subsection shall be applied by substituting
20 ‘the minimum requirements established under sub-
21 section (d) of section 414’ for ‘the minimum partici-
22 pation rates specified in section 404’.

23 “(h) DATA COLLECTION AND REPORTING.—For the
24 purpose of ensuring uniformity in data collection, section

1 409 shall apply to an Indian tribe with an approved tribal
2 family assistance plan.

3 “(i) SPECIAL RULE FOR INDIAN TRIBES IN ALAS-
4 KA.—

5 “(1) IN GENERAL.—Notwithstanding any other
6 provision of this section, and except as provided in
7 paragraph (2), an Indian tribe in the State of Alas-
8 ka that receives a tribal family assistance grant
9 under this section shall use such grant to operate a
10 program in accordance with the requirements appli-
11 cable to the program of the State of Alaska funded
12 under this part.

13 “(2) WAIVER.—An Indian tribe described in
14 paragraph (1) may apply to the appropriate State
15 authority to receive a waiver of the requirement of
16 paragraph (1).

17 **“SEC. 415. ASSISTANT SECRETARY FOR FAMILY SUPPORT.**

18 “The programs under this part and part D of this
19 title shall be administered by an Assistant Secretary for
20 Family Support within the Department of Health and
21 Human Services, who shall be appointed by the President,
22 by and with the advice and consent of the Senate, and
23 who shall be in addition to any other Assistant Secretary
24 of Health and Human Services provided for by law.

1 **“SEC. 416. LIMITATION ON FEDERAL AUTHORITY.**

2 “The Secretary of Health and Human Services and
3 the Secretary of the Treasury may not regulate the con-
4 duct of States under this part or enforce any provision
5 of this part, except to the extent expressly provided in this
6 part.

7 **“SEC. 417. APPEAL OF ADVERSE DECISION.**

8 “(a) IN GENERAL.—The Secretary shall notify the
9 chief executive officer of a State of any adverse decision
10 or action under this part, including any decision with re-
11 spect to the State’s plan or the imposition of a penalty
12 under section 407.

13 “(b) ADMINISTRATIVE REVIEW OF ADVERSE DECI-
14 SION.—

15 “(1) IN GENERAL.—Within 60 days after the
16 date a State receives notice of an adverse decision
17 under this section, the State may appeal the deci-
18 sion, in whole or in part, to the Departmental Ap-
19 peals Board established in the Department of Health
20 and Human Services (hereafter referred to in this
21 section as the ‘Board’) by filing an appeal with the
22 Board.

23 “(2) PROCEDURAL RULES.—The Board shall
24 consider a State’s appeal on the basis of such docu-
25 mentation as the State may submit and as the
26 Board may require to support the final decision of

1 the Board. In deciding whether to uphold an adverse
2 decision or any portion thereof, the Board shall con-
3 duct a thorough review of the issues and take into
4 account all relevant evidence. The Board shall make
5 a final determination with respect to an appeal filed
6 under this paragraph not less than 60 days after the
7 date the appeal is filed.

8 “(c) JUDICIAL REVIEW OF ADVERSE DECISION.—

9 “(1) IN GENERAL.—Within 90 days after the
10 date of a final decision by the Board with respect to
11 an adverse decision regarding a State under this sec-
12 tion, the State may obtain judicial review of the final
13 decision (and the findings incorporated into the final
14 decision) by filing an action in—

15 “(A) the district court of the United States
16 for the judicial district in which the principal or
17 headquarters office of the State agency is lo-
18 cated; or

19 “(B) the United States District Court for
20 the District of Columbia.

21 “(2) PROCEDURAL RULES.—The district court
22 in which an action is filed shall review the final deci-
23 sion of the Board on the record established in the
24 administrative proceeding, in accordance with the
25 standards of review prescribed by subparagraphs (A)

1 through (E) of section 706(2) of title 5, United
2 States Code. The review shall be on the basis of the
3 documents and supporting data submitted to the
4 Board.

5 **“SEC. 418. PERFORMANCE BONUS AND HIGH PERFORM-**
6 **ANCE BONUS.**

7 “(a) IN GENERAL.—

8 “(1) PERFORMANCE BONUS.—In addition to
9 the State family assistance grant, for fiscal year
10 2000, the Secretary shall pay to each qualified State
11 an amount equal to the State’s share of the perform-
12 ance bonus fund described in paragraph (3).

13 “(2) QUALIFIED STATE.—For purposes of this
14 subsection, the term ‘qualified State’ means a State
15 that during the measurement period—

16 “(A) exceeds the overall average perform-
17 ance achieved by all States with respect to a
18 measurement category, or

19 “(B) improves the State’s performance in
20 a measurement category by at least 15 percent
21 over the State’s baseline period.

22 “(3) BONUS FUND.—The amount of the bonus
23 fund for fiscal year 2000 shall be an amount equal
24 to 5 percent of the amount appropriated under sec-
25 tion 403(a)(2)(A)(i) for such fiscal year.

1 “(b) HIGH PERFORMANCE BONUS.—

2 “(1) IN GENERAL.—In addition to the amount
3 provided under subsection (a), each of the 10 high
4 performance States in each measurement category
5 shall be entitled to receive a share of the high per-
6 formance bonus fund described in paragraph (3).

7 “(2) HIGH PERFORMANCE STATES.—For pur-
8 poses of this subsection, the term ‘high performance
9 States’ means with respect to each measurement
10 category during the measurement period—

11 “(A) the 5 States that have the highest
12 percentage of improvement with respect to the
13 State’s performance in the measurement cat-
14 egory over the State’s baseline period; and

15 “(B) the 5 States that have the highest
16 overall average performance with respect to the
17 measurement category.

18 “(3) HIGH PERFORMANCE BONUS FUND.—
19 There are authorized to be appropriated and there
20 are appropriated the amount of the high perform-
21 ance bonus fund for fiscal year 2000 equal to the
22 amount of the reduction in State family assistance
23 grants for all States for fiscal years 1996, 1997,
24 1998, and 1999 resulting from the application of
25 section 407 (other than subsection (a)(6) thereof).

1 “(c) DEFINITIONS AND SPECIAL RULES.— For pur-
2 poses of this section:

3 “(1) MEASUREMENT CATEGORY.—A measure-
4 ment category means any of the following categories:

5 “(A) A reduction in the average length of
6 time families in the State receive assistance
7 during a fiscal year under the State program
8 funded under this part.

9 “(B) An increase in the percentage of fam-
10 ilies receiving such assistance under this part
11 that receive child support payments under part
12 D.

13 “(C) An increase in the number of families
14 that received assistance under a State program
15 funded under this part in the preceding fiscal
16 year that became ineligible for assistance under
17 the State program as a result of unsubsidized
18 employment during such year.

19 “(D) An increase in the amount earned by
20 families that receive assistance under this part.

21 “(E) A reduction in the percentage of fam-
22 ilies that become eligible for assistance under
23 this part within 18 months after becoming ineli-
24 gible for such assistance.

1 “(2) MEASUREMENT PERIOD; BASELINE PE-
2 RIOD.—

3 “(A) MEASUREMENT PERIOD.—The term
4 ‘measurement period’ means the period begin-
5 ning not later than 6 months after the date of
6 the enactment of the Work Opportunity Act of
7 1995 and ending on September 30, 1999.

8 “(B) BASELINE PERIOD.—The term ‘base-
9 line period’ means fiscal year 1994.

10 “(3) ALLOCATION FORMULA.—For purposes of
11 determining a State’s share of the performance
12 bonus fund under subsection (a)(1), and the State’s
13 share of the high performance bonus fund under
14 subsection (b)(1), the Secretary shall, not later than
15 June 30, 1999, develop and publish in the Federal
16 Register a formula for allocating amounts in the
17 performance bonus fund to qualified States and a
18 formula for allocating amounts in the high perform-
19 ance bonus fund to high performance States. Such
20 formulas shall be based on each State’s proportional
21 share of the total amount appropriated under section
22 403(a)(2)(A) for fiscal year 2000.

23 **“SEC. 419. AMOUNTS FOR CHILD CARE.**

24 “(a) CHILD CARE ALLOCATION.—

1 “(1) IN GENERAL.—From the amount appro-
2 priated under section 403(a)(4)(A) for a fiscal year,
3 the Secretary shall set aside an amount equal to the
4 total amount of the Federal payments for fiscal year
5 1994 to States under section—

6 “(A) 402(g)(3)(A) of this Act (as such sec-
7 tion was in effect before October 1, 1995) for
8 amounts expended for child care pursuant to
9 paragraph (1) of such section;

10 “(B) 403(l)(1)(A) of this Act (as so in ef-
11 fect) for amounts expended for child care pur-
12 suant to section 402(g)(1)(A) of this Act (as so
13 in effect), in the case of a State with respect to
14 which section 1108 of this Act applies; and

15 “(C) 403(n) of this Act (as so in effect)
16 for child care services pursuant to section
17 402(i) of this Act (as so in effect).

18 “(2) DISTRIBUTION.—From amounts set aside
19 for a fiscal year under paragraph (1), the Secretary
20 shall pay to a State an amount equal to the total
21 amounts of Federal payments for fiscal year 1994 to
22 the State under section—

23 “(A) 402(g)(3)(A) of this Act (as such sec-
24 tion was in effect before October 1, 1995) for

1 amounts expended for child care pursuant to
2 paragraph (1) of such section;

3 “(B) 403(l)(1)(A) of this Act (as so in ef-
4 fect) for amounts expended for child care pur-
5 suant to section 402(g)(1)(A) of this Act (as so
6 in effect), in the case of a State with respect to
7 which section 1108 of this Act applies; and

8 “(C) 403(n) of this Act (as so in effect)
9 for child care services pursuant to section
10 402(i) of this Act (as so in effect).

11 “(3) USE OF FUNDS.—Amounts received by a
12 State under paragraph (2) shall only be used to pro-
13 vide child care assistance under this part.

14 “(4) FEDERAL PAYMENTS.—For purposes of
15 paragraphs (1) and (2), Federal payments for fiscal
16 year 1994 means such payments as reported by the
17 State on February 14, 1995.

18 “(b) ADDITIONAL APPROPRIATION.—

19 “(1) IN GENERAL.—There are authorized to be
20 appropriated and there are appropriated,
21 \$3,000,000,000 to be distributed to the States dur-
22 ing the 5-fiscal year period beginning in fiscal year
23 1996 for the provision of child care assistance.

24 “(2) DISTRIBUTION.—

1 “(A) IN GENERAL.—The Secretary shall
2 use amounts made available under paragraph
3 (1) to make grants to States. The total amount
4 of grants awarded to a State under this para-
5 graph shall be based on the formula used for
6 determining the amount of Federal payments to
7 the State for fiscal year 1994 under section
8 403(n) (as such section was in effect before Oc-
9 tober 1, 1995) for child care services pursuant
10 to section 402(i) (as so in effect) as such
11 amount relates to the total amount of such
12 Federal payments to all States for such fiscal
13 year.

14 “(B) FISCAL YEAR 2000.—With respect to
15 the last quarter of fiscal year 2000, if the Sec-
16 retary determines that any allotment to a State
17 under this subsection will not be used by such
18 State for carrying out the purpose for which the
19 allotment is available, the Secretary shall make
20 such allotment available for carrying out such
21 purpose to 1 or more other States which apply
22 for such funds to the extent the Secretary de-
23 termines that such other States will be able to
24 use such additional allotments for carrying out
25 such purpose. Such available allotments shall be

1 reallocated to a State pursuant to section
2 402(i) (as such section was in effect before Oc-
3 tober 1, 1995) by substituting ‘the number of
4 children residing in all States applying for such
5 funds’ for ‘the number of children residing in
6 the United States in the second preceding fiscal
7 year’. Any amount made available to a State
8 from an appropriation for a fiscal year in ac-
9 cordance with the preceding sentence shall, for
10 purposes of this part, be regarded as part of
11 such State’s payment (as determined under this
12 subsection) for such year.

13 “(3) AMOUNT OF FUNDS.—The Secretary shall
14 pay to each eligible State in a fiscal year an amount
15 equal to the Federal medical assistance percentage
16 for such State for such fiscal year (as defined in sec-
17 tion 2122(c)) of so much of the expenditures by the
18 State for child care in such year as exceed the State
19 set-aside for such State under subsection (a) for
20 such year and the amount of State expenditures in
21 fiscal year 1994 that equal the non-Federal share
22 for the programs described in subparagraphs (A),
23 (B) and (C) of subsection (a)(1).

24 “(4) BUDGET SCORING.—Notwithstanding sec-
25 tion 257(b)(2) of the Balanced Budget and Emer-

1 agency Deficit Control Act of 1985, the baseline shall
2 assume that no grant shall be made under this sub-
3 section after fiscal year 2000.

4 “(c) ADMINISTRATIVE PROVISIONS.—

5 “(1) STATE OPTION.—For purposes of section
6 402(a)(1)(B), a State may, at its option, not require
7 a single parent with a child under the age of 6 to
8 participate in work for more than an average of 20
9 hours per week during a month and may count such
10 parent as being engaged in work for a month for
11 purposes of section 404(c)(1) if such parent partici-
12 pates in work for an average of 20 hours per week
13 during such month.

14 “(2) RULE OF CONSTRUCTION.—Nothing in
15 this section shall be construed to provide an entitle-
16 ment to child care services to any child.

17 **“SEC. 420. ELIGIBILITY FOR CHILD CARE ASSISTANCE.**

18 Notwithstanding section 658T of the Child Care and
19 Development Block Grant Act of 1990, the State agency
20 specified in section 402(a)(7) shall determine eligibility for
21 child care assistance provided under this part in accord-
22 ance with criteria determined by the State.

1 **“SEC. 421. COLLECTION OF OVERPAYMENTS FROM FED-**
2 **ERAL TAX REFUNDS.**

3 “(a) IN GENERAL.—Upon receiving notice from the
4 Secretary of Health and Human Services that a State
5 agency administering a plan approved under this part has
6 notified the Secretary that a named individual has been
7 overpaid under the State plan approved under this part,
8 the Secretary of the Treasury shall determine whether any
9 amounts as refunds of Federal taxes paid are payable to
10 such individual, regardless of whether such individual filed
11 a tax return as a married or unmarried individual. If the
12 Secretary of the Treasury finds that any such amount is
13 payable, the Secretary shall withhold from such refunds
14 an amount equal to the overpayment sought to be collected
15 by the State and pay such amount to the State agency.

16 “(b) REGULATIONS.—The Secretary of the Treasury
17 shall issue regulations, after review by the Secretary of
18 Health and Human Services, that provide—

19 “(1) that a State may only submit under sub-
20 section (a) requests for collection of overpayments
21 with respect to individuals—

22 “(A) who are no longer receiving assist-
23 ance under the State plan approved under this
24 part,

25 “(B) with respect to whom the State has
26 already taken appropriate action under State

1 law against the income or resources of the indi-
2 viduals or families involved to collect the past-
3 due legally enforceable debt; and

4 “(C) to whom the State agency has given
5 notice of its intent to request withholding by
6 the Secretary of the Treasury from the income
7 tax refunds of such individuals;

8 “(2) that the Secretary of the Treasury will
9 give a timely and appropriate notice to any other
10 person filing a joint return with the individual whose
11 refund is subject to withholding under subsection
12 (a); and

13 “(3) the procedures that the State and the Sec-
14 retary of the Treasury will follow in carrying out
15 this section which, to the maximum extent feasible
16 and consistent with the specific provisions of this
17 section, will be the same as those issued pursuant to
18 section 464(b) applicable to collection of past-due
19 child support.”.

20 (c) CONFORMING AMENDMENTS RELATING TO COL-
21 LECTION OF OVERPAYMENTS.—

22 (1) Section 6402 of the Internal Revenue Code
23 of 1986 (relating to authority to make credits or re-
24 funds) is amended—

1 (A) in subsection (a), by striking “(c) and
2 (d)” and inserting “(c), (d), and (e)”;

3 (B) by redesignating subsections (e)
4 through (i) as subsections (f) through (j), re-
5 spectively; and

6 (C) by inserting after subsection (d) the
7 following:

8 “(e) COLLECTION OF OVERPAYMENTS UNDER TITLE
9 IV–A OF THE SOCIAL SECURITY ACT.—The amount of
10 any overpayment to be refunded to the person making the
11 overpayment shall be reduced (after reductions pursuant
12 to subsections (c) and (d), but before a credit against fu-
13 ture liability for an internal revenue tax) in accordance
14 with section 421 of the Social Security Act (concerning
15 recovery of overpayments to individuals under State plans
16 approved under part A of title IV of such Act).”.

17 (2) Paragraph (10) of section 6103(l) of such
18 Code is amended—

19 (A) by striking “(c) or (d)” each place it
20 appears and inserting “(c), (d), or (e)”;

21 (B) by adding at the end of subparagraph
22 (B) the following new sentence: “Any return in-
23 formation disclosed with respect to section
24 6402(e) shall only be disclosed to officers and

1 employees of the State agency requesting such
2 information.”.

3 (3) The matter preceding subparagraph (A) of
4 section 6103(p)(4) of such Code is amended—

5 (A) by striking “(5), (10)” and inserting
6 “(5)”; and

7 (B) by striking “(9), or (12)” and insert-
8 ing “(9), (10), or (12)”.

9 (4) Section 552a(a)(8)(B)(iv)(III) of title 5,
10 United States Code, is amended by striking “section
11 464 or 1137 of the Social Security Act” and insert-
12 ing “section 421, 464, or 1137 of the Social Secu-
13 rity Act.”.

14 **SEC. 7202. SERVICES PROVIDED BY CHARITABLE, RELI-**
15 **GIUS, OR PRIVATE ORGANIZATIONS.**

16 (a) IN GENERAL.—

17 (1) STATE OPTIONS.—Notwithstanding any
18 other provision of law, a State may—

19 (A) administer and provide services under
20 the programs described in subparagraphs (A)
21 and (B)(i) of paragraph (2) through contracts
22 with charitable, religious, or private organiza-
23 tions; and

24 (B) provide beneficiaries of assistance
25 under the programs described in subparagraphs

1 (A) and (B)(ii) of paragraph (2) with certifi-
2 cates, vouchers, or other forms of disbursement
3 which are redeemable with such organizations.

4 (2) PROGRAMS DESCRIBED.—The programs de-
5 scribed in this paragraph are the following pro-
6 grams:

7 (A) A State program funded under part A
8 of title IV of the Social Security Act (as amend-
9 ed by section 7201).

10 (B) Any other program that is established
11 or modified under title I or III of this Act or
12 this subtitle or subtitle D of this title that—

13 (i) permits contracts with organiza-
14 tions; or

15 (ii) permits certificates, vouchers, or
16 other forms of disbursement to be provided
17 to beneficiaries, as a means of providing
18 assistance.

19 (b) RELIGIOUS ORGANIZATIONS.—The purpose of
20 this section is to allow religious organizations to contract,
21 or to accept certificates, vouchers, or other forms of dis-
22 bursement under any program described in subsection
23 (a)(2), on the same basis as any other provider without
24 impairing the religious character of such organizations,

1 and without diminishing the religious freedom of bene-
2 ficiaries of assistance funded under such program.

3 (c) NONDISCRIMINATION AGAINST RELIGIOUS ORGA-
4 NIZATIONS.—Religious organizations are eligible, on the
5 same basis as any other private organization, as contrac-
6 tors to provide assistance, or to accept certificates, vouch-
7 ers, or other forms of disbursement, under any program
8 described in subsection (a)(2) so long as the programs are
9 implemented consistent with the Establishment Clause of
10 the United States Constitution. Neither the Federal Gov-
11 ernment nor a State receiving funds under such programs
12 shall discriminate against an organization which is or ap-
13 plies to be a contractor to provide assistance, or which
14 accepts certificates, vouchers, or other forms of disburse-
15 ment, on the basis that the organization has a religious
16 character.

17 (d) RELIGIOUS CHARACTER AND FREEDOM.—

18 (1) RELIGIOUS ORGANIZATIONS.—Notwith-
19 standing any other provision of law, any religious or-
20 ganization with a contract described in subsection
21 (a)(1)(A), or which accepts certificates, vouchers, or
22 other forms of disbursement under subsection
23 (a)(1)(B), shall retain its independence from Fed-
24 eral, State, and local governments, including such

1 organization's control over the definition, develop-
2 ment, practice, and expression of its religious beliefs.

3 (2) ADDITIONAL SAFEGUARDS.—Neither the
4 Federal Government nor a State shall require a reli-
5 gious organization to—

6 (A) alter its form of internal governance;

7 or

8 (B) remove religious art, icons, scripture,
9 or other symbols;

10 in order to be eligible to contract to provide assist-
11 ance, or to accept certificates, vouchers, or other
12 forms of disbursement, funded under a program de-
13 scribed in subsection (a)(2).

14 (e) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

15 (1) IN GENERAL.—If an individual described in
16 paragraph (2) has an objection to the religious char-
17 acter of the organization or institution from which
18 the individual receives, or would receive, assistance
19 funded under any program described in subsection
20 (a)(2), the State in which the individual resides shall
21 provide such individual (if otherwise eligible for such
22 assistance) with assistance from an alternative pro-
23 vider the value of which is not less than the value
24 of the assistance which the individual would have re-
25 ceived from such organization.

1 (2) INDIVIDUAL DESCRIBED.—An individual de-
 2 scribed in this paragraph is an individual who re-
 3 ceives, applies for, or requests to apply for, assist-
 4 ance under a program described in subsection (a)(2).

5 (f) NONDISCRIMINATION IN EMPLOYMENT.—

6 (1) IN GENERAL.—Except as provided in para-
 7 graph (2), nothing in this section shall be construed
 8 to modify or affect the provisions of any other Fed-
 9 eral or State law or regulation that relates to dis-
 10 crimination in employment on the basis of religion.

11 (2) EXCEPTION.—A religious organization with
 12 a contract described in subsection (a)(1)(A), or
 13 which accepts certificates, vouchers, or other forms
 14 of disbursement under subsection (a)(1)(B), may re-
 15 quire that an employee rendering service pursuant to
 16 such contract, or pursuant to the organization's ac-
 17 ceptance of certificates, vouchers, or other forms of
 18 disbursement adhere to—

19 (A) the religious tenets and teachings of
 20 such organization; and

21 (B) any rules of the organization regarding
 22 the use of drugs or alcohol.

23 (g) NONDISCRIMINATION AGAINST BENE-
 24 FICIARIES.—Except as otherwise provided in law, a reli-
 25 gious organization shall not discriminate against an indi-

1 vidual in regard to rendering assistance funded under any
2 program described in subsection (a)(2) on the basis of reli-
3 gion, a religious belief, or refusal to actively participate
4 in a religious practice.

5 (h) FISCAL ACCOUNTABILITY.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), any religious organization contracting to
8 provide assistance funded under any program de-
9 scribed in subsection (a)(2) shall be subject to the
10 same regulations as other contractors to account in
11 accord with generally accepted auditing principles
12 for the use of such funds provided under such pro-
13 grams.

14 (2) LIMITED AUDIT.—If such organization seg-
15 regates Federal funds provided under such programs
16 into separate accounts, then only the financial as-
17 sistance provided with such funds shall be subject to
18 audit.

19 (i) COMPLIANCE.—A religious organization which has
20 its rights under this section violated may enforce its claim
21 exclusively by asserting a civil action for such relief as may
22 be appropriate, including injunctive relief or damages, in
23 an appropriate State court against the entity or agency
24 that allegedly commits such violation.

1 **SEC. 7203. LIMITATIONS ON USE OF FUNDS FOR CERTAIN**
2 **PURPOSES.**

3 No funds provided directly to institutions or organi-
4 zations to provide services and administer programs de-
5 scribed in section 7202(a)(2) and programs established or
6 modified under subtitle D of title I of this Act, this sub-
7 title, or subtitle D, E, F, or G of this title shall be ex-
8 pended for sectarian worship or instruction. This section
9 shall not apply to financial assistance provided to or on
10 behalf of beneficiaries of assistance in the form of certifi-
11 cates, vouchers, or other forms of disbursement, if such
12 beneficiary may choose where such assistance shall be re-
13 deemed.

14 **SEC. 7204. CENSUS DATA ON GRANDPARENTS AS PRIMARY**
15 **CAREGIVERS FOR THEIR GRANDCHILDREN.**

16 (a) IN GENERAL.—Not later than 90 days after the
17 date of the enactment of this Act, the Secretary of Com-
18 merce (hereafter in this section referred to as the “Sec-
19 retary”), in carrying out the provisions of section 141 of
20 title 13, United States Code, shall expand the data collec-
21 tion efforts of the Bureau of the Census (hereafter in this
22 section referred to as the “Bureau”) to enable the Bureau
23 to collect statistically significant data, in connection with
24 its decennial census and its mid-decade census, concerning
25 the growing trend of grandparents who are the primary
26 caregivers for their grandchildren.

1 (b) EXPANDED CENSUS QUESTION.—In carrying out
2 the provisions of subsection (a), the Secretary shall expand
3 the Bureau’s census question that details households
4 which include both grandparents and their grandchildren.
5 The expanded question shall be formulated to distinguish
6 between the following households:

7 (1) A household in which a grandparent tempo-
8 rarily provides a home for a grandchild for a period
9 of weeks or months during periods of parental dis-
10 tress.

11 (2) A household in which a grandparent pro-
12 vides a home for a grandchild and serves as the pri-
13 mary caregiver for the grandchild.

14 **SEC. 7205. STUDY OF EFFECT OF WELFARE REFORM ON**
15 **GRANDPARENTS AS PRIMARY CAREGIVERS.**

16 (a) IN GENERAL.—The Secretary of Health and
17 Human Services (hereafter in this section referred to as
18 the “Secretary”) shall conduct a study evaluating the im-
19 pact of amendments made by subtitle D of title I of this
20 Act, this subtitle, and subtitles D, E, F, and G of this
21 title on grandparents who have assumed the responsibility
22 of providing care to their grandchildren. In such study,
23 the Secretary shall identify barriers to participation in
24 public programs including inconsistent policies, standards,
25 and definitions used by programs and agencies in the ad-

1 ministration of medicaid, assistance under a State pro-
 2 gram funded under part A of title IV of the Social Secu-
 3 rity Act, child support enforcement, and foster care pro-
 4 grams on grandparents who have assumed the care-giving
 5 role for children whose natural parents are unable to pro-
 6 vide care.

7 (b) REPORT.—Not later than December 31, 1997,
 8 the Secretary shall submit a report setting forth the find-
 9 ings of the study described in subsection (a) to the Com-
 10 mittee on Ways and Means and the Committee on Eco-
 11 nomic and Educational Opportunities of the House of
 12 Representatives and the Committee on Finance, the Com-
 13 mittee on Labor and Human Resources, and the Special
 14 Committee on Aging of the Senate. The report shall in-
 15 clude such recommendations for administrative or legisla-
 16 tive changes as the Secretary considers appropriate.

17 **SEC. 7206. DEVELOPMENT OF PROTOTYPE OF COUNTER-**

18 **FEIT-RESISTANT SOCIAL SECURITY CARD RE-**

19 **QUIRED.**

20 (a) DEVELOPMENT.—

21 (1) IN GENERAL.—The Commissioner of Social
 22 Security (hereafter in this section referred to as the
 23 “Commissioner”) shall in accordance with the provi-
 24 sions of this section develop a prototype of a coun-

1 counterfeit-resistant social security card. Such prototype
2 card shall—

3 (A) be made of a durable, tamper-resistant
4 material such as plastic or polyester,

5 (B) employ technologies that provide secu-
6 rity features, such as magnetic stripes,
7 holograms, and integrated circuits, and

8 (C) be developed so as to provide individ-
9 uals with reliable proof of citizenship or legal
10 resident alien status.

11 (2) ASSISTANCE BY ATTORNEY GENERAL.—The
12 Attorney General of the United States shall provide
13 such information and assistance as the Commis-
14 sioner deems necessary to achieve the purposes of
15 this section.

16 (b) STUDY AND REPORT.—

17 (1) IN GENERAL.—The Commissioner shall con-
18 duct a study and issue a report to Congress which
19 examines different methods of improving the social
20 security card application process.

21 (2) ELEMENTS OF STUDY.—The study shall in-
22 clude an evaluation of the cost and work load impli-
23 cations of issuing a counterfeit-resistant social secu-
24 rity card for all individuals over a 3, 5, and 10 year
25 period. The study shall also evaluate the feasibility

1 and cost implications of imposing a user fee for re-
2 placement cards and cards issued to individuals who
3 apply for such a card prior to the scheduled 3, 5,
4 and 10 year phase-in options.

5 (3) DISTRIBUTION OF REPORT.—Copies of the
6 report described in this subsection along with a fac-
7 simile of the prototype card as described in sub-
8 section (a) shall be submitted to the Committees on
9 Ways and Means and Judiciary of the House of
10 Representatives and the Committees on Finance and
11 Judiciary of the Senate within 1 year of the date of
12 the enactment of this Act.

13 **SEC. 7207. DISCLOSURE OF RECEIPT OF FEDERAL FUNDS.**

14 (a) IN GENERAL.—Whenever an organization that
15 accepts Federal funds under subtitle D of title I of this
16 Act, this subtitle, or subtitle D, E, F, or G of this title
17 or the amendments made by such title or subtitles makes
18 any communication that in any way intends to promote
19 public support or opposition to any policy of a Federal,
20 State, or local government through any broadcasting sta-
21 tion, newspaper, magazine, outdoor advertising facility, di-
22 rect mailing, or any other type of general public advertis-
23 ing, such communication shall state the following: “This
24 was prepared and paid for by an organization that accepts
25 taxpayer dollars.”.

1 (b) FAILURE TO COMPLY.—If an organization makes
2 any communication described in subsection (a) and fails
3 to provide the statement required by that subsection, such
4 organization shall be ineligible to receive Federal funds
5 under subtitle D of title I of this Act, this subtitle, or
6 subtitle D, E, F, or G of this title or the amendments
7 made by such title and subtitles.

8 (c) DEFINITION.—For purposes of this section, the
9 term “organization” means an organization described in
10 section 501(c) of the Internal Revenue Code of 1986.

11 (d) EFFECTIVE DATES.—This section shall take ef-
12 fect—

13 (1) with respect to printed communications 1
14 year after the date of enactment of this Act; and

15 (2) with respect to any other communication on
16 the date of enactment of this Act.

17 **SEC. 7208. MODIFICATIONS TO THE JOB OPPORTUNITIES**
18 **FOR CERTAIN LOW-INCOME INDIVIDUALS**
19 **PROGRAM.**

20 Section 505 of the Family Support Act of 1988 (42
21 U.S.C. 1315 note) is amended—

22 (1) in the heading, by striking “**DEMONSTRA-**
23 **TION**”;

24 (2) by striking “demonstration” each place it
25 appears;

1 (3) in subsection (a), by striking “in each of
2 fiscal years” and all that follows through “10” and
3 inserting “shall enter into agreements with”;

4 (4) in subsection (b)(3), by striking “aid to
5 families with dependent children under part A of
6 title IV of the Social Security Act” and inserting
7 “assistance under the State program funded under
8 part A of title IV of the Social Security Act in the
9 State in which the individual resides”;

10 (5) in subsection (c)—

11 (A) in paragraph (1)(C), by striking “aid
12 to families with dependent children under part
13 A of title IV of the Social Security Act” and in-
14 serting “assistance under the State program
15 funded under part A of title IV of the Social
16 Security Act”;

17 (B) in paragraph (2), by striking “aid to
18 families with dependent children under title IV
19 of such Act” and inserting “assistance under
20 the State program funded under part A of title
21 IV of the Social Security Act”;

22 (6) in subsection (d), by striking “job opportu-
23 nities and basic skills training program (as provided
24 for under title IV of the Social Security Act” and in-

1 serting “the State program funded under part A of
2 title IV of the Social Security Act”; and

3 (7) by striking subsections (e) through (g) and
4 inserting the following:

5 “(e) AUTHORIZATION OF APPROPRIATIONS.—For the
6 purpose of conducting projects under this section, there
7 is authorized to be appropriated an amount not to exceed
8 \$25,000,000 for any fiscal year.”.

9 **SEC. 7209. DEMONSTRATION PROJECTS FOR SCHOOL UTI-**
10 **LIZATION.**

11 (a) FINDINGS.—It is the goal of the United States
12 that children grow to be self-sufficient citizens, that par-
13 ents equip themselves to provide the best parental care
14 and guidance to their children, and that welfare depend-
15 ency, crime, and the deterioration of neighborhoods be
16 eliminated. It will contribute to these goals to increase the
17 level of parents’ involvement in their children’s school and
18 other activities, to increase the amount of time parents
19 spend with or in close proximity to their children, to in-
20 crease the portion of the day and night when children are
21 in a safe and healthy environment and not exposed to un-
22 favorable influences, to increase the opportunities for chil-
23 dren to participate in safe, healthy, and enjoyable extra-
24 curricular and organized developmental and recreational
25 activities, and to make more accessible the opportunities

1 for parents, especially those dependent on public assist-
2 ance, to increase and enhance their parenting and living
3 skills. All of these contributions can be facilitated by es-
4 tablishing the neighborhood public school as a focal point
5 for such activities and by extending the hours of the day
6 in which its facilities are available for such activities.

7 (b) GRANTS.—The Secretary of Education (hereafter
8 in this section referred to as the “Secretary”) shall make
9 demonstration grants as provided in subsection (c) to
10 States to enable them to increase the number of hours
11 during each day when existing public school facilities are
12 available for use for the purposes set forth in subsection
13 (d).

14 (c) SELECTION OF STATES.—The Secretary shall
15 make grants to not more than 5 States for demonstration
16 projects in accordance with this section. Each State shall
17 select the number and location of schools based on the
18 amount of funds it deems necessary for a school properly
19 to achieve the goals of this program. The schools selected
20 must have a significant percentage of students receiving
21 benefits under part A of title IV of the Social Security
22 Act. No more than 2 percent of the grant to any State
23 shall be used for administrative expenses of any kind by
24 any entity (except that none of the activities set forth in
25 paragraphs (1) and (2) of subsection (d) shall be consid-

1 ered an administrative activity the expenses for which are
2 limited by this subsection).

3 (d) USE OF FUNDS.—The grants made under sub-
4 section (b), in order that school facilities can be more fully
5 utilized, shall be used to provide funding for, among other
6 things—

7 (1) extending the length of the school day, ex-
8 panding the scope of student programs offered be-
9 fore and after pre-existing school hours, enabling
10 volunteers and parents or professionals paid from
11 other sources to teach, tutor, coach, organize, advise,
12 or monitor students before and after pre-existing
13 school hours, and providing security, supplies, utili-
14 ties, and janitorial services before and after pre-ex-
15 isting school hours for these programs,

16 (2) making the school facilities available for
17 community and neighborhood clubs, civic associa-
18 tions and organizations, Boy and Girl Scouts and
19 similar organizations, adult education classes, orga-
20 nized sports, parental education classes, and other
21 educational, recreational, and social activities.

22 None of the funds provided under this section can be used
23 to supplant funds already provided to a school facility for
24 services, equipment, personnel, or utilities nor can funds
25 be used to pay costs associated with operating school fa-

1 cilities during hours those facilities are already available
2 for student or community use.

3 (e) APPLICATIONS.—

4 (1) IN GENERAL.—The Governor of each State
5 desiring to conduct a demonstration project under
6 this section shall prepare and submit to the Sec-
7 retary an application in such manner and containing
8 such information as the Secretary may require. The
9 Secretary shall actively encourage States to submit
10 such applications.

11 (2) APPROVAL.—The Secretary shall consider
12 all applications received from States desiring to con-
13 duct demonstration projects under this section and
14 shall approve such applications in a number of
15 States to be determined by the Secretary (not to ex-
16 ceed 5), taking into account the overall funding lev-
17 els available under this section.

18 (f) DURATION.—A demonstration project under this
19 section shall be conducted for not more than 4 years plus
20 an additional time period of up to 12 months for final
21 evaluation and reporting. The Secretary may terminate a
22 project if the Secretary determines that the State conduct-
23 ing the project is not in substantial compliance with the
24 terms of the application approved by the Secretary under
25 this section.

1 (g) EVALUATION PLAN.—

2 (1) STANDARDS.—Not later than 3 months
3 after the date of the enactment of this section, the
4 Secretary shall develop standards for evaluating the
5 effectiveness of each demonstration project in con-
6 tributing toward meeting the objectives set forth in
7 subsection (a), which shall include the requirement
8 that an independent expert entity selected by the
9 Secretary provide an evaluation of all demonstration
10 projects, which evaluations shall be included in the
11 appropriate State’s annual and final reports to the
12 Secretary under subsection (h)(1).

13 (2) SUBMISSION OF PLAN.—Each State con-
14 ducting a demonstration project under this section
15 shall submit an evaluation plan (meeting the stand-
16 ards developed by the Secretary under paragraph
17 (1)) to the Secretary not later than 90 days after
18 the State is notified of the Secretary’s approval for
19 such project. A State shall not receive any Federal
20 funds for the operation of the demonstration project
21 until the Secretary approves such evaluation plan.

22 (h) REPORTS.—

23 (1) STATE.—A State that conducts a dem-
24 onstration project under this section shall prepare
25 and submit to the Secretary annual and final reports

1 in accordance with the State's evaluation plan under
2 subsection (g)(2) for such demonstration project.

3 (2) SECRETARY.—The Secretary shall prepare
4 and submit to the Congress annual reports concern-
5 ing each demonstration project under this section.

6 (i) AUTHORIZATIONS.—

7 (1) GRANTS.—There are authorized to be ap-
8 propriated for grants under subsection (b) for each
9 of fiscal years 1996, 1997, 1998, 1999, and 2000,
10 \$10,000,000.

11 (2) ADMINISTRATION.—There are authorized to
12 be appropriated \$1,000,000 for each of fiscal years
13 1996, 1997, 1998, 1999, and 2000 for the adminis-
14 tration of this section by the Secretary, including de-
15 velopment of standards and evaluation of all dem-
16 onstration projects by an independent expert entity
17 under subsection (g)(1).

18 **SEC. 7210. CORRECTIVE COMPLIANCE PLAN.**

19 (a) IN GENERAL.—

20 (1) NOTIFICATION OF VIOLATION.—Notwith-
21 standing any other provision of law, the Federal
22 Government shall, prior to assessing a penalty
23 against a State under any program established or
24 modified under subtitle D of title I of this Act, this
25 subtitle, or subtitle D, E, F, or G of this title, notify

1 the State of the violation of law for which such pen-
2 alty would be assessed and allow the State the op-
3 portunity to enter into a corrective compliance plan
4 in accordance with this section which outlines how
5 the State will correct any violations for which such
6 penalty would be assessed and how the State will in-
7 sure continuing compliance with the requirements of
8 such program.

9 (2) 60-DAY PERIOD TO PROPOSE A CORRECTIVE
10 COMPLIANCE PLAN.—Any State notified under para-
11 graph (1) shall have 60 days in which to submit to
12 the Federal Government a corrective compliance
13 plan to correct any violations described in such para-
14 graph.

15 (3) ACCEPTANCE OF PLAN.—The Federal Gov-
16 ernment shall have 60 days to accept or reject the
17 State's corrective compliance plan and may consult
18 with the State during this period to modify the plan.
19 If the Federal Government does not accept or reject
20 the corrective compliance plan during the period, the
21 corrective compliance plan shall be deemed to be ac-
22 cepted.

23 (b) FAILURE TO CORRECT.—If a corrective compli-
24 ance plan is accepted by the Federal Government, no pen-
25 alty shall be imposed with respect to a violation described

1 in subsection (a) if the State corrects the violation pursu-
2 ant to the plan. If a State has not corrected the violation
3 in a timely manner under the plan, some or all of the pen-
4 alty shall be assessed.

5 **SEC. 7211. PARENTAL RESPONSIBILITY CONTRACTS.**

6 (a) ASSESSMENT.—Notwithstanding any other provi-
7 sion of, or amendment made by, this subtitle, each State
8 to which a grant is made under section 403 of the Social
9 Security Act shall provide that the State agency, through
10 a case manager, shall make an initial assessment of the
11 education level, parenting skills, and history of parenting
12 activities and involvement of each parent who is applying
13 for financial assistance under the State plan funded under
14 part A of title IV of the Social Security Act.

15 (b) PARENTAL RESPONSIBILITY CONTRACTS.—On the
16 basis of the assessment made under subsection (a) with
17 respect to each parent applicant, the case manager, in con-
18 sultation with the parent applicant (hereafter in this sub-
19 section referred to as the “client”) and, if possible, the
20 client’s spouse if one is present, shall develop a parental
21 responsibility contract for the client, which meets the fol-
22 lowing requirements:

23 (1) Sets forth the obligations of the client, includ-
24 ing all of the following the case manager believes are
25 within the ability and capacity of the client, are not

1 incompatible with the employment or school activi-
2 ties of the client, and are not inconsistent with each
3 other in the client's case or with the well being of
4 the client's children:

5 (A) Attend school, if necessary, and maintain
6 certain grades and attendance.

7 (B) Keep school-age children of the client in
8 school.

9 (C) Immunize children of the client.

10 (D) Attend parenting and money manage-
11 ment classes.

12 (E) Participate in parent and teacher asso-
13 ciations and other activities intended to involve
14 parents in their children's school activities and
15 in the affairs of their children's school.

16 (F) Attend school activities with their chil-
17 dren where attendance or participation by both
18 children and parents is appropriate.

19 (G) Undergo appropriate substance abuse
20 treatment counseling.

21 (H) Any other appropriate activity, at the op-
22 tion of the State.

23 (2) Provides that the client shall accept any bona
24 fide offer of unsubsidized full-time employment, un-
25 less the client has good cause for not doing so.

1 (c) PENALTIES FOR NONCOMPLIANCE WITH PARENTAL
2 RESPONSIBILITY CONTRACT.—

3 (1) IN GENERAL.—Except as provided in para-
4 graph (2), the following penalties shall apply:

5 (A) PROGRESSIVE REDUCTIONS IN ASSIST-
6 ANCE FOR 1ST AND 2ND ACTS OF NON-COMPLI-
7 ANCE.—The State plan described in section 402
8 of the Social Security Act shall provide that the
9 amount of assistance otherwise payable under
10 part A of title IV of such Act to a family that
11 includes a client who, with respect to a parental
12 responsibility contract signed by the client,
13 commits an act of noncompliance without good
14 cause, shall be reduced by—

15 (i) 33 percent for the 1st such act of
16 noncompliance; or

17 (ii) 66 percent for the 2nd such act of
18 noncompliance.

19 (B) DENIAL OF ASSISTANCE FOR 3RD AND
20 SUBSEQUENT ACTS OF NONCOMPLIANCE.—The
21 State shall provide that in the case of the 3rd
22 or subsequent such act of noncompliance, the
23 family of which the client is a member shall not
24 thereafter be eligible for assistance under this
25 part.

1 (C) LENGTH OF PENALTIES.—The penalty
2 for an act of noncompliance shall not exceed the
3 greater of—

4 (i) in the case of—

5 (I) the 1st act of noncompliance, 1
6 month,

7 (II) the 2nd act of noncompliance,
8 3 months, or

9 (III) the 3rd or subsequent act of
10 noncompliance, 6 months; or

11 (ii) the period ending with the cessation
12 of such act of noncompliance.

13 (D) DENIAL OF ASSISTANCE TO ADULTS RE-
14 FUSING TO ACCEPT A BONA FIDE OFFER OF
15 EMPLOYMENT.—The State plan shall provide
16 that if an unemployed individual who has at-
17 tained 18 years of age refuses to accept a bona
18 fide offer of employment without good cause,
19 such act of noncompliance shall be considered a
20 3rd or subsequent act of noncompliance.

21 (2) STATE FLEXIBILITY.—The State plan may
22 provide for different penalties than those specified in
23 paragraph (1).

1 **SEC. 7212. EXPENDITURE OF FEDERAL FUNDS IN ACCORD-**
2 **ANCE WITH LAWS AND PROCEDURES APPLI-**
3 **CABLE TO EXPENDITURE OF STATE FUNDS.**

4 (a) IN GENERAL.—Notwithstanding any other provi-
5 sion of law, any funds received by a State under the provi-
6 sions of law specified in subsection (b) shall be expended
7 only in accordance with the laws and procedures applicable
8 to expenditures of the State’s own revenues, including ap-
9 propriation by the State legislature, consistent with the
10 terms and conditions required under such provisions of
11 law.

12 (b) PROVISIONS OF LAW.—The provisions of law
13 specified in this subsection are the following:

14 (1) Part A of title IV of the Social Security Act
15 (relating to block grants for temporary assistance to
16 needy families).

17 (2) The section of the Food Stamp Act of 1977
18 relating to the optional State food assistance block
19 grants.

20 (3) The Child Care and Development Block
21 Grant Act of 1990 (relating to block grants for child
22 care).

23 **SEC. 7213. CONFORMING AMENDMENTS TO THE SOCIAL SE-**
24 **CURITY ACT.**

25 (a) AMENDMENTS TO TITLE II.—

1 (1) Section 205(c)(2)(C)(vi) (42 U.S.C.
2 405(c)(2)(C)(vi)), as so redesignated by section
3 321(a)(9)(B) of the Social Security Independence
4 and Program Improvements Act of 1994, is amend-
5 ed—

6 (A) by inserting “an agency administering
7 a program funded under part A of title IV or”
8 before “an agency operating”; and

9 (B) by striking “A or D of title IV of this
10 Act” and inserting “D of such title”.

11 (2) Section 228(d)(1) (42 U.S.C. 428(d)(1)) is
12 amended by inserting “under a State program fund-
13 ed under” before “part A of title IV”.

14 (b) AMENDMENT TO PART B OF TITLE IV.—Section
15 422(b)(2) (42 U.S.C. 622(b)(2)) is amended by striking
16 “under the State plan approved” and inserting “under the
17 State program funded.”.

18 (c) AMENDMENTS TO PART D OF TITLE IV.—

19 (1) Section 451 (42 U.S.C. 651) is amended by
20 striking “aid” and inserting “assistance under a
21 State program funded”.

22 (2) Section 452(a)(10)(C) (42 U.S.C.
23 652(a)(10)(C)) is amended—

1 (A) by striking “aid to families with de-
2 pendent children” and inserting “assistance
3 under a State program funded under part A”;

4 (B) by striking “such aid” and inserting
5 “such assistance”; and

6 (C) by striking “402(a)(26) or”.

7 (3) Section 452(a)(10)(F) (42 U.S.C.
8 652(a)(10)(F)) is amended—

9 (A) by striking “aid under a State plan ap-
10 proved” and inserting “assistance under a State
11 program funded”; and

12 (B) by striking “in accordance with the
13 standards referred to in section
14 402(a)(26)(B)(ii)” and inserting “by the
15 State”.

16 (4) Section 452(b) (42 U.S.C. 652(b)) is
17 amended in the first sentence by striking “aid under
18 the State plan approved under part A” and inserting
19 “assistance under a State program funded under
20 part A”.

21 (5) Section 452(d)(3)(B)(i) (42 U.S.C.
22 652(d)(3)(B)(i)) is amended by striking “1115(c)”
23 and inserting “1115(b)”.

24 (6) Section 452(g)(2)(A)(ii)(I) (42 U.S.C.
25 652(g)(2)(A)(ii)(I)) is amended by striking “aid is

1 being paid under the State’s plan approved under
2 part A or E” and inserting “assistance is being pro-
3 vided under the State program funded under part A
4 or aid is being paid under the State’s plan approved
5 under part E”.

6 (7) Section 452(g)(2)(A) (42 U.S.C.
7 652(g)(2)(A)) is amended in the matter following
8 clause (iii) by striking “aid was being paid under the
9 State’s plan approved under part A or E” and in-
10 sserting “assistance was being provided under the
11 State program funded under part A or aid was being
12 paid under the State’s plan approved under part E”.

13 (8) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is
14 amended in the matter following subparagraph
15 (B)—

16 (A) by striking “who is a dependent child”
17 and inserting “with respect to whom assistance
18 is being provided under the State program
19 funded under part A”;

20 (B) by inserting “by the State agency ad-
21 ministering the State plan approved under this
22 part” after “found”; and

23 (C) by striking “under section 402(a)(26)”
24 and inserting “with the State in establishing
25 paternity”.

1 (9) Section 452(h) (42 U.S.C. 652(h)) is
2 amended by striking “under section 402(a)(26)”.

3 (10) Section 453(c)(3) (42 U.S.C. 653(c)(3)) is
4 amended by striking “aid” and inserting “assistance
5 under a State program funded”.

6 (11) Section 454 (42 U.S.C. 654) is amend-
7 ed—

8 (A) in paragraph (5)(A)—

9 (i) by striking “under section
10 402(a)(26)”;

11 (ii) by striking “except that this para-
12 graph shall not apply to such payments for
13 any month following the first month in
14 which the amount collected is sufficient to
15 make such family ineligible for assistance
16 under the State plan approved under part
17 A;”;

18 (B) in paragraph (6)(D), by striking “aid
19 under a State plan approved” and inserting
20 “assistance under a State program funded”.

21 (12) Section 456 (42 U.S.C. 656) is amended—

22 (A) in subsection (a)(1), by striking
23 “under section 402(a)(26)”;

24 (B) by striking subsection (b) and insert-
25 ing the following:

1 “(b) A debt which is a support obligation enforceable
2 under this title is not released by a discharge in bank-
3 ruptcy under title 11, United States Code.”.

4 (13) Section 466(a)(3)(B) (42 U.S.C.
5 666(a)(3)(B)) is amended by striking “402(a)(26)
6 or”.

7 (14) Section 466(b)(2) (42 U.S.C. 666(b)(2)) is
8 amended by striking “aid” and inserting “assistance
9 under a State program funded”.

10 (15) Section 469(a) (42 U.S.C. 669(a)) is
11 amended—

12 (A) by striking “aid under plans approved”
13 and inserting “assistance under State programs
14 funded”; and

15 (B) by striking “such aid” and inserting
16 “such assistance”.

17 (d) AMENDMENTS TO PART E OF TITLE IV.—

18 (1) Section 470 (42 U.S.C. 670) is amended—

19 (A) by striking “would be” and inserting
20 “would have been”; and

21 (B) by inserting “(as such plan was in ef-
22 fect on June 1, 1995)” after “part A”.

23 (2) Section 471(17) (42 U.S.C. 671(17)) is
24 amended by striking “plans approved under parts A

1 and D” and inserting “program funded under part
2 A and plan approved under part D”.

3 (3) Section 472(a) (42 U.S.C. 672(a)) is
4 amended—

5 (A) in the matter preceding paragraph

6 (1)—

7 (i) by striking “would meet” and in-
8 serting “would have met”;

9 (ii) by inserting “(as such sections
10 were in effect on June 1, 1995)” after
11 “407”; and

12 (iii) by inserting “(as so in effect)”
13 after “406(a)”; and

14 (B) in paragraph (4)—

15 (i) in subparagraph (A)—

16 (I) by inserting “would have”
17 after “(A)”; and

18 (II) by inserting “(as in effect on
19 June 1, 1995)” after “section 402”;
20 and

21 (ii) in subparagraph (B)(ii), by insert-
22 ing “(as in effect on June 1, 1995)” after
23 “406(a)”.

24 (4) Section 472(h) (42 U.S.C. 672(h)) is
25 amended to read as follows:

1 “(h)(1) For purposes of the medicaid program under
2 title XIX of this Act or any successor to such program,
3 any child with respect to whom foster care maintenance
4 payments are made under this section shall be deemed to
5 be a dependent child as defined in section 406 (as in effect
6 as of June 1, 1995) and shall be deemed to be a recipient
7 of aid to families with dependent children under part A
8 of this title (as so in effect). For purposes of title XX,
9 any child with respect to whom foster care maintenance
10 payments are made under this section shall be deemed to
11 be a minor child in a needy family under a State program
12 funded under part A and shall be deemed to be a recipient
13 of assistance under such part.

14 “(2) For purposes of paragraph (1), a child whose
15 costs in a foster family home or child care institution are
16 covered by the foster care maintenance payments being
17 made with respect to the child’s minor parent, as provided
18 in section 475(4)(B), shall be considered a child with re-
19 spect to whom foster care maintenance payments are
20 made under this section.”.

21 (5) Section 473(a)(2) (42 U.S.C. 673(a)(2)) is
22 amended—

23 (A) in subparagraph (A)(i)—

1 (i) by inserting “(as such sections
2 were in effect on June 1, 1995)” after
3 “407”;

4 (ii) by inserting “(as so in effect)”
5 after “specified in section 406(a)”; and

6 (iii) by inserting “(as such section was
7 in effect on June 1, 1995)” after “403”;
8 (B) in subparagraph (B)(i)—

9 (i) by inserting “would have” after
10 “(B)(i)”; and

11 (ii) by inserting “(as in effect on June
12 1, 1995)” after “section 402”; and

13 (C) in subparagraph (B)(ii)(II), by insert-
14 ing “(as in effect on June 1, 1995)” after
15 “406(a)”.

16 (6) Section 473(b) (42 U.S.C. 673(b)) is
17 amended to read as follows:

18 “(b)(1) For purposes of the medicaid program under
19 title XIX of this Act or any successor to such program,
20 any child who is described in paragraph (3) shall be
21 deemed to be a dependent child as defined in section 406
22 (as in effect as of June 1, 1995) and shall be deemed to
23 be a recipient of aid to families with dependent children
24 under part A of this title (as so in effect) in the State
25 where such child resides.

1 “(2) For purposes of title XX, any child who is de-
2 scribed in paragraph (3) shall be deemed to be a minor
3 child in a needy family under a State program funded
4 under part A and shall be deemed to be a recipient of
5 assistance under such part.

6 “(3) A child described in this paragraph is any
7 child—

8 “(A)(i) who is a child described in subsection
9 (a)(2), and

10 “(ii) with respect to whom an adoption assist-
11 ance agreement is in effect under this section
12 (whether or not adoption assistance payments are
13 provided under the agreement or are being made
14 under this section), including any such child who has
15 been placed for adoption in accordance with applica-
16 ble State and local law (whether or not an interlocu-
17 tory or other judicial decree of adoption has been is-
18 sued), or

19 “(B) with respect to whom foster care mainte-
20 nance payments are being made under section 472.

21 “(4) For purposes of paragraphs (1) and (2), a child
22 whose costs in a foster family home or child-care institu-
23 tion are covered by the foster care maintenance payments
24 being made with respect to the child’s minor parent, as
25 provided in section 475(4)(B), shall be considered a child

1 with respect to whom foster care maintenance payments
2 are being made under section 472.”.

3 (e) AMENDMENT TO TITLE X.—Section 1002(a)(7)
4 (42 U.S.C. 1202(a)(7)) is amended by striking “aid to
5 families with dependent children under the State plan ap-
6 proved under section 402 of this Act” and inserting “as-
7 sistance under a State program funded under part A of
8 title IV”.

9 (f) AMENDMENTS TO TITLE XI.—

10 (1) Section 1109 (42 U.S.C. 1309) is amended
11 by striking “or part A of title IV,”.

12 (2) Section 1115 (42 U.S.C. 1315) is amend-
13 ed—

14 (A) in subsection (a)(2)—

15 (i) by inserting “(A)” after “(2)”;

16 (ii) by striking “403,”;

17 (iii) by striking the period at the end
18 and inserting “, and”; and

19 (iv) by adding at the end the following
20 new subparagraph:

21 “(B) costs of such project which would not oth-
22 erwise be a permissible use of funds under part A
23 of title IV and which are not included as part of the
24 costs of projects under section 1110, shall to the ex-
25 tent and for the period prescribed by the Secretary,

1 be regarded as a permissible use of funds under
2 such part.”; and

3 (B) in subsection (c)(3), by striking
4 “under the program of aid to families with de-
5 pendent children” and inserting “part A of
6 such title”.

7 (3) Section 1116 (42 U.S.C. 1316) is amend-
8 ed—

9 (A) in each of subsections (a)(1), (b), and
10 (d), by striking “or part A of title IV,”; and

11 (B) in subsection (a)(3), by striking
12 “404,”.

13 (4) Section 1118 (42 U.S.C. 1318) is amend-
14 ed—

15 (A) by striking “403(a),”;

16 (B) by striking “and part A of title IV,”;

17 and

18 (C) by striking “, and shall, in the case of
19 American Samoa, mean 75 per centum with re-
20 spect to part A of title IV”.

21 (5) Section 1119 (42 U.S.C. 1319) is amend-
22 ed—

23 (A) by striking “or part A of title IV”; and

24 (B) by striking “403(a),”.

1 (6) Section 1133(a) (42 U.S.C. 1320b–3(a)) is
2 amended by striking “or part A of title IV,”.

3 (7) Section 1136 (42 U.S.C. 1320b–6) is re-
4 pealed.

5 (8) Section 1137 (42 U.S.C. 1320b–7) is
6 amended—

7 (A) in subsection (b), by striking para-
8 graph (1) and inserting the following:

9 “(1) any State program funded under part A of
10 title IV of this Act;” and

11 (B) in subsection (d)(1)(B)—

12 (i) by striking “In this subsection—”
13 and all that follows through “(ii) in” and
14 inserting “In this subsection, in”;

15 (ii) by redesignating subclauses (I),
16 (II), and (III) as clauses (i), (ii), and (iii);
17 and

18 (iii) by moving such redesignated ma-
19 terial 2 ems to the left.

20 (9) Section 1108 (42 U.S.C. 1308) is amend-
21 ed—

22 (A) in subsection (a)—

23 (i) in the matter preceding paragraph

24 (1)—

1 (I) by inserting “(or paid, in the
2 case of part A of title IV)” after “cer-
3 tified”; and

4 (II) by striking “or, in the case
5 of” and all that follows through “sec-
6 tion 403(k)”;

7 (ii) in paragraph (1)—

8 (I) in subparagraph (F), by strik-
9 ing “or”;

10 (II) in subparagraph (G), by
11 striking “the fiscal year 1989 and
12 each fiscal year thereafter;” and in-
13 sserting “each of the fiscal years 1989
14 through 1995, or”; and

15 (III) by inserting after subpara-
16 graph (G), the following new subpara-
17 graph:

18 “(H) \$100,039,000 with respect to fiscal
19 year 1996 and each fiscal year thereafter;”;

20 (iii) in paragraph (2)—

21 (I) in subparagraph (F), by strik-
22 ing “or”;

23 (II) in subparagraph (G), by
24 striking “the fiscal year 1989 and
25 each fiscal year thereafter;” and in-

1 serting “each of the fiscal years 1989
2 through 1995, or”; and

3 (III) by inserting after subpara-
4 graph (G), the following new subpara-
5 graph:

6 “(H) \$3,489,000 with respect to fiscal
7 year 1996 and each fiscal year thereafter;” and

8 (iv) in paragraph (3)—

9 (I) in subparagraph (F), by strik-
10 ing “or”;

11 (II) in subparagraph (G), by
12 striking “the fiscal year 1989 and
13 each fiscal year thereafter.” and in-
14 serting “each of the fiscal years 1989
15 through 1995, or”; and

16 (III) by inserting after subpara-
17 graph (G), the following new subpara-
18 graph:

19 “(H) \$4,593,000 with respect to fiscal
20 year 1996 and each fiscal year thereafter.”; and

21 (B) in subsection (d), by striking “(exclu-
22 sive of any amounts” and all that follows
23 through “section 403(k) applies”).

24 (g) AMENDMENT TO TITLE XIV.—Section
25 1402(a)(7) (42 U.S.C. 1352(a)(7)) is amended by striking

1 “aid to families with dependent children under the State
 2 plan approved under section 402 of this Act” and insert-
 3 ing “assistance under a State program funded under part
 4 A of title IV”.

5 (h) AMENDMENT TO TITLE XVI AS IN EFFECT WITH
 6 RESPECT TO THE TERRITORIES.—Section 1602(a)(11),
 7 as in effect without regard to the amendment made by
 8 section 301 of the Social Security Amendments of 1972
 9 (42 U.S.C. 1382 note), is amended by striking “aid under
 10 the State plan approved” and inserting “assistance under
 11 a State program funded”.

12 (i) AMENDMENT TO TITLE XVI AS IN EFFECT WITH
 13 RESPECT TO THE STATES.—Section 1611(c)(5)(A) (42
 14 U.S.C. 1382(c)(5)(A)) is amended to read as follows: “(A)
 15 a State program funded under part A of title IV,”.

16 **SEC. 7214. CONFORMING AMENDMENTS TO THE FOOD**
 17 **STAMP ACT OF 1977 AND RELATED PROVI-**
 18 **SIONS.**

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

21 (1) in the second sentence of subsection (a), by
 22 striking “plan approved” and all that follows
 23 through “title IV of the Social Security Act” and in-
 24 serting “program funded under part A of title IV of
 25 the Social Security Act (42 U.S.C. 601 et seq.) that

1 the Secretary determines complies with standards
2 established by the Secretary that ensure that the
3 standards under the State program are comparable
4 to or more restrictive than those in effect on June
5 1, 1995”;

6 (2) in subsection (d)(5)—

7 (A) by striking “assistance to families with
8 dependent children” and inserting “assistance
9 under a State program funded”; and

10 (B) by striking paragraph (13) and redesi-
11 gnating paragraphs (14), (15), and (16) as
12 paragraphs (13), (14), and (15), respectively;

13 (3) in subsection (j), by striking “plan approved
14 under part A of title IV of such Act (42 U.S.C. 601
15 et seq.)” and inserting “program funded under part
16 A of title IV of the Act (42 U.S.C. 601 et seq.) that
17 the Secretary determines complies with standards
18 established by the Secretary that ensure that the
19 standards under the State program are comparable
20 to or more restrictive than those in effect on June
21 1, 1995”.

22 (b) Section 6 of such Act (7 U.S.C. 2015) is amend-
23 ed—

1 (1) in subsection (c)(5), by striking “the State
2 plan approved” and inserting “the State program
3 funded”;

4 (2) in subsection (e)—

5 (A) by striking “aid to families with de-
6 pendent children” and inserting “benefits under
7 a State program funded”; and

8 (B) by inserting before the semicolon the
9 following: “that the Secretary determines com-
10 plies with standards established by the Sec-
11 retary that ensure that the standards under the
12 State program are comparable to or more re-
13 strictive than those in effect on June 1, 1995”;
14 and

15 (3) by adding at the end the following new sub-
16 section:

17 “(i) Notwithstanding any other provision of this Act,
18 a household may not receive benefits under this Act as
19 a result of the household’s eligibility under a State pro-
20 gram funded under part A of title IV of the Social Secu-
21 rity Act (42 U.S.C. 601 et seq.), unless the Secretary de-
22 termines that any household with income above 130 per-
23 cent of the poverty guidelines is not eligible for the pro-
24 gram.”.

1 (c) Section 16(g)(4) of such Act (7 U.S.C.
2 2025(g)(4)) is amended by striking “State plans under the
3 Aid to Families with Dependent Children Program under”
4 and inserting “State programs funded under part A of”.

5 (d) Section 17 of such Act (7 U.S.C. 2026) is amend-
6 ed—

7 (1) in the first sentence of subsection (b)(1)(A),
8 by striking “to aid to families with dependent chil-
9 dren under part A of title IV of the Social Security
10 Act” and inserting “or are receiving assistance
11 under a State program funded under part A of title
12 IV of the Social Security Act (42 U.S.C. 601 et
13 seq.)”; and

14 (2) in subsection (b)(3), by adding at the end
15 the following new subparagraph:

16 “(I) The Secretary may not grant a waiver
17 under this paragraph on or after October 1, 1995.
18 Any reference in this paragraph to a provision of
19 title IV of the Social Security Act shall be deemed
20 to be a reference to such provision as in effect on
21 September 30, 1995.”;

22 (e) Section 20 of such Act (7 U.S.C. 2029) is amend-
23 ed—

1 (1) in subsection (a)(2)(B) by striking “operat-
2 ing—” and all that follows through “(ii) any other”
3 and inserting “operating any”; and

4 (2) in subsection (b)—

5 (A) in paragraph (1)—

6 (i) by striking “(b)(1) A household”
7 and inserting “(b) A household”; and

8 (ii) in subparagraph (B), by striking
9 “training program” and inserting “activ-
10 ity”;

11 (B) by striking paragraph (2); and

12 (C) by redesignating subparagraphs (A)
13 through (F) as paragraphs (1) through (6), re-
14 spectively.

15 (f) Section 5(h)(1) of the Agriculture and Consumer
16 Protection Act of 1973 (Public Law 93–186; 7 U.S.C.
17 612c note) is amended by striking “the program for aid
18 to families with dependent children” and inserting “the
19 State program funded”.

20 (g) Section 9 of the National School Lunch Act (42
21 U.S.C. 1758) is amended—

22 (1) in subsection (b)—

23 (A) in paragraph (2)(C)(ii)(II)—

1 (i) by striking “program for aid to
2 families with dependent children” and in-
3 serting “State program funded”; and

4 (ii) by inserting before the period at
5 the end the following: “that the Secretary
6 determines complies with standards estab-
7 lished by the Secretary that ensure that
8 the standards under the State program are
9 comparable to or more restrictive than
10 those in effect on June 1, 1995”; and

11 (B) in paragraph (6)—

12 (i) in subparagraph (A)(ii)—

13 (I) by striking “an AFDC assist-
14 ance unit (under the aid to families
15 with dependent children program au-
16 thorized” and inserting “a family
17 (under the State program funded”;
18 and

19 (II) by striking “, in a State”
20 and all that follows through
21 “9902(2))” and inserting “that the
22 Secretary determines complies with
23 standards established by the Secretary
24 that ensure that the standards under
25 the State program are comparable to

1 or more restrictive than those in effect
2 on June 1, 1995”; and

3 (ii) in subparagraph (B), by striking
4 “aid to families with dependent children”
5 and inserting “assistance under the State
6 program funded under part A of title IV of
7 the Social Security Act (42 U.S.C. 601 et
8 seq.) that the Secretary determines com-
9 plies with standards established by the
10 Secretary that ensure that the standards
11 under the State program are comparable
12 to or more restrictive than those in effect
13 on June 1, 1995”; and

14 (2) in subsection (d)(2)(C)—

15 (A) by striking “program for aid to fami-
16 lies with dependent children” and inserting
17 “State program funded”; and

18 (B) by inserting before the period at the
19 end the following: “that the Secretary deter-
20 mines complies with standards established by
21 the Secretary that ensure that the standards
22 under the State program are comparable to or
23 more restrictive than those in effect on June 1,
24 1995”.

1 (h) Section 17 of the Child Nutrition Act of 1966
2 (42 U.S.C. 1786) is amended—

3 (1) in subsection (d)(2)(A)(ii)(II)—

4 (A) by striking “program for aid to fami-
5 lies with dependent children established” and
6 inserting “State program funded”; and

7 (B) by inserting before the semicolon the
8 following: “that the Secretary determines com-
9 plies with standards established by the Sec-
10 retary that ensure that the standards under the
11 State program are comparable to or more re-
12 strictive than those in effect on June 1, 1995”;

13 (2) in subsection (e)(4)(A), by striking “pro-
14 gram for aid to families with dependent children”
15 and inserting “State program funded”; and

16 (3) in subsection (f)(1)(C)(iii), by striking “aid
17 to families with dependent children,” and inserting
18 “State program funded under part A of title IV of
19 the Social Security Act (42 U.S.C. 601 et seq.) and
20 with the”.

21 **SEC. 7215. CONFORMING AMENDMENTS TO OTHER LAWS.**

22 (a) Subsection (b) of section 508 of the Unemploy-
23 ment Compensation Amendments of 1976 (Public Law
24 94–566; 90 Stat. 2689) is amended to read as follows:

1 “(b) PROVISION FOR REIMBURSEMENT OF EX-
2 PENSES.—For purposes of section 455 of the Social Secu-
3 rity Act, expenses incurred to reimburse State employment
4 offices for furnishing information requested of such of-
5 fices—

6 “(1) pursuant to the third sentence of section
7 3(a) of the Act entitled ‘An Act to provide for the
8 establishment of a national employment system and
9 for cooperation with the States in the promotion of
10 such system, and for other purposes’, approved June
11 6, 1933 (29 U.S.C. 49b(a)), or

12 “(2) by a State or local agency charged with
13 the duty of carrying a State plan for child support
14 approved under part D of title IV of the Social Se-
15 curity Act,

16 shall be considered to constitute expenses incurred in the
17 administration of such State plan.”.

18 (b) Section 9121 of the Omnibus Budget Reconcili-
19 ation Act of 1987 (42 U.S.C. 602 note) is repealed.

20 (c) Section 9122 of the Omnibus Budget Reconcili-
21 ation Act of 1987 (42 U.S.C. 602 note) is repealed.

22 (d) Section 221 of the Housing and Urban-Rural Re-
23 covery Act of 1983 (42 U.S.C. 602 note), relating to treat-
24 ment under AFDC of certain rental payments for federally
25 assisted housing, is repealed.

1 (e) Section 159 of the Tax Equity and Fiscal Respon-
2 sibility Act of 1982 (42 U.S.C. 602 note) is repealed.

3 (f) Section 202(d) of the Social Security Amendments
4 of 1967 (81 Stat. 882; 42 U.S.C. 602 note) is repealed.

5 (g) Section 903 of the Stewart B. McKinney Home-
6 less Assistance Amendments Act of 1988 (42 U.S.C.
7 11381 note), relating to demonstration projects to reduce
8 number of AFDC families in welfare hotels, is amended—

9 (1) in subsection (a), by striking “aid to fami-
10 lies with dependent children under a State plan ap-
11 proved” and inserting “assistance under a State pro-
12 gram funded”; and

13 (2) in subsection (c), by striking “aid to fami-
14 lies with dependent children in the State under a
15 State plan approved” and inserting “assistance in
16 the State under a State program funded”.

17 (h) The Higher Education Act of 1965 (20 U.S.C.
18 1001 et seq.) is amended—

19 (1) in section 404C(c)(3) (20 U.S.C. 1070a-
20 23(c)(3)), by striking “(Aid to Families with De-
21 pendent Children)”; and

22 (2) in section 480(b)(2) (20 U.S.C.
23 1087vv(b)(2)), by striking “aid to families with de-
24 pendent children under a State plan approved” and

1 inserting “assistance under a State program fund-
2 ed”.

3 (i) The Carl D. Perkins Vocational and Applied Tech-
4 nology Education Act (20 U.S.C. 2301 et seq.) is amend-
5 ed—

6 (1) in section 231(d)(3)(A)(ii) (20 U.S.C.
7 2341(d)(3)(A)(ii)), by striking “the program for aid
8 to dependent children” and inserting “the State pro-
9 gram funded”;

10 (2) in section 232(b)(2)(B) (20 U.S.C.
11 2341a(b)(2)(B)), by striking “the program for aid to
12 families with dependent children” and inserting “the
13 State program funded”; and

14 (3) in section 521(14)(B)(iii) (20 U.S.C.
15 2471(14)(B)(iii)), by striking “the program for aid
16 to families with dependent children” and inserting
17 “the State program funded”.

18 (j) The Elementary and Secondary Education Act of
19 1965 (20 U.S.C. 2701 et seq.) is amended—

20 (1) in section 1113(a)(5) (20 U.S.C.
21 6313(a)(5)), by striking “Aid to Families with De-
22 pendent Children Program” and inserting “State
23 program funded under part A of title IV of the So-
24 cial Security Act”;

1 (2) in section 1124(c)(5) (20 U.S.C.
2 6333(c)(5)), by striking “the program of aid to fam-
3 ilies with dependent children under a State plan ap-
4 proved under” and inserting “a State program fund-
5 ed under part A of”; and

6 (3) in section 5203(b)(2) (20 U.S.C.
7 7233(b)(2))—

8 (A) in subparagraph (A)(xi), by striking
9 “Aid to Families with Dependent Children ben-
10 efits” and inserting “assistance under a State
11 program funded under part A of title IV of the
12 Social Security Act”; and

13 (B) in subparagraph (B)(viii), by striking
14 “Aid to Families with Dependent Children” and
15 inserting “assistance under the State program
16 funded under part A of title IV of the Social
17 Security Act”.

18 (k) Chapter VII of title I of Public Law 99–88 (25
19 U.S.C. 13d–1) is amended to read as follows: “*Provided*
20 *further*, That general assistance payments made by the
21 Bureau of Indian Affairs shall be made—

22 “(1) after April 29, 1985, and before October
23 1, 1995, on the basis of Aid to Families with De-
24 pendent Children (AFDC) standards of need; and

1 “(2) on and after October 1, 1995, on the basis
2 of standards of need established under the State
3 program funded under part A of title IV of the So-
4 cial Security Act,
5 except that where a State ratably reduces its AFDC or
6 State program payments, the Bureau shall reduce general
7 assistance payments in such State by the same percentage
8 as the State has reduced the AFDC or State program pay-
9 ment.”.

10 (1) The Internal Revenue Code of 1986 is amended—

11 (1) in section 51(d)(9), by striking all that fol-
12 lows “agency as” and inserting “being eligible for fi-
13 nancial assistance under part A of title IV of the So-
14 cial Security Act and as having continually received
15 such financial assistance during the 90-day period
16 which immediately precedes the date on which such
17 individual is hired by the employer.”;

18 (2) in section 3304(a)(16), by striking “eligi-
19 bility for aid or services,” and all that follows
20 through “children approved” and inserting “eligi-
21 bility for assistance, or the amount of such assist-
22 ance, under a State program funded”;

23 (3) in section 6103(l)(7)(D)(i), by striking “aid
24 to families with dependent children provided under

1 a State plan approved” and inserting “a State pro-
2 gram funded”;

3 (4) in section 6334(a)(11)(A), by striking “(re-
4 lating to aid to families with dependent children)”;
5 and

6 (5) in section 7523(b)(3)(C), by striking “aid to
7 families with dependent children” and inserting “as-
8 sistance under a State program funded under part
9 A of title IV of the Social Security Act”.

10 (m) Section 3(b) of the Wagner-Peyser Act (29
11 U.S.C. 49b(b)) is amended by striking “State plan ap-
12 proved under part A of title IV” and inserting “State pro-
13 gram funded under part A of title IV”.

14 (n) The Job Training Partnership Act (29 U.S.C.
15 1501 et seq.) is amended—

16 (1) in section 4(29)(A)(i) (29 U.S.C.
17 1503(29)(A)(i)), by striking “(42 U.S.C. 601 et
18 seq.)”;

19 (2) in section 106(b)(6)(C) (29 U.S.C.
20 1516(b)(6)(C)), by striking “State aid to families
21 with dependent children records,” and inserting
22 “records collected under the State program funded
23 under part A of title IV of the Social Security Act,”;

24 (3) in section 121(b)(2) (29 U.S.C.
25 1531(b)(2))—

1 (A) by striking “the JOBS program” and
2 inserting “the work activities required under
3 title IV of the Social Security Act”; and

4 (B) by striking the second sentence;

5 (4) in section 123(c) (29 U.S.C. 1533(c))—

6 (A) in paragraph (1)(E), by repealing
7 clause (vi); and

8 (B) in paragraph (2)(D), by repealing
9 clause (v);

10 (5) in section 203(b)(3) (29 U.S.C.
11 1603(b)(3)), by striking “, including recipients
12 under the JOBS program”;

13 (6) in subparagraphs (A) and (B) of section
14 204(a)(1) (29 U.S.C. 1604(a)(1) (A) and (B)), by
15 striking “(such as the JOBS program)” each place
16 it appears;

17 (7) in section 205(a) (29 U.S.C. 1605(a)), by
18 striking paragraph (4) and inserting the following:

19 “(4) the portions of title IV of the Social Secu-
20 rity Act relating to work activities;”;

21 (8) in section 253 (29 U.S.C. 1632)—

22 (A) in subsection (b)(2), by repealing sub-
23 paragraph (C); and

1 (B) in paragraphs (1)(B) and (2)(B) of
2 subsection (c), by striking “the JOBS program
3 or” each place it appears;

4 (9) in section 264 (29 U.S.C. 1644)—

5 (A) in subparagraphs (A) and (B) of sub-
6 section (b)(1), by striking “(such as the JOBS
7 program)” each place it appears; and

8 (B) in subparagraphs (A) and (B) of sub-
9 section (d)(3), by striking “and the JOBS pro-
10 gram” each place it appears;

11 (10) in section 265(b) (29 U.S.C. 1645(b)), by
12 striking paragraph (6) and inserting the following:

13 “(6) the portion of title IV of the Social Secu-
14 rity Act relating to work activities;”;

15 (11) in the second sentence of section 429(e)
16 (29 U.S.C. 1699(e)), by striking “and shall be in an
17 amount that does not exceed the maximum amount
18 that may be provided by the State pursuant to sec-
19 tion 402(g)(1)(C) of the Social Security Act (42
20 U.S.C. 602(g)(1)(C))”;

21 (12) in section 454(e) (29 U.S.C. 1734(e)), by
22 striking “JOBS and”;

23 (13) in section 455(b) (29 U.S.C. 1735(b)), by
24 striking “the JOBS program,”;

1 (14) in section 501(1) (29 U.S.C. 1791(1)), by
2 striking “aid to families with dependent children
3 under part A of title IV of the Social Security Act
4 (42 U.S.C. 601 et seq.)” and inserting “assistance
5 under the State program funded under part A of
6 title IV of the Social Security Act”;

7 (15) in section 506(1)(A) (29 U.S.C.
8 1791e(1)(A)), by striking “aid to families with de-
9 pendent children” and inserting “assistance under
10 the State program funded”;

11 (16) in section 508(a)(2)(A) (29 U.S.C.
12 1791g(a)(2)(A)), by striking “aid to families with
13 dependent children” and inserting “assistance under
14 the State program funded”; and

15 (17) in section 701(b)(2)(A) (29 U.S.C.
16 1792(b)(2)(A))—

17 (A) in clause (v), by striking the semicolon
18 and inserting “; and”; and

19 (B) by striking clause (vi).

20 (o) Section 3803(e)(2)(C)(iv) of title 31, United
21 States Code, is amended to read as follows:

22 “(iv) assistance under a State pro-
23 gram funded under part A of title IV of
24 the Social Security Act”.

1 (p) Section 2605(b)(2)(A)(i) of the Low-Income
2 Home Energy Assistance Act of 1981 (42 U.S.C.
3 8624(b)(2)(A)(i)) is amended to read as follows:

4 “(i) assistance under the State pro-
5 gram funded under part A of title IV of
6 the Social Security Act;”.

7 (q) Section 303(f)(2) of the Family Support Act of
8 1988 (42 U.S.C. 602 note) is amended—

9 (1) by striking “(A)”; and

10 (2) by striking subparagraphs (B) and (C).

11 (r) The Balanced Budget and Emergency Deficit
12 Control Act of 1985 (2 U.S.C. 900 et seq.) is amended—

13 (1) in section 255(h) (2 U.S.C. 905(h), by
14 striking “Aid to families with dependent children
15 (75–0412–0–1–609);” and inserting “Block grants
16 to States for temporary assistance for needy fami-
17 lies;”; and

18 (2) in section 256 (2 U.S.C. 906)—

19 (A) by striking subsection (k); and

20 (B) by redesignating subsection (l) as sub-
21 section (k).

22 (s) The Immigration and Nationality Act (8 U.S.C.
23 1101 et seq.) is amended—

24 (1) in section 210(f) (8 U.S.C. 1160(f)), by
25 striking “aid under a State plan approved under”

1 each place it appears and inserting “assistance
2 under a State program funded under”;

3 (2) in section 245A(h) (8 U.S.C. 1255a(h))—

4 (A) in paragraph (1)(A)(i), by striking
5 “program of aid to families with dependent chil-
6 dren” and inserting “State program of assist-
7 ance”; and

8 (B) in paragraph (2)(B), by striking “aid
9 to families with dependent children” and insert-
10 ing “assistance under a State program funded
11 under part A of title IV of the Social Security
12 Act”; and

13 (3) in section 412(e)(4) (8 U.S.C. 1522(e)(4)),
14 by striking “State plan approved” and inserting
15 “State program funded”.

16 (t) Section 640(a)(4)(B)(i) of the Head Start Act (42
17 U.S.C. 9835(a)(4)(B)(i)) is amended by striking “pro-
18 gram of aid to families with dependent children under a
19 State plan approved” and inserting “State program of as-
20 sistance funded”.

21 (u) Section 9 of the Act of April 19, 1950 (64 Stat.
22 47, chapter 92; 25 U.S.C. 639) is repealed.

23 (v) Subparagraph (E) of section 213(d)(6) of the
24 School-To-Work Opportunities Act of 1994 (20 U.S.C.
25 6143(d)(6)) is amended to read as follows:

1 “(E) part A of title IV of the Social Secu-
2 rity Act (42 U.S.C. 601 et seq.) relating to
3 work activities;”.

4 **SEC. 7216. SECRETARIAL SUBMISSION OF LEGISLATIVE**
5 **PROPOSAL FOR TECHNICAL AND CONFORM-**
6 **ING AMENDMENTS.**

7 Not later than 90 days after the date of the enact-
8 ment of this Act, the Secretary of Health and Human
9 Services, in consultation, as appropriate, with the heads
10 of other Federal agencies, shall submit to the appropriate
11 committees of Congress a legislative proposal providing for
12 such technical and conforming amendments in the law as
13 are required by the provisions of subtitle D of title I of
14 this Act, this subtitle, and subtitles D, E, F, and G of
15 this title.

16 **SEC. 7217. EFFECTIVE DATE; TRANSITION RULE.**

17 (a) IN GENERAL.—Except as otherwise provided in
18 this subtitle, this subtitle and the amendments made by
19 this subtitle shall take effect on October 1, 1995.

20 (b) TRANSITION RULE.—

21 (1) STATE OPTION TO CONTINUE AFDC PRO-
22 GRAM.—

23 (A) 9-MONTH EXTENSION.—A State may
24 continue a State program under parts A and F
25 of title IV of the Social Security Act, as in ef-

1 fect on September 30, 1995 (for purposes of
2 this paragraph, the “State AFDC program”)
3 until June 30, 1996.

4 (B) REDUCTION OF FISCAL YEAR 1996
5 GRANT.—In the case of any State opting to
6 continue the State AFDC program pursuant to
7 subparagraph (A), the State family assistance
8 grant paid to such State under section 403(a)
9 of the Social Security Act (as added by section
10 7201 and as in effect on and after October 1,
11 1995) for fiscal year 1996 (after the termi-
12 nation of the State AFDC program) shall be re-
13 duced by an amount equal to the total Federal
14 payment to such State under section 403 of the
15 Social Security Act (as in effect on September
16 30, 1995) for such fiscal year.

17 (2) CLAIMS, ACTIONS, AND PROCEEDINGS.—

18 The amendments made by this subtitle shall not
19 apply with respect to—

20 (A) powers, duties, functions, rights,
21 claims, penalties, or obligations applicable to
22 aid, assistance, or services provided before the
23 effective date of this subtitle under the provi-
24 sions amended; and

1 (B) administrative actions and proceedings
2 commenced before such date, or authorized be-
3 fore such date to be commenced, under such
4 provisions.

5 (3) CLOSING OUT ACCOUNT FOR THOSE PRO-
6 GRAMS TERMINATED OR SUBSTANTIALLY MODIFIED
7 BY THIS SUBTITLE.—In closing out accounts, Fed-
8 eral and State officials may use scientifically accept-
9 able statistical sampling techniques. Claims made
10 under programs which are repealed or substantially
11 amended in this subtitle and which involve State ex-
12 penditures in cases where assistance or services were
13 provided during a prior fiscal year, shall be treated
14 as expenditures during fiscal year 1995 for purposes
15 of reimbursement even if payment was made by a
16 State on or after October 1, 1995. States shall com-
17 plete the filing of all claims no later than September
18 30, 1997. Federal department heads shall—

19 (A) use the single audit procedure to re-
20 view and resolve any claims in connection with
21 the close out of programs, and

22 (B) reimburse States for any payments
23 made for assistance or services provided during
24 a prior fiscal year from funds for fiscal year

1 also has an alcoholism or drug addiction condition (as de-
2 termined by the Commissioner of Social Security), the
3 payment of such benefits to a representative payee shall
4 be deemed to serve the interest of the individual. In any
5 case in which such payment is so deemed under this
6 subclause to serve the interest of an individual, the Com-
7 missioner shall include, in the individual's notification of
8 such eligibility, a notice that such alcoholism or drug ad-
9 diction condition accompanies the disability upon which
10 such eligibility is based and that the Commissioner is
11 therefore required to pay the individual's benefits to a rep-
12 resentative payee.”.

13 (2) Section 1631(a)(2)(B)(vii) (42 U.S.C.
14 1383(a)(2)(B)(vii)) is amended by striking “eligible
15 for benefits” and all that follows through “is dis-
16 abled” and inserting “described in subparagraph
17 (A)(ii)(II)”.

18 (3) Section 1631(a)(2)(B)(ix)(II) (42 U.S.C.
19 1383(a)(2)(B)(ix)(II)) is amended by striking all
20 that follows “15 years, or” and inserting “described
21 in subparagraph (A)(ii)(II)”.

22 (4) Section 1631(a)(2)(D)(i)(II) (42 U.S.C.
23 1383(a)(2)(D)(i)(II)) is amended by striking “eligi-
24 ble for benefits” and all that follows through “is dis-

1 abled” and inserting “described in subparagraph
2 (A)(ii)(II)”.

3 (c) TREATMENT SERVICES FOR INDIVIDUALS WITH
4 A SUBSTANCE ABUSE CONDITION.—

5 (1) IN GENERAL.—Title XVI (42 U.S.C. 1381
6 et seq.) is amended by adding at the end the follow-
7 ing new section:

8 “TREATMENT SERVICES FOR INDIVIDUALS WITH A
9 SUBSTANCE ABUSE CONDITION

10 “SEC. 1636. (a) In the case of any individual eligible
11 for benefits under this title by reason of disability who
12 is identified as having a substance abuse condition, the
13 Commissioner of Social Security shall make provision for
14 referral of such individual to the appropriate State agency
15 administering the State plan for substance abuse treat-
16 ment services approved under subpart II of part B of title
17 XIX of the Public Health Service Act (42 U.S.C. 300x–
18 21 et seq.).

19 “(b) No individual described in subsection (a) shall
20 be an eligible individual or eligible spouse for purposes of
21 this title if such individual refuses without good cause to
22 accept the referred services described under subsection
23 (a).

24 (2) CONFORMING AMENDMENT.—Section
25 1614(a)(4) (42 U.S.C. 1382c(a)(4)) is amended by
26 inserting after the second sentence the following new

1 sentence: “For purposes of the preceding sentence,
2 any individual identified by the Commissioner as
3 having a substance abuse condition shall seek and
4 complete appropriate treatment as needed.”.

5 (d) CONFORMING AMENDMENTS.—

6 (1) Section 1611(e) (42 U.S.C. 1382(e)) is
7 amended by striking paragraph (3).

8 (2) Section 1634 (42 U.S.C. 1383c) is amended
9 by striking subsection (e).

10 (3) Section 201(c)(1) of the Social Security
11 Independence and Program Improvements Act of
12 1994 (42 U.S.C. 425 note) is amended—

13 (A) by striking “—” and all that follows
14 through “(A)” the 1st place it appears;

15 (B) by striking “and” the 3rd place it ap-
16 pears;

17 (C) by striking subparagraph (B);

18 (D) by striking “either subparagraph (A)
19 or subparagraph (B)” and inserting “the pre-
20 ceding sentence”; and

21 (E) by striking “subparagraph (A) or (B)”
22 and inserting “the preceding sentence”.

23 (e) SUPPLEMENTAL FUNDING FOR ALCOHOL AND
24 SUBSTANCE ABUSE TREATMENT PROGRAMS.—

1 (1) IN GENERAL.—Out of any money in the
2 Treasury not otherwise appropriated, there are here-
3 by appropriated to supplement State and Tribal pro-
4 grams funded under section 1933 of the Public
5 Health Service Act (42 U.S.C. 300x-33),
6 \$50,000,000 for each of the fiscal years 1997 and
7 1998.

8 (2) ADDITIONAL FUNDS.—Amounts appro-
9 priated under paragraph (1) shall be in addition to
10 any funds otherwise appropriated for allotments
11 under section 1933 of the Public Health Service Act
12 (42 U.S.C. 300x-33) and shall be allocated pursuant
13 to such section 1933.

14 (3) USE OF FUNDS.—A State or Tribal govern-
15 ment receiving an allotment under this subsection
16 shall consider as priorities, for purposes of expend-
17 ing funds allotted under this subsection, activities
18 relating to the treatment of the abuse of alcohol and
19 other drugs.

1 **SEC. 7252. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDI-**
2 **VIDUALS FOUND TO HAVE FRAUDULENTLY**
3 **MISREPRESENTED RESIDENCE IN ORDER TO**
4 **OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR**
5 **MORE STATES.**

6 Section 1614(a) (42 U.S.C. 1382c(a)) is amended by
7 adding at the end the following new paragraph:

8 “(5) An individual shall not be considered an eligible
9 individual for purposes of this title during the 10-year pe-
10 riod beginning on the date the individual is convicted in
11 Federal or State court of having made a fraudulent state-
12 ment or representation with respect to the place of resi-
13 dence of the individual in order to receive assistance simul-
14 taneously from 2 or more States under programs that are
15 funded under part A of title IV, title XXI, or the Food
16 Stamp Act of 1977, or benefits in 2 or more States under
17 the supplemental security income program under title
18 XVI.”.

19 **SEC. 7253. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS**
20 **AND PROBATION AND PAROLE VIOLATORS.**

21 (a) IN GENERAL.—Section 1611(e) (42 U.S.C.
22 1382(e)), as amended by section 7251(c)(1), is amended
23 by inserting after paragraph (2) the following new para-
24 graph:

1 “(3) A person shall not be an eligible individual or
2 eligible spouse for purposes of this title with respect to
3 any month if during such month the person is—

4 “(A) fleeing to avoid prosecution, or custody or
5 confinement after conviction, under the laws of the
6 place from which the person flees, for a crime, or an
7 attempt to commit a crime, which is a felony under
8 the laws of the place from which the person flees, or
9 which, in the case of the State of New Jersey, is a
10 high misdemeanor under the laws of such State; or

11 “(B) violating a condition of probation or pa-
12 role imposed under Federal or State law.”.

13 (b) EXCHANGE OF INFORMATION WITH LAW EN-
14 FORCEMENT AGENCIES.—Section 1631(e) (42 U.S.C.
15 1383(e)) is amended by inserting after paragraph (3) the
16 following new paragraph:

17 “(4) Notwithstanding any other provision of law, the
18 Commissioner shall furnish any Federal, State, or local
19 law enforcement officer, upon the request of the officer,
20 with the current address, Social Security number, and
21 photograph (if applicable) of any recipient of benefits
22 under this title, if the officer furnishes the agency with
23 the name of the recipient and notifies the agency that—

24 “(A) the recipient—

1 “(i) is fleeing to avoid prosecution, or cus-
2 tody or confinement after conviction, under the
3 laws of the place from which the person flees,
4 for a crime, or an attempt to commit a crime,
5 which is a felony under the laws of the place
6 from which the person flees, or which, in the
7 case of the State of New Jersey, is a high mis-
8 demeanor under the laws of such State;

9 “(ii) is violating a condition of probation or
10 parole imposed under Federal or State law; or

11 “(iii) has information that is necessary for
12 the officer to conduct the officer’s official du-
13 ties; and

14 “(B) the location or apprehension of the recipi-
15 ent is within the officer’s official duties.”.

16 **SEC. 7254. EFFECTIVE DATES; APPLICATION TO CURRENT**
17 **RECIPIENTS.**

18 (a) SECTION 7251.—

19 (1) IN GENERAL.—Except as provided in para-
20 graphs (2) and (3), the amendments made by sec-
21 tion 7251 shall apply to applicants for benefits for
22 months beginning on or after the date of the enact-
23 ment of this Act, without regard to whether regula-
24 tions have been issued to implement such amend-
25 ments.

1 (2) APPLICATION TO CURRENT RECIPIENTS.—

2 (A) APPLICATION AND NOTICE.—Notwith-
3 standing any other provision of law, in the case
4 of an individual who is receiving supplemental
5 security income benefits under title XVI of the
6 Social Security Act as of the date of the enact-
7 ment of this Act and whose eligibility for such
8 benefits would terminate by reason of the
9 amendments made by section 7251, such
10 amendments shall apply with respect to the
11 benefits of such individual, including such indi-
12 vidual's treatment (if any) provided pursuant to
13 such title as in effect on the day before the date
14 of such enactment, for months beginning on or
15 after January 1, 1997, and the Commissioner
16 of Social Security shall so notify the individual
17 not later than 90 days after the date of the en-
18 actment of this Act.

19 (B) REAPPLICATION.—

20 (i) IN GENERAL.—Not later than 120
21 days after the date of the enactment of
22 this Act, each individual notified pursuant
23 to subparagraph (A) who desires to re-
24 apply for benefits under title XVI of the
25 Social Security Act, as amended by this

1 title, shall reapply to the Commissioner of
2 Social Security.

3 (ii) DETERMINATION OF ELIGI-
4 BILITY.—Not later than 1 year after the
5 date of the enactment of this Act, the
6 Commissioner of Social Security shall de-
7 termine the eligibility of each individual
8 who reapplies for benefits under clause (i)
9 pursuant to the procedures of such title.

10 (3) ADDITIONAL APPLICATION OF PAYEE REP-
11 RESENTATIVE REQUIREMENTS.—The amendments
12 made by section 7251(b) shall also apply—

13 (A) in the case of any individual who is re-
14 ceiving supplemental security income benefits
15 under title XVI of the Social Security Act as of
16 the date of the enactment of this Act, on and
17 after the date of such individual's first continu-
18 ing disability review occurring after such date
19 of enactment, and

20 (B) in the case of any individual who re-
21 ceives supplemental security income benefits
22 under title XVI of the Social Security Act and
23 has attained age 65, in such manner as deter-
24 mined appropriate by the Commissioner of So-
25 cial Security.

1 (b) OTHER AMENDMENTS.—The amendments made
2 by sections 7252 and 7253 shall take effect on the date
3 of the enactment of this Act.

4 **CHAPTER 2—BENEFITS FOR DISABLED**
5 **CHILDREN**

6 **SEC. 7261. DEFINITION AND ELIGIBILITY RULES.**

7 (a) DEFINITION OF CHILDHOOD DISABILITY.—Sec-
8 tion 1614(a)(3) (42 U.S.C. 1382c(a)(3)), as amended by
9 section 7251(a), is amended—

10 (1) in subparagraph (A), by striking “An indi-
11 vidual” and inserting “Except as provided in sub-
12 paragraph (C), an individual”;

13 (2) in subparagraph (A), by striking “(or, in
14 the case of an individual under the age of 18, if he
15 suffers from any medically determinable physical or
16 mental impairment of comparable severity)”;

17 (3) by redesignating subparagraphs (C) through
18 (I) as subparagraphs (D) through (J), respectively;

19 (4) by inserting after subparagraph (B) the fol-
20 lowing new subparagraph:

21 “(C) An individual under the age of 18 shall be con-
22 sidered disabled for the purposes of this title if that indi-
23 vidual has a medically determinable physical or mental im-
24 pairment, which results in marked and severe functional
25 limitations, and which can be expected to result in death

1 or which has lasted or can be expected to last for a contin-
2 uous period of not less than 12 months.”; and

3 (5) in subparagraph (F), as redesignated by
4 paragraph (3), by striking “(D)” and inserting
5 “(E)”.

6 (b) CHANGES TO CHILDHOOD SSI REGULATIONS.—

7 (1) MODIFICATION TO MEDICAL CRITERIA FOR
8 EVALUATION OF MENTAL AND EMOTIONAL DIS-
9 ORDERS.—The Commissioner of Social Security
10 shall modify sections 112.00C.2. and
11 112.02B.2.c.(2) of appendix 1 to subpart P of part
12 404 of title 20, Code of Federal Regulations, to
13 eliminate references to maladaptive behavior in the
14 domain of personal/behavioral function.

15 (2) DISCONTINUANCE OF INDIVIDUALIZED
16 FUNCTIONAL ASSESSMENT.—The Commissioner of
17 Social Security shall discontinue the individualized
18 functional assessment for children set forth in sec-
19 tions 416.924d and 416.924e of title 20, Code of
20 Federal Regulations.

21 (c) EFFECTIVE DATE; REGULATIONS; APPLICATION
22 TO CURRENT RECIPIENTS.—

23 (1) IN GENERAL.—The amendments made by
24 subsections (a) and (b) shall apply to applicants for
25 benefits for months beginning on or after the date

1 of the enactment of this Act, without regard to
2 whether regulations have been issued to implement
3 such amendments.

4 (2) REGULATIONS.—The Commissioner of So-
5 cial Security shall issue such regulations as the
6 Commissioner determines to be necessary to imple-
7 ment the amendments made by subsections (a) and
8 (b) not later than 60 days after the date of the en-
9 actment of this Act.

10 (3) APPLICATION TO CURRENT RECIPIENTS.—

11 (A) ELIGIBILITY DETERMINATIONS.—Not
12 later than 1 year after the date of the enact-
13 ment of this Act, the Commissioner of Social
14 Security shall redetermine the eligibility of any
15 individual under age 18 who is receiving supple-
16 mental security income benefits based on a dis-
17 ability under title XVI of the Social Security
18 Act as of the date of the enactment of this Act
19 and whose eligibility for such benefits may ter-
20minate by reason of the amendments made by
21 subsection (a) or (b). With respect to any rede-
22termination under this subparagraph—

23 (i) section 1614(a)(4) of the Social
24 Security Act (42 U.S.C. 1382c(a)(4)) shall
25 not apply;

1 (ii) the Commissioner of Social Secu-
2 rity shall apply the eligibility criteria for
3 new applicants for benefits under title XVI
4 of such Act;

5 (iii) the Commissioner shall give such
6 redetermination priority over all continuing
7 eligibility reviews and other reviews under
8 such title; and

9 (iv) such redetermination shall be
10 counted as a review or redetermination
11 otherwise required to be made under sec-
12 tion 208 of the Social Security Independ-
13 ence and Program Improvements Act of
14 1994 or any other provision of title XVI of
15 the Social Security Act.

16 (B) GRANDFATHER PROVISION.—The
17 amendments made by subsections (a) and (b),
18 and the redetermination under subparagraph
19 (A), shall only apply with respect to the benefits
20 of an individual described in subparagraph (A)
21 for months beginning on or after January 1,
22 1997.

23 (C) NOTICE.—Not later than 90 days after
24 the date of the enactment of this Act, the Com-
25 missioner of Social Security shall notify an indi-

1 vidual described in subparagraph (A) of the
2 provisions of this paragraph.

3 **SEC. 7262. ELIGIBILITY REDETERMINATIONS AND CON-**
4 **TINUING DISABILITY REVIEWS.**

5 (a) CONTINUING DISABILITY REVIEWS RELATING TO
6 CERTAIN CHILDREN.—Section 1614(a)(3)(H) (42 U.S.C.
7 1382c(a)(3)(H)), as redesignated by section 7261(a)(3),
8 is amended—

9 (1) by inserting “(i)” after “(H)”; and

10 (2) by adding at the end the following new
11 clause:

12 “(ii)(I) Not less frequently than once every 3 years,
13 the Commissioner shall review in accordance with para-
14 graph (4) the continued eligibility for benefits under this
15 title of each individual who has not attained 18 years of
16 age and is eligible for such benefits by reason of an im-
17 pairment (or combination of impairments) which may im-
18 prove (or, which is unlikely to improve, at the option of
19 the Commissioner).

20 “(II) A parent or guardian of a recipient whose case
21 is reviewed under this clause shall present, at the time
22 of review, evidence demonstrating that the recipient is,
23 and has been, receiving treatment, to the extent consid-
24 ered medically necessary and available, of the condition

1 which was the basis for providing benefits under this
2 title.”.

3 (b) DISABILITY ELIGIBILITY REDETERMINATIONS
4 REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS
5 OF AGE.—

6 (1) IN GENERAL.—Section 1614(a)(3)(H) (42
7 U.S.C. 1382c(a)(3)(H)), as amended by subsection
8 (a), is amended by adding at the end the following
9 new clause:

10 “(iii) If an individual is eligible for benefits under this
11 title by reason of disability for the month preceding the
12 month in which the individual attains the age of 18 years,
13 the Commissioner shall redetermine such eligibility—

14 “(I) during the 1-year period beginning on the
15 individual’s 18th birthday; and

16 “(II) by applying the criteria used in determin-
17 ing the initial eligibility for applicants who have at-
18 tained the age of 18 years.

19 With respect to a redetermination under this clause, para-
20 graph (4) shall not apply and such redetermination shall
21 be considered a substitute for a review or redetermination
22 otherwise required under any other provision of this sub-
23 paragraph during that 1-year period.”.

24 (2) CONFORMING REPEAL.—Section 207 of the
25 Social Security Independence and Program Improve-

1 ments Act of 1994 (42 U.S.C. 1382 note; 108 Stat.
2 1516) is hereby repealed.

3 (c) CONTINUING DISABILITY REVIEW REQUIRED FOR
4 LOW BIRTH WEIGHT BABIES.—Section 1614(a)(3)(H)
5 (42 U.S.C. 1382c(a)(3)(H)), as amended by subsections
6 (a) and (b), is amended by adding at the end the following
7 new clause:

8 “(iv)(I) Not later than 12 months after the birth of
9 an individual, the Commissioner shall review in accordance
10 with paragraph (4) the continuing eligibility for benefits
11 under this title by reason of disability of such individual
12 whose low birth weight is a contributing factor material
13 to the Commissioner’s determination that the individual
14 is disabled.

15 “(II) A review under subclause (I) shall be considered
16 a substitute for a review otherwise required under any
17 other provision of this subparagraph during that 12-
18 month period.

19 “(III) A parent or guardian of a recipient whose case
20 is reviewed under this clause shall present, at the time
21 of review, evidence demonstrating that the recipient is,
22 and has been, receiving treatment, to the extent consid-
23 ered medically necessary and available, of the condition
24 which was the basis for providing benefits under this
25 title.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to benefits for months beginning
3 on or after the date of the enactment of this Act, without
4 regard to whether regulations have been issued to imple-
5 ment such amendments.

6 **SEC. 7263. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.**

7 (a) TIGHTENING OF REPRESENTATIVE PAYEE RE-
8 QUIREMENTS.—

9 (1) CLARIFICATION OF ROLE.—Section
10 1631(a)(2)(B)(ii) (42 U.S.C. 1383(a)(2)(B)(ii)) is
11 amended by striking “and” at the end of subclause
12 (II), by striking the period at the end of subclause
13 (IV) and inserting “; and”, and by adding after
14 subclause (IV) the following new subclause:

15 “(V) advise such person through the notice of
16 award of benefits, and at such other times as the
17 Commissioner of Social Security deems appropriate,
18 of specific examples of appropriate expenditures of
19 benefits under this title and the proper role of a rep-
20 resentative payee.”.

21 (2) DOCUMENTATION OF EXPENDITURES RE-
22 QUIRED.—

23 (A) IN GENERAL.—Subparagraph (C)(i) of
24 section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is
25 amended to read as follows:

1 “(C)(i) In any case where payment is made to a rep-
2 resentative payee of an individual or spouse, the Commis-
3 sioner of Social Security shall—

4 “(I) require such representative payee to docu-
5 ment expenditures and keep contemporaneous
6 records of transactions made using such payment;
7 and

8 “(II) implement statistically valid procedures
9 for reviewing a sample of such contemporaneous
10 records in order to identify instances in which such
11 representative payee is not properly using such pay-
12 ment.”.

13 (B) CONFORMING AMENDMENT WITH RE-
14 SPECT TO PARENT PAYEES.—Clause (ii) of sec-
15 tion 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C))
16 is amended by striking “Clause (i)” and insert-
17 ing “Subclauses (II) and (III) of clause (i)”.

18 (3) EFFECTIVE DATE.—The amendments made
19 by this subsection shall apply to benefits paid after
20 the date of the enactment of this Act.

21 (b) DEDICATED SAVINGS ACCOUNTS.—

22 (1) IN GENERAL.—Section 1631(a)(2)(B) (42
23 U.S.C. 1383(a)(2)(B)) is amended by adding at the
24 end the following new clause:

1 “(xiv) Notwithstanding clause (x), the Commissioner
2 of Social Security may, at the request of the representative
3 payee, pay any lump sum payment for the benefit of a
4 child into a dedicated savings account that could only be
5 used to purchase for such child—

6 “(I) education and job skills training;

7 “(II) special equipment or housing modifica-
8 tions or both specifically related to, and required by
9 the nature of, the child’s disability; and

10 “(III) appropriate therapy and rehabilitation.”.

11 (2) DISREGARD OF TRUST FUNDS.—Section
12 1613(a) (42 U.S.C. 1382b) is amended—

13 (A) by striking “and” at the end of para-
14 graph (9),

15 (B) by striking the period at the end of
16 paragraph (10) the first place it appears and
17 inserting a semicolon,

18 (C) by redesignating paragraph (10) the
19 second place it appears as paragraph (11) and
20 striking the period at the end of such para-
21 graph and inserting “; and”, and

22 (D) by inserting after paragraph (11), as
23 so redesignated, the following new paragraph:

1 “(12) all amounts deposited in, or interest cred-
 2 ited to, a dedicated savings account described in sec-
 3 tion 1631(a)(2)(B)(xiv).”.

4 (3) EFFECTIVE DATE.—The amendments made
 5 by this subsection shall apply to payments made
 6 after the date of the enactment of this Act.

7 **CHAPTER 3—STUDIES REGARDING SUP-**
 8 **PLEMENTAL SECURITY INCOME PRO-**
 9 **GRAM**

10 **SEC. 7271. ANNUAL REPORT ON THE SUPPLEMENTAL SECU-**
 11 **RITY INCOME PROGRAM.**

12 Title XVI is amended by adding at the end the follow-
 13 ing new section:

14 **“SEC. 1636. ANNUAL REPORT ON PROGRAM.**

15 “(a) DESCRIPTION OF REPORT.—Not later than May
 16 30 of each year, the Commissioner of Social Security shall
 17 prepare and deliver a report annually to the President and
 18 the Congress regarding the program under this title, in-
 19 cluding—

20 “(1) a comprehensive description of the pro-
 21 gram;

22 “(2) historical and current data on allowances
 23 and denials, including number of applications and
 24 allowance rates at initial determinations, reconsider-

1 ations, administrative law judge hearings, council of
2 appeals hearings, and Federal court appeal hearings;

3 “(3) historical and current data on characteris-
4 tics of recipients and program costs, by recipient
5 group (aged, blind, work disabled adults, and chil-
6 dren);

7 “(4) projections of future number of recipients
8 and program costs, through at least 25 years;

9 “(5) number of redeterminations and continu-
10 ing disability reviews, and the outcomes of such
11 redeterminations and reviews;

12 “(6) data on the utilization of work incentives;

13 “(7) detailed information on administrative and
14 other program operation costs;

15 “(8) summaries of relevant research undertaken
16 by the Social Security Administration, or by other
17 researchers;

18 “(9) State supplementation program operations;

19 “(10) a historical summary of statutory
20 changes to this title; and

21 “(11) such other information as the Commis-
22 sioner deems useful.

23 “(b) VIEWS OF MEMBERS OF THE SOCIAL SECURITY
24 ADVISORY COUNCIL.—Each member of the Social Secu-
25 rity Advisory Council shall be permitted to provide an indi-

1 vidual report, or a joint report if agreed, of views of the
2 program under this title, to be included in the annual re-
3 port under this section.”.

4 **SEC. 7272. IMPROVEMENTS TO DISABILITY EVALUATION.**

5 (a) REQUEST FOR COMMENTS.—

6 (1) IN GENERAL.—Not later than 60 days after
7 the date of the enactment of this Act, the Commis-
8 sioner of Social Security shall issue a request for
9 comments in the Federal Register regarding im-
10 provements to the disability evaluation and deter-
11 mination procedures for individuals under age 18 to
12 ensure the comprehensive assessment of such indi-
13 viduals, including—

14 (A) additions to conditions which should be
15 presumptively disabling at birth or ages 0
16 through 3 years;

17 (B) specific changes in individual listings
18 in the Listing of Impairments set forth in ap-
19 pendix 1 of subpart P of part 404 of title 20,
20 Code of Federal Regulations;

21 (C) improvements in regulations regarding
22 determinations based on regulations providing
23 for medical and functional equivalence to such
24 Listing of Impairments, and consideration of
25 multiple impairments; and

1 (D) any other changes to the disability de-
2 termination procedures.

3 (2) REVIEW AND REGULATORY ACTION.—The
4 Commissioner of Social Security shall promptly re-
5 view such comments and issue any regulations im-
6 plementing any necessary changes not later than 18
7 months after the date of the enactment of this Act.

8 **SEC. 7273. STUDY OF DISABILITY DETERMINATION PROC-**
9 **ESS.**

10 (a) IN GENERAL.—Not later than 90 days after the
11 date of the enactment of this Act, and from funds other-
12 wise appropriated, the Commissioner of Social Security
13 shall make arrangements with the National Academy of
14 Sciences, or other independent entity, to conduct a study
15 of the disability determination process under titles II and
16 XVI of the Social Security Act. This study shall be under-
17 taken in consultation with professionals representing ap-
18 propriate disciplines.

19 (b) STUDY COMPONENTS.—The study described in
20 subsection (a) shall include—

21 (1) an initial phase examining the appropriate-
22 ness of, and making recommendations regarding—

23 (A) the definitions of disability in effect on
24 the date of the enactment of this Act and the

1 advantages and disadvantages of alternative
2 definitions; and

3 (B) the operation of the disability deter-
4 mination process, including the appropriate
5 method of performing comprehensive assess-
6 ments of individuals under age 18 with physical
7 and mental impairments;

8 (2) a second phase, which may be concurrent
9 with the initial phase, examining the validity, reli-
10 ability, and consistency with current scientific knowl-
11 edge of the standards and individual listings in the
12 Listing of Impairments set forth in appendix 1 of
13 subpart P of part 404 of title 20, Code of Federal
14 Regulations, and of related evaluation procedures as
15 promulgated by the Commissioner of Social Security;
16 and

17 (3) such other issues as the applicable entity
18 considers appropriate.

19 (c) REPORTS AND REGULATIONS.—

20 (1) REPORTS.—The Commissioner of Social Se-
21 curity shall request the applicable entity, to submit
22 an interim report and a final report of the findings
23 and recommendations resulting from the study de-
24 scribed in this section to the President and the Con-
25 gress not later than 18 months and 24 months, re-

1 spectively, from the date of the contract for such
2 study, and such additional reports as the Commis-
3 sioner deems appropriate after consultation with the
4 applicable entity.

5 (2) REGULATIONS.—The Commissioner of So-
6 cial Security shall review both the interim and final
7 reports, and shall issue regulations implementing
8 any necessary changes following each report.

9 **SEC. 7274. STUDY BY GENERAL ACCOUNTING OFFICE.**

10 Not later than January 1, 1998, the Comptroller
11 General of the United States shall study and report on
12 the impact of the amendments made by, and the provi-
13 sions of, this title on the supplemental security income
14 program under title XVI of the Social Security Act.

15 **CHAPTER 4—NATIONAL COMMISSION ON**
16 **THE FUTURE OF DISABILITY**

17 **SEC. 7281. ESTABLISHMENT.**

18 There is established a commission to be known as the
19 National Commission on the Future of Disability (referred
20 to in this subtitle as the “Commission”), the expenses of
21 which shall be paid from funds otherwise appropriated for
22 the Social Security Administration.

23 **SEC. 7282. DUTIES OF THE COMMISSION.**

24 (a) IN GENERAL.—The Commission shall develop
25 and carry out a comprehensive study of all matters related

1 to the nature, purpose, and adequacy of all Federal pro-
2 grams serving individuals with disabilities. In particular,
3 the Commission shall study the disability insurance pro-
4 gram under title II of the Social Security Act and the sup-
5 plemental security income program under title XVI of
6 such Act.

7 (b) MATTERS STUDIED.—The Commission shall pre-
8 pare an inventory of Federal programs serving individuals
9 with disabilities, and shall examine—

10 (1) trends and projections regarding the size
11 and characteristics of the population of individuals
12 with disabilities, and the implications of such analy-
13 ses for program planning;

14 (2) the feasibility and design of performance
15 standards for the Nation's disability programs;

16 (3) the adequacy of Federal efforts in rehabili-
17 tation research and training, and opportunities to
18 improve the lives of individuals with disabilities
19 through all manners of scientific and engineering re-
20 search; and

21 (4) the adequacy of policy research available to
22 the Federal Government, and what actions might be
23 undertaken to improve the quality and scope of such
24 research.

1 (c) RECOMMENDATIONS.—The Commission shall
2 submit to the appropriate committees of the Congress and
3 to the President recommendations and, as appropriate,
4 proposals for legislation, regarding—

5 (1) which (if any) Federal disability programs
6 should be eliminated or augmented;

7 (2) what new Federal disability programs (if
8 any) should be established;

9 (3) the suitability of the organization and loca-
10 tion of disability programs within the Federal Gov-
11 ernment;

12 (4) other actions the Federal Government
13 should take to prevent disabilities and disadvantages
14 associated with disabilities; and

15 (5) such other matters as the Commission con-
16 siders appropriate.

17 **SEC. 7283. MEMBERSHIP.**

18 (a) NUMBER AND APPOINTMENT.—

19 (1) IN GENERAL.—The Commission shall be
20 composed of 15 members, of whom—

21 (A) five shall be appointed by the Presi-
22 dent, of whom not more than 3 shall be of the
23 same major political party;

24 (B) three shall be appointed by the Major-
25 ity Leader of the Senate;

1 (C) two shall be appointed by the Minority
2 Leader of the Senate;

3 (D) three shall be appointed by the Speak-
4 er of the House of Representatives; and

5 (E) two shall be appointed by the Minority
6 Leader of the House of Representatives.

7 (2) REPRESENTATION.—The Commission mem-
8 bers shall be chosen based on their education, train-
9 ing, or experience. In appointing individuals as
10 members of the Commission, the President and the
11 Majority and Minority Leaders of the Senate and
12 the Speaker and Minority Leader of the House of
13 Representatives shall seek to ensure that the mem-
14 bership of the Commission reflects the diversity of
15 individuals with disabilities in the United States.

16 (b) COMPTROLLER GENERAL.—The Comptroller
17 General shall serve on the Commission as an ex officio
18 member of the Commission to advise and oversee the
19 methodology and approach of the study of the Commis-
20 sion.

21 (c) PROHIBITION AGAINST OFFICER OR EM-
22 PLOYEE.—No officer or employee of any government shall
23 be appointed under subsection (a).

24 (d) DEADLINE FOR APPOINTMENT; TERM OF AP-
25 POINTMENT.—Members of the Commission shall be ap-

1 pointed not later than 60 days after the date of the enact-
2 ment of this Act. The members shall serve on the Commis-
3 sion for the life of the Commission.

4 (e) MEETINGS.—The Commission shall locate its
5 headquarters in the District of Columbia, and shall meet
6 at the call of the Chairperson, but not less than 4 times
7 each year during the life of the Commission.

8 (f) QUORUM.—Ten members of the Commission shall
9 constitute a quorum, but a lesser number may hold hear-
10 ings.

11 (g) CHAIRPERSON AND VICE CHAIRPERSON.—Not
12 later than 15 days after the members of the Commission
13 are appointed, such members shall designate a Chair-
14 person and Vice Chairperson from among the members of
15 the Commission.

16 (h) CONTINUATION OF MEMBERSHIP.—If a member
17 of the Commission becomes an officer or employee of any
18 government after appointment to the Commission, the in-
19 dividual may continue as a member until a successor mem-
20 ber is appointed.

21 (i) VACANCIES.—A vacancy on the Commission shall
22 be filled in the manner in which the original appointment
23 was made not later than 30 days after the Commission
24 is given notice of the vacancy.

1 (j) COMPENSATION.—Members of the Commission
2 shall receive no additional pay, allowances, or benefits by
3 reason of their service on the Commission.

4 (k) TRAVEL EXPENSES.—Each member of the Com-
5 mission shall receive travel expenses, including per diem
6 in lieu of subsistence, in accordance with sections 5702
7 and 5703 of title 5, United States Code.

8 **SEC. 7284. STAFF AND SUPPORT SERVICES.**

9 (a) DIRECTOR.—

10 (1) APPOINTMENT.—Upon consultation with
11 the members of the Commission, the Chairperson
12 shall appoint a Director of the Commission.

13 (2) COMPENSATION.—The Director shall be
14 paid the rate of basic pay for level V of the Execu-
15 tive Schedule.

16 (b) STAFF.—With the approval of the Commission,
17 the Director may appoint such personnel as the Director
18 considers appropriate.

19 (c) APPLICABILITY OF CIVIL SERVICE LAWS.—The
20 staff of the Commission shall be appointed without regard
21 to the provisions of title 5, United States Code, governing
22 appointments in the competitive service, and shall be paid
23 without regard to the provisions of chapter 51 and sub-
24 chapter III of chapter 53 of such title relating to classi-
25 fication and General Schedule pay rates.

1 (d) EXPERTS AND CONSULTANTS.—With the ap-
2 proval of the Commission, the Director may procure tem-
3 porary and intermittent services under section 3109(b) of
4 title 5, United States Code.

5 (e) STAFF OF FEDERAL AGENCIES.—Upon the re-
6 quest of the Commission, the head of any Federal agency
7 may detail, on a reimbursable basis, any of the personnel
8 of such agency to the Commission to assist in carrying
9 out the duties of the Commission under this subtitle.

10 (f) OTHER RESOURCES.—The Commission shall have
11 reasonable access to materials, resources, statistical data,
12 and other information from the Library of Congress and
13 agencies and elected representatives of the executive and
14 legislative branches of the Federal Government. The
15 Chairperson of the Commission shall make requests for
16 such access in writing when necessary.

17 (g) PHYSICAL FACILITIES.—The Administrator of
18 the General Services Administration shall locate suitable
19 office space for the operation of the Commission. The fa-
20 cilities shall serve as the headquarters of the Commission
21 and shall include all necessary equipment and incidentals
22 required for proper functioning of the Commission.

23 **SEC. 7285. POWERS OF COMMISSION.**

24 (a) HEARINGS.—The Commission may conduct pub-
25 lic hearings or forums at the discretion of the Commission,

1 at any time and place the Commission is able to secure
2 facilities and witnesses, for the purpose of carrying out
3 the duties of the Commission under this subtitle.

4 (b) DELEGATION OF AUTHORITY.—Any member or
5 agent of the Commission may, if authorized by the Com-
6 mission, take any action the Commission is authorized to
7 take by this section.

8 (c) INFORMATION.—The Commission may secure di-
9 rectly from any Federal agency information necessary to
10 enable the Commission to carry out its duties under this
11 subtitle. Upon request of the Chairperson or Vice Chair-
12 person of the Commission, the head of a Federal agency
13 shall furnish the information to the Commission to the ex-
14 tent permitted by law.

15 (d) GIFTS, BEQUESTS, AND DEVISES.—The Commis-
16 sion may accept, use, and dispose of gifts, bequests, or
17 devises of services or property, both real and personal, for
18 the purpose of aiding or facilitating the work of the Com-
19 mission. Gifts, bequests, or devises of money and proceeds
20 from sales of other property received as gifts, bequests,
21 or devises shall be deposited in the Treasury and shall be
22 available for disbursement upon order of the Commission.

23 (e) MAILS.—The Commission may use the United
24 States mails in the same manner and under the same con-
25 ditions as other Federal agencies.

1 **SEC. 7286. REPORTS.**

2 (a) INTERIM REPORT.—Not later than 1 year prior
3 to the date on which the Commission terminates pursuant
4 to section 7287, the Commission shall submit an interim
5 report to the President and to the Congress. The interim
6 report shall contain a detailed statement of the findings
7 and conclusions of the Commission, together with the
8 Commission's recommendations for legislative and admin-
9 istrative action, based on the activities of the Commission.

10 (b) FINAL REPORT.—Not later than the date on
11 which the Commission terminates, the Commission shall
12 submit to the Congress and to the President a final report
13 containing—

14 (1) a detailed statement of final findings, con-
15 clusions, and recommendations; and

16 (2) an assessment of the extent to which rec-
17 ommendations of the Commission included in the in-
18 terim report under subsection (a) have been imple-
19 mented.

20 (c) PRINTING AND PUBLIC DISTRIBUTION.—Upon
21 receipt of each report of the Commission under this sec-
22 tion, the President shall—

23 (1) order the report to be printed; and

24 (2) make the report available to the public upon
25 request.

1 **SEC. 7287. TERMINATION.**

2 The Commission shall terminate on the date that is
3 2 years after the date on which the members of the Com-
4 mission have met and designated a Chairperson and Vice
5 Chairperson.

6 **CHAPTER 5—STATE SUPPLEMENTATION**
7 **PROGRAMS**

8 **SEC. 7291. REPEAL OF MAINTENANCE OF EFFORT RE-**
9 **QUIREMENTS APPLICABLE TO OPTIONAL**
10 **STATE PROGRAMS FOR SUPPLEMENTATION**
11 **OF SSI BENEFITS.**

12 (a) IN GENERAL.—Section 1618 (42 U.S.C. 1382g)
13 is repealed.

14 (b) EFFECTIVE DATE.—The repeal made by sub-
15 section (a) shall apply with respect to calendar quarters
16 beginning after September 30, 1995.

17 **CHAPTER 6—RETIREMENT AGE**
18 **ELIGIBILITY**

19 **SEC. 7295. ELIGIBILITY FOR SUPPLEMENTAL SECURITY IN-**
20 **COME BENEFITS BASED ON SOCIAL SECU-**
21 **RITY RETIREMENT AGE.**

22 (a) IN GENERAL.—Section 1614(a)(1)(A) (42 U.S.C.
23 1382C(a)(1)(A)) is amended by striking “is 65 years of
24 age or older,” and inserting “has attained retirement
25 age.”.

1 (b) RETIREMENT AGE DEFINED.—Section 1614 (42
 2 U.S.C. 1382c) is amended by adding at the end the follow-
 3 ing new subsection:

4 “Retirement Age

5 “(g) For purposes of this title, the term ‘retirement
 6 age’ has the meaning given such term by section
 7 216(l)(1).”.

8 (c) CONFORMING AMENDMENTS.—Sections 1601,
 9 1612(b)(4), 1615(a)(1), and 1620(b)(2) (42 U.S.C. 1381,
 10 1382a(b)(4), 1382d(a)(1), and 1382i(b)(2)) are amended
 11 by striking “age 65” each place it appears and inserting
 12 “retirement age”.

13 (d) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to applicants for benefits for
 15 months beginning after September 30, 1995.

16 **Subtitle E—Child Support**

17 **CHAPTER 1—ELIGIBILITY FOR SERVICES;**

18 **DISTRIBUTION OF PAYMENTS**

19 **SEC. 7301. STATE OBLIGATION TO PROVIDE CHILD SUP-**
 20 **PORT ENFORCEMENT SERVICES.**

21 (a) STATE PLAN REQUIREMENTS.—Section 454 (42
 22 U.S.C. 654) is amended—

23 (1) by striking paragraph (4) and inserting the
 24 following new paragraph:

25 “(4) provide that the State will—

1 “(A) provide services relating to the estab-
2 lishment of paternity or the establishment,
3 modification, or enforcement of child support
4 obligations, as appropriate, under the plan with
5 respect to—

6 “(i) each child for whom (I) assist-
7 ance is provided under the State program
8 funded under part A of this title, (II) ben-
9 efits or services are provided under the
10 State program funded under part E of this
11 title, or (III) medical assistance is provided
12 under the State plan approved under title
13 XXI, unless the State agency administer-
14 ing the plan determines (in accordance
15 with paragraph (29)) that it is against the
16 best interests of the child to do so; and

17 “(ii) any other child, if an individual
18 applies for such services with respect to
19 the child; and

20 “(B) enforce any support obligation estab-
21 lished with respect to—

22 “(i) a child with respect to whom the
23 State provides services under the plan; or

24 “(ii) the custodial parent of such a
25 child.”; and

1 (2) by striking paragraph (6) and inserting the
2 following new subparagraph:

3 “(6) provide that—

4 “(A) services under the plan shall be made
5 available to nonresidents on the same terms as
6 to residents; and

7 “(B) application and collection fees are im-
8 posed and collected and costs in excess of such
9 fees are collected in accordance with section
10 454C with respect to services under the plan
11 for—

12 “(i) any individual not receiving as-
13 sistance under any State program funded
14 under part A; or

15 “(ii) any individual receiving such as-
16 sistance but solely through a program
17 funded under section 419);”.

18 (b) CONTINUATION OF SERVICES FOR FAMILIES
19 CEASING TO RECEIVE ASSISTANCE UNDER THE STATE
20 PROGRAM FUNDED UNDER PART A.—Section 454 (42
21 U.S.C. 654) is amended—

22 (1) by striking “and” at the end of paragraph
23 (23);

24 (2) by striking the period at the end of para-
25 graph (24) and inserting “; and”; and

1 (3) by adding after paragraph (24) the follow-
2 ing new paragraph:

3 “(25) provide that when a family with respect
4 to which services are provided under the plan ceases
5 to receive assistance under the State program fund-
6 ed under part A, the State shall provide appropriate
7 notice to the family and continue to provide such
8 services, subject to the same conditions and on the
9 same basis as in the case of individuals to whom
10 services are furnished under this section, except that
11 an application or other request to continue services
12 shall not be required of such a family and certain
13 fees shall be imposed with respect to such family
14 under section 454C(a)(1).”.

15 (c) CONFORMING AMENDMENTS.—

16 (1) Section 452(b) (42 U.S.C. 652(b)) is
17 amended by striking “454(6)” and inserting
18 “454(4)”.

19 (2) Section 452(g)(2)(A) (42 U.S.C.
20 652(g)(2)(A)) is amended by striking “454(6)” each
21 place it appears and inserting “454(4)(A)(ii)”.

22 (3) Section 466(a)(3)(B) (42 U.S.C.
23 666(a)(3)(B)) is amended by striking “in the case of
24 overdue support which a State has agreed to collect

1 under section 454(6)” and inserting “in any other
2 case”.

3 (4) Section 466(e) (42 U.S.C. 666(e)) is
4 amended by striking “paragraph (4) or (6) of sec-
5 tion 454” and inserting “section 454(4)”.

6 **SEC. 7302. DISTRIBUTION OF CHILD SUPPORT COLLEC-**
7 **TIONS.**

8 (a) IN GENERAL.—Section 457 (42 U.S.C. 657) is
9 amended to read as follows:

10 **“SEC. 457. DISTRIBUTION OF COLLECTED SUPPORT.**

11 “(a) IN GENERAL.—An amount collected on behalf
12 of a family as support by a State pursuant to a plan ap-
13 proved under this part shall be distributed as follows:

14 “(1) FAMILIES RECEIVING ASSISTANCE.—In the
15 case of a family receiving assistance from the State,
16 the State shall—

17 “(A) retain, or distribute to the family, the
18 State share of the amount so collected; and

19 “(B) pay to the Federal Government the
20 Federal share of the amount so collected.

21 “(2) FAMILIES THAT FORMERLY RECEIVED AS-
22 SISTANCE.—In the case of a family that formerly re-
23 ceived assistance from the State:

24 “(A) CURRENT SUPPORT PAYMENTS.—The
25 State shall, with regard to amounts collected

1 which represent amounts owed for the current
2 month, distribute the amounts so collected to
3 the family.

4 “(B) PAYMENT OF ARREARAGES.—The
5 State shall, with regard to amounts collected
6 which exceed amounts owed for the current
7 month, distribute the amounts so collected as
8 follows:

9 “(i) DISTRIBUTION TO THE FAMILY
10 TO SATISFY ARREARAGES THAT ACCRUED
11 AFTER THE FAMILY RECEIVED ASSIST-
12 ANCE.—The State shall distribute the
13 amount so collected to the family to the ex-
14 tent necessary to satisfy any support ar-
15 rearages with respect to the family that ac-
16 crued after the family stopped receiving as-
17 sistance from the State.

18 “(ii) DISTRIBUTION TO THE FAMILY
19 TO SATISFY ARREARAGES THAT ACCRUED
20 BEFORE OR WHILE THE FAMILY RECEIVED
21 ASSISTANCE TO THE EXTENT PAYMENTS
22 EXCEED ASSISTANCE RECEIVED.—In the
23 case of arrearages of support obligations
24 with respect to the family that were as-
25 signed to the State making or receiving the

1 collection, as a condition of receiving as-
2 sistance from the State, and which accrued
3 before or while the family received such as-
4 sistance, the State may retain all or a part
5 of the State share and if the State does so
6 retain, shall retain and pay to the Federal
7 Government the Federal share of amounts
8 so collected, to the extent the amount so
9 retained does not exceed the amount of as-
10 sistance provided to the family by the
11 State.

12 “(iii) DISTRIBUTION OF THE REMAIN-
13 DER TO THE FAMILY.—To the extent that
14 neither clause (i) nor clause (ii) applies to
15 the amount so collected, the State shall
16 distribute the amount to the family.

17 “(3) FAMILIES THAT NEVER RECEIVED ASSIST-
18 ANCE.—In the case of any other family, the State
19 shall distribute the amount so collected to the fam-
20 ily.

21 “(4) FAMILIES UNDER CERTAIN AGREE-
22 MENTS.—In the case of a family receiving assistance
23 from an Indian tribe, distribute the amount so col-
24 lected pursuant to an agreement entered into pursu-
25 ant to a State plan under section 454(32).

1 “(b) TRANSITION RULE.—Any rights to support obli-
2 gations which were assigned to a State as a condition of
3 receiving assistance from the State under part A before
4 the effective date of the Balanced Budget Reconciliation
5 Act of 1995 shall remain assigned after such date.

6 “(c) DEFINITIONS.—As used in subsection (a):

7 “(1) ASSISTANCE.—The term ‘assistance from
8 the State’ means—

9 “(A) assistance under the State program
10 funded under part A or under the State plan
11 approved under part A of this title (as in effect
12 before October 1, 1995); or

13 “(B) benefits under the State plan ap-
14 proved under part E of this title.

15 “(2) FEDERAL SHARE.—The term ‘Federal
16 share’ means, with respect to an amount collected by
17 the State to satisfy a support obligation owed to a
18 family for a time period—

19 “(A) the greatest Federal medical assist-
20 ance percentage in effect for the State for fiscal
21 year 1995 or any succeeding fiscal year; or

22 “(B) if support is not owed to the family
23 for any month for which the family received aid
24 to families with dependent children under the
25 State plan approved under part A of this title

1 (as in effect before October 1, 1995), the Fed-
2 eral reimbursement percentage for the fiscal
3 year in which the time period occurs.

4 “(3) FEDERAL MEDICAL ASSISTANCE PERCENT-
5 AGE.—The term ‘Federal medical assistance per-
6 centage’ means—

7 “(A) the Federal medical assistance per-
8 centage (as defined in section 2122(c)) in the
9 case of any State for which subparagraph (B)
10 does not apply; or

11 “(B) the Federal medical assistance per-
12 centage (as defined in section 1118), in the case
13 of Puerto Rico, the Virgin Islands, Guam, and
14 American Samoa.

15 “(4) FEDERAL REIMBURSEMENT PERCENT-
16 AGE.—The term ‘Federal reimbursement percentage’
17 means, with respect to a fiscal year—

18 “(A) the total amount paid to the State
19 under section 403 for the fiscal year; divided by

20 “(B) the total amount expended by the
21 State to carry out the State program under
22 part A during the fiscal year.

23 “(5) STATE SHARE.—The term ‘State share’
24 means 100 percent minus the Federal share.”.

1 (b) CONFORMING AMENDMENT.—Section 464(a)(1)
2 (42 U.S.C. 664(a)(1)) is amended by striking “section
3 457(b)(4) or (d)(3)” and inserting “section 457”.

4 (c) CLERICAL AMENDMENTS.—Section 454 (42
5 U.S.C. 654) is amended—

6 (1) in paragraph (11)—

7 (A) by striking “(11)” and inserting
8 “(11)(A)”; and

9 (B) by inserting after the semicolon “and”;

10 and

11 (2) by redesignating paragraph (12) as sub-
12 paragraph (B) of paragraph (11).

13 (d) EFFECTIVE DATE.—

14 (1) GENERAL RULE.—Except as provided in
15 paragraphs (2) and (3), the amendment made by
16 subsection (a) shall become effective on October 1,
17 1999.

18 (2) EARLIER EFFECTIVE DATE FOR RULES RE-
19 LATING TO DISTRIBUTION OF SUPPORT COLLECTED
20 FOR FAMILIES RECEIVING ASSISTANCE.—Section
21 457(a)(1) of the Social Security Act, as added by
22 the amendment made by subsection (a), shall be-
23 come effective on October 1, 1995.

24 (3) SPECIAL RULE.—A State may elect to have
25 the amendment made by subsection (a) become ef-

1 fective on a date earlier than October 1, 1999, which
2 date shall coincide with the operation of the single
3 statewide automated data processing and informa-
4 tion retrieval system required by section 454A of the
5 Social Security Act (as added by section 7344(a)(2))
6 and the State disbursement unit required by section
7 454B of the Social Security Act (as added by section
8 7312(b)), and the existence of State requirements
9 for assignment of support as a condition of eligibility
10 for assistance under part A of the Social Security
11 Act (as added by subtitle C).

12 (4) CLERICAL AMENDMENTS.—The amend-
13 ments made by subsection (b) shall become effective
14 on October 1, 1995.

15 **SEC. 7303. RIGHTS TO NOTIFICATION AND HEARINGS.**

16 (a) IN GENERAL.—Section 454 (42 U.S.C. 654), as
17 amended by section 7302(b), is amended by inserting after
18 paragraph (11) the following new paragraph:

19 “(12) establish procedures to provide that—

20 “(A) individuals who are applying for or
21 receiving services under this part, or are parties
22 to cases in which services are being provided
23 under this part—

1 “(i) receive notice of all proceedings in
2 which support obligations might be estab-
3 lished or modified; and

4 “(ii) receive a copy of any order estab-
5 lishing or modifying a child support obliga-
6 tion, or (in the case of a petition for modi-
7 fication) a notice of determination that
8 there should be no change in the amount
9 of the child support award, within 14 days
10 after issuance of such order or determina-
11 tion; and

12 “(B) individuals applying for or receiving
13 services under this part have access to a fair
14 hearing or other formal complaint procedure
15 that meets standards established by the Sec-
16 retary and ensures prompt consideration and
17 resolution of complaints (but the resort to such
18 procedure shall not stay the enforcement of any
19 support order);”.

20 (b) **EFFECTIVE DATE.**—The amendment made by
21 subsection (a) shall become effective on October 1, 1997.

22 **SEC. 7304. PRIVACY SAFEGUARDS.**

23 (a) **STATE PLAN REQUIREMENT.**—Section 454 (42
24 U.S.C. 654), as amended by section 7301(b), is amend-
25 ed—

1 (1) by striking “and” at the end of paragraph
2 (24);

3 (2) by striking the period at the end of para-
4 graph (25) and inserting “; and”; and

5 (3) by adding after paragraph (25) the follow-
6 ing new paragraph:

7 “(26) will have in effect safeguards, applicable
8 to all confidential information handled by the State
9 agency, that are designed to protect the privacy
10 rights of the parties, including—

11 “(A) safeguards against unauthorized use
12 or disclosure of information relating to proceed-
13 ings or actions to establish paternity, or to es-
14 tablish or enforce support;

15 “(B) prohibitions against the release of in-
16 formation on the whereabouts of 1 party to an-
17 other party against whom a protective order
18 with respect to the former party has been en-
19 tered; and

20 “(C) prohibitions against the release of in-
21 formation on the whereabouts of 1 party to an-
22 other party if the State has reason to believe
23 that the release of the information may result
24 in physical or emotional harm to the former
25 party.”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 subsection (a) shall become effective on October 1, 1997.

3 **CHAPTER 2—LOCATE AND CASE**

4 **TRACKING**

5 **SEC. 7311. STATE CASE REGISTRY.**

6 Section 454A, as added by section 7344(a)(2), is
 7 amended by adding at the end the following new sub-
 8 sections:

9 “(e) STATE CASE REGISTRY.—

10 “(1) CONTENTS.—The automated system re-
 11 quired by this section shall include a registry (which
 12 shall be known as the ‘State case registry’) that con-
 13 tains records with respect to—

14 “(A) each case in which services are being
 15 provided by the State agency under the State
 16 plan approved under this part; and

17 “(B) each support order established or
 18 modified in the State on or after October 1,
 19 1998.

20 “(2) LINKING OF LOCAL REGISTRIES.—The
 21 State case registry may be established by linking
 22 local case registries of support orders through an
 23 automated information network, subject to this sec-
 24 tion.

1 “(3) USE OF STANDARDIZED DATA ELE-
2 MENTS.—Such records shall use standardized data
3 elements for both parents (such as names, social se-
4 curity numbers and other uniform identification
5 numbers, dates of birth, and case identification
6 numbers), and contain such other information (such
7 as on-case status) as the Secretary may require.

8 “(4) PAYMENT RECORDS.—Each case record in
9 the State case registry with respect to which services
10 are being provided under the State plan approved
11 under this part and with respect to which a support
12 order has been established shall include a record
13 of—

14 “(A) the amount of monthly (or other peri-
15 odic) support owed under the order, and other
16 amounts (including arrearages, interest or late
17 payment penalties, and fees) due or overdue
18 under the order;

19 “(B) any amount described in subpara-
20 graph (A) that has been collected;

21 “(C) the distribution of such collected
22 amounts;

23 “(D) the birth date of any child for whom
24 the order requires the provision of support; and

1 “(E) the amount of any lien imposed with
2 respect to the order pursuant to section
3 466(a)(4).

4 “(5) UPDATING AND MONITORING.—The State
5 agency operating the automated system required by
6 this section shall promptly establish and maintain,
7 and regularly monitor, case records in the State case
8 registry with respect to which services are being pro-
9 vided under the State plan approved under this part,
10 on the basis of—

11 “(A) information on administrative actions
12 and administrative and judicial proceedings and
13 orders relating to paternity and support;

14 “(B) information obtained from compari-
15 son with Federal, State, or local sources of in-
16 formation;

17 “(C) information on support collections
18 and distributions; and

19 “(D) any other relevant information.

20 “(f) INFORMATION COMPARISONS AND OTHER DIS-
21 CLOSURES OF INFORMATION.—The State shall use the
22 automated system required by this section to extract infor-
23 mation from (at such times, and in such standardized for-
24 mat or formats, as may be required by the Secretary), to
25 share and compare information with, and to receive infor-

1 mation from, other data bases and information compari-
2 son services, in order to obtain (or provide) information
3 necessary to enable the State agency (or the Secretary or
4 other State or Federal agencies) to carry out this part,
5 subject to section 6103 of the Internal Revenue Code of
6 1986. Such information comparison activities shall include
7 the following:

8 “(1) FEDERAL CASE REGISTRY OF CHILD SUP-
9 PORT ORDERS.—Furnishing to the Federal Case
10 Registry of Child Support Orders established under
11 section 453(h) (and update as necessary, with infor-
12 mation including notice of expiration of orders) the
13 minimum amount of information on child support
14 cases recorded in the State case registry that is nec-
15 essary to operate the registry (as specified by the
16 Secretary in regulations).

17 “(2) FEDERAL PARENT LOCATOR SERVICE.—
18 Exchanging information with the Federal Parent
19 Locator Service for the purposes specified in section
20 453.

21 “(3) TEMPORARY FAMILY ASSISTANCE AND
22 MEDICAID AGENCIES.—Exchanging information with
23 State agencies (of the State and of other States) ad-
24 ministering programs funded under part A, pro-
25 grams operated under State plans under title XXI,

1 and other programs designated by the Secretary, as
 2 necessary to perform State agency responsibilities
 3 under this part and under such programs.

4 “(4) INTRASTATE AND INTERSTATE INFORMA-
 5 TION COMPARISONS.—Exchanging information with
 6 other agencies of the State, agencies of other States,
 7 and interstate information networks, as necessary
 8 and appropriate to carry out (or assist other States
 9 to carry out) the purposes of this part.”.

10 **SEC. 7312. COLLECTION AND DISBURSEMENT OF SUPPORT**
 11 **PAYMENTS.**

12 (a) STATE PLAN REQUIREMENT.—Section 454 (42
 13 U.S.C. 654), as amended by sections 7301(b) and
 14 7304(a), is amended—

15 (1) by striking “and” at the end of paragraph
 16 (25);

17 (2) by striking the period at the end of para-
 18 graph (26) and inserting “; and”; and

19 (3) by adding after paragraph (26) the follow-
 20 ing new paragraph:

21 “(27) provide that, on and after October 1,
 22 1998, the State agency will—

23 “(A) operate a State disbursement unit in
 24 accordance with section 454B; and

1 “(B) have sufficient State staff (consisting
2 of State employees), and (at State option) pri-
3 vate or governmental contractors reporting di-
4 rectly to the State agency, to—

5 “(i) provide automated monitoring
6 and enforcement of support collections
7 through the unit (including carrying out
8 the automated data processing responsibil-
9 ities described in section 454A(g)); and

10 “(ii) take the actions described in sec-
11 tion 466(c)(1) in appropriate cases.”.

12 (b) ESTABLISHMENT OF STATE DISBURSEMENT
13 UNIT.—Part D of title IV (42 U.S.C. 651–669), as
14 amended by section 7344(a)(2), is amended by inserting
15 after section 454A the following new section:

16 **“SEC. 454B. COLLECTION AND DISBURSEMENT OF SUP-**
17 **PORT PAYMENTS.**

18 “(a) STATE DISBURSEMENT UNIT.—

19 “(1) IN GENERAL.—In order for a State to
20 meet the requirements of this section, the State
21 agency must establish and operate a unit (which
22 shall be known as the ‘State disbursement unit’) for
23 the collection and disbursement of payments under
24 support orders in all cases being enforced by the
25 State pursuant to section 454(4).

1 “(2) OPERATION.—The State disbursement
2 unit shall be operated—

3 “(A) directly by the State agency (or 2 or
4 more State agencies under a regional coopera-
5 tive agreement), or (to the extent appropriate)
6 by a contractor responsible directly to the State
7 agency; and

8 “(B) in coordination with the automated
9 system established by the State pursuant to
10 section 454A.

11 “(3) LINKING OF LOCAL DISBURSEMENT
12 UNITS.—The State disbursement unit may be estab-
13 lished by linking local disbursement units through
14 an automated information network, subject to this
15 section. The Secretary must agree that the system
16 will not cost more nor take more time to establish
17 or operate than a centralized system. In addition,
18 employers shall be given 1 location to which income
19 withholding is sent.

20 “(b) REQUIRED PROCEDURES.—The State disburse-
21 ment unit shall use automated procedures, electronic proc-
22 esses, and computer-driven technology to the maximum
23 extent feasible, efficient, and economical, for the collection
24 and disbursement of support payments, including proce-
25 dures—

1 “(1) for receipt of payments from parents, em-
2 ployers, and other States, and for disbursements to
3 custodial parents and other obligees, the State agen-
4 cy, and the agencies of other States;

5 “(2) for accurate identification of payments;

6 “(3) to ensure prompt disbursement of the cus-
7 todial parent’s share of any payment; and

8 “(4) to furnish to any parent, upon request,
9 timely information on the current status of support
10 payments under an order requiring payments to be
11 made by or to the parent.

12 “(c) TIMING OF DISBURSEMENTS.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (2), the State disbursement unit shall distrib-
15 ute all amounts payable under section 457(a) within
16 2 business days after receipt from the employer or
17 other source of periodic income, if sufficient infor-
18 mation identifying the payee is provided.

19 “(2) PERMISSIVE RETENTION OF ARREAR-
20 AGES.—The State disbursement unit may delay the
21 distribution of collections toward arrearages until
22 the resolution of any timely appeal with respect to
23 such arrearages.

1 “(d) BUSINESS DAY DEFINED.—As used in this sec-
2 tion, the term ‘business day’ means a day on which State
3 offices are open for regular business.”.

4 (c) USE OF AUTOMATED SYSTEM.—Section 454A, as
5 added by section 7344(a)(2) and as amended by section
6 7311, is amended by adding at the end the following new
7 subsection:

8 “(g) COLLECTION AND DISTRIBUTION OF SUPPORT
9 PAYMENTS.—

10 “(1) IN GENERAL.—The State shall use the
11 automated system required by this section, to the
12 maximum extent feasible, to assist and facilitate the
13 collection and disbursement of support payments
14 through the State disbursement unit operated under
15 section 454B, through the performance of functions,
16 including, at a minimum—

17 “(A) transmission of orders and notices to
18 employers (and other debtors) for the withhold-
19 ing of wages and other income—

20 “(i) within 2 business days after re-
21 ceipt from a court, another State, an em-
22 ployer, the Federal Parent Locator Service,
23 or another source recognized by the State
24 of notice of, and the income source subject
25 to, such withholding; and

1 “(ii) using uniform formats prescribed
2 by the Secretary;

3 “(B) ongoing monitoring to promptly iden-
4 tify failures to make timely payment of support;
5 and

6 “(C) automatic use of enforcement proce-
7 dures (including procedures authorized pursu-
8 ant to section 466(e)) where payments are not
9 timely made.

10 “(2) BUSINESS DAY DEFINED.—As used in
11 paragraph (1), the term ‘business day’ means a day
12 on which State offices are open for regular busi-
13 ness.”.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall become effective on October 1, 1998.

16 **SEC. 7313. STATE DIRECTORY OF NEW HIRES.**

17 (a) STATE PLAN REQUIREMENT.—Section 454 (42
18 U.S.C. 654), as amended by sections 7301(b), 7304(a)
19 and 7312(a), is amended—

20 (1) by striking “and” at the end of paragraph
21 (26);

22 (2) by striking the period at the end of para-
23 graph (27) and inserting “; and”; and

24 (3) by adding after paragraph (27) the follow-
25 ing new paragraph:

1 “(28) provide that, on and after October 1,
2 1997, the State will operate a State Directory of
3 New Hires in accordance with section 453A.”.

4 (b) STATE DIRECTORY OF NEW HIRES.—Part D of
5 title IV (42 U.S.C. 651–669) is amended by inserting
6 after section 453 the following new section:

7 **“SEC. 453A. STATE DIRECTORY OF NEW HIRES.**

8 “(a) ESTABLISHMENT.—

9 “(1) IN GENERAL.—Not later than October 1,
10 1997, each State shall establish an automated direc-
11 tory (to be known as the ‘State Directory of New
12 Hires’) which shall contain information supplied in
13 accordance with subsection (b) by employers on each
14 newly hired employee.

15 “(2) DEFINITIONS.—As used in this section:

16 “(A) EMPLOYEE.—The term ‘employee’—

17 “(i) means an individual who is an
18 employee within the meaning of chapter 24
19 of the Internal Revenue Code of 1986; and

20 “(ii) does not include an employee of
21 a Federal or State agency performing in-
22 telligence or counterintelligence functions,
23 if the head of such agency has determined
24 that reporting pursuant to paragraph (1)
25 with respect to the employee could endan-

1 ger the safety of the employee or com-
2 promise an ongoing investigation or intel-
3 ligence mission.

4 “(B) EMPLOYER.—The term ‘employer’ in-
5 cludes—

6 “(i) any governmental entity, and

7 “(ii) any labor organization.

8 “(C) LABOR ORGANIZATION.—The term
9 ‘labor organization’ shall have the meaning
10 given such term in section 2(5) of the National
11 Labor Relations Act, and includes any entity
12 (also known as a ‘hiring hall’) which is used by
13 the organization and an employer to carry out
14 requirements described in section 8(f)(3) of
15 such Act of an agreement between the organiza-
16 tion and the employer.

17 “(b) EMPLOYER INFORMATION.—

18 “(1) REPORTING REQUIREMENT.—

19 “(A) IN GENERAL.—Except as provided in
20 subparagraphs (B) and (C), each employer shall
21 furnish to the Directory of New Hires of the
22 State in which a newly hired employee works, a
23 report that contains the name, address, and so-
24 cial security number of the employee, and the
25 name of, and identifying number assigned

1 under section 6109 of the Internal Revenue
2 Code of 1986 to, the employer.

3 “(B) MULTISTATE EMPLOYERS.—An em-
4 ployer that has employees who are employed in
5 2 or more States and that transmits reports
6 magnetically or electronically may comply with
7 subparagraph (A) by designating 1 State in
8 which such employer has employees to which it
9 will transmit the report described in subpara-
10 graph (A), and transmitting such report to such
11 State. Any employer that transmits reports pur-
12 suant to this subparagraph shall notify the Sec-
13 retary in writing as to which State such em-
14 ployer designates for the purpose of sending re-
15 ports.

16 “(C) FEDERAL GOVERNMENT EMPLOY-
17 ERS.—Any department, agency, or instrumen-
18 tality of the United States shall comply with
19 subparagraph (A) by transmitting the report
20 described in subparagraph (A) to the National
21 Directory of New Hires established pursuant to
22 section 453.

23 “(2) TIMING OF REPORT.—The report required
24 by paragraph (1) with respect to an employee shall
25 be made not later than the later of—

1 “(A) 30 days after the date the employer
2 hires the employee; or

3 “(B) in the case of an employer that re-
4 ports by magnetic or electronic means, the 1st
5 business day of the week following the date on
6 which the employee 1st receives wages or other
7 compensation from the employer.

8 “(c) REPORTING FORMAT AND METHOD.—Each re-
9 port required by subsection (b) shall be made on a
10 W-4 form and may be transmitted by 1st class mail, mag-
11 netically, or electronically.

12 “(d) CIVIL MONEY PENALTIES ON NONCOMPLYING
13 EMPLOYERS.—The State shall have the option to set a
14 State civil money penalty which shall be less than—

15 “(1) \$25; or

16 “(2) \$500 if, under State law, the failure is the
17 result of a conspiracy between the employer and the
18 employee to not supply the required report or to
19 supply a false or incomplete report.

20 “(e) ENTRY OF EMPLOYER INFORMATION.—Infor-
21 mation shall be entered into the data base maintained by
22 the State Directory of New Hires within 5 business days
23 of receipt from an employer pursuant to subsection (b).

24 “(f) INFORMATION COMPARISONS.—

1 “(1) IN GENERAL.—Not later than October 1,
2 1998, an agency designated by the State shall, di-
3 rectly or by contract, conduct automated compari-
4 sons of the social security numbers reported by em-
5 ployers pursuant to subsection (b) and the social se-
6 curity numbers appearing in the records of the State
7 case registry for cases being enforced under the
8 State plan.

9 “(2) NOTICE OF MATCH.—When an information
10 comparison conducted under paragraph (1) reveals a
11 match with respect to the social security number of
12 an individual required to provide support under a
13 support order, the State Directory of New Hires
14 shall provide the agency administering the State
15 plan approved under this part of the appropriate
16 State with the name, address, and social security
17 number of the employee to whom the social security
18 number is assigned, and the name of, and identify-
19 ing number assigned under section 6109 of the In-
20 ternal Revenue Code of 1986 to, the employer.

21 “(g) TRANSMISSION OF INFORMATION.—

22 “(1) TRANSMISSION OF WAGE WITHHOLDING
23 NOTICES TO EMPLOYERS.—Within 2 business days
24 after the date information regarding a newly hired
25 employee is entered into the State Directory of New

1 Hires, the State agency enforcing the employee's
2 child support obligation shall transmit a notice to
3 the employer of the employee directing the employer
4 to withhold from the wages of the employee an
5 amount equal to the monthly (or other periodic)
6 child support obligation of the employee, unless the
7 employee's wages are not subject to withholding pur-
8 suant to section 466(b)(3).

9 “(2) TRANSMISSIONS TO THE NATIONAL DIREC-
10 TORY OF NEW HIRES.—

11 “(A) NEW HIRE INFORMATION.—Within 2
12 business days after the date information re-
13 garding a newly hired employee is entered into
14 the State Directory of New Hires, the State Di-
15 rectory of New Hires shall furnish the informa-
16 tion to the National Directory of New Hires.

17 “(B) WAGE AND UNEMPLOYMENT COM-
18 PENSATION INFORMATION.—The State Direc-
19 tory of New Hires shall, on a quarterly basis,
20 furnish to the National Directory of New Hires
21 extracts of the reports required under section
22 303(a)(6) to be made to the Secretary of Labor
23 concerning the wages and unemployment com-
24 pensation paid to individuals, by such dates, in
25 such format, and containing such information

1 as the Secretary of Health and Human Services
2 shall specify in regulations.

3 “(3) BUSINESS DAY DEFINED.—As used in this
4 subsection, the term ‘business day’ means a day on
5 which State offices are open for regular business.

6 “(h) OTHER USES OF NEW HIRE INFORMATION.—

7 “(1) LOCATION OF CHILD SUPPORT OBLI-
8 GORS.—The agency administering the State plan ap-
9 proved under this part shall use information received
10 pursuant to subsection (f)(2) to locate individuals
11 for purposes of establishing paternity and establish-
12 ing, modifying, and enforcing child support obliga-
13 tions.

14 “(2) VERIFICATION OF ELIGIBILITY FOR CER-
15 TAIN PROGRAMS.—A State agency responsible for
16 administering a program specified in section 1137(b)
17 shall have access to information reported by employ-
18 ers pursuant to subsection (b) of this section for
19 purposes of verifying eligibility for the program.

20 “(3) ADMINISTRATION OF EMPLOYMENT SECUR-
21 ITY AND WORKERS’ COMPENSATION.—State agen-
22 cies operating employment security and workers’
23 compensation programs shall have access to informa-
24 tion reported by employers pursuant to subsection

1 (b) for the purposes of administering such pro-
2 grams.”.

3 (c) QUARTERLY WAGE REPORTING.—Section
4 1137(a)(3) (42 U.S.C. 1320b–7(a)(3)) is amended—

5 (1) by inserting “(including State and local gov-
6 ernmental entities)” after “employers”; and

7 (2) by inserting “, and except that no report
8 shall be filed with respect to an employee of a State
9 agency performing intelligence or counterintelligence
10 functions, if the head of such agency has determined
11 that filing such a report could endanger the safety
12 of the employee or compromise an ongoing investiga-
13 tion or intelligence mission” after “paragraph (2)”.

14 **SEC. 7314. AMENDMENTS CONCERNING INCOME WITH-**
15 **HOLDING.**

16 (a) MANDATORY INCOME WITHHOLDING.—

17 (1) IN GENERAL.—Section 466(a)(1) (42
18 U.S.C. 666(a)(1)) is amended to read as follows:

19 “(1)(A) Procedures described in subsection (b)
20 for the withholding from income of amounts payable
21 as support in cases subject to enforcement under the
22 State plan.

23 “(B) Procedures under which the wages of a
24 person with a support obligation imposed by a sup-
25 port order issued (or modified) in the State before

1 October 1, 1996, if not otherwise subject to with-
2 holding under subsection (b), shall become subject to
3 withholding as provided in subsection (b) if arrear-
4 ages occur, without the need for a judicial or admin-
5 istrative hearing.”.

6 (2) CONFORMING AMENDMENTS.—

7 (A) Section 466(b) (42 U.S.C. 666(b)) is
8 amended in the matter preceding paragraph
9 (1), by striking “subsection (a)(1)” and insert-
10 ing “subsection (a)(1)(A)”.

11 (B) Section 466(b)(4) (42 U.S.C.
12 666(b)(4)) is amended to read as follows:

13 “(4)(A) Such withholding must be carried out
14 in full compliance with all procedural due process re-
15 quirements of the State, and the State must send
16 notice to each absent parent to whom paragraph (1)
17 applies—

18 “(i) that the withholding has commenced;

19 and

20 “(ii) of the procedures to follow if the ab-
21 sent parent desires to contest such withholding
22 on the grounds that the withholding or the
23 amount withheld is improper due to a mistake
24 of fact.

1 “(B) The notice under subparagraph (A) shall
2 include the information provided to the employer
3 under paragraph (6)(A).”.

4 (C) Section 466(b)(5) (42 U.S.C.
5 666(b)(5)) is amended by striking all that fol-
6 lows “administered by” and inserting “the
7 State through the State disbursement unit es-
8 tablished pursuant to section 454B, in accord-
9 ance with the requirements of section 454B.”.

10 (D) Section 466(b)(6)(A) (42 U.S.C.
11 666(b)(6)(A)) is amended—

12 (i) in clause (i), by striking “to the
13 appropriate agency” and all that follows
14 and inserting “to the State disbursement
15 unit within 2 business days after the date
16 the amount would (but for this subsection)
17 have been paid or credited to the employee,
18 for distribution in accordance with this
19 part.”;

20 (ii) in clause (ii), by inserting “be in
21 a standard format prescribed by the Sec-
22 retary, and” after “shall”; and

23 (iii) by adding at the end the follow-
24 ing new clause:

1 “(iii) As used in this subparagraph, the term
2 ‘business day’ means a day on which State offices
3 are open for regular business.”.

4 (E) Section 466(b)(6)(D) (42 U.S.C.
5 666(b)(6)(D)) is amended by striking “any em-
6 ployer” and all that follows and inserting “any
7 employer who—

8 “(i) discharges from employment, refuses
9 to employ, or takes disciplinary action against
10 any absent parent subject to wage withholding
11 required by this subsection because of the exist-
12 ence of such withholding and the obligations or
13 additional obligations which it imposes upon the
14 employer; or

15 “(ii) fails to withhold support from wages,
16 or to pay such amounts to the State disburse-
17 ment unit in accordance with this subsection.”.

18 (F) Section 466(b) (42 U.S.C. 666(b)) is
19 amended by adding at the end the following
20 new paragraph:

21 “(11) Procedures under which the agency ad-
22 ministering the State plan approved under this part
23 may execute a withholding order through electronic
24 means and without advance notice to the obligor.”.

1 (b) CONFORMING AMENDMENT.—Section 466(c) (42
2 U.S.C. 666(c)) is repealed.

3 **SEC. 7315. LOCATOR INFORMATION FROM INTERSTATE**
4 **NETWORKS.**

5 Section 466(a) (42 U.S.C. 666(a)) is amended by
6 adding at the end the following new paragraph:

7 “(12) Procedures to ensure that all Federal and
8 State agencies conducting activities under this part
9 have access to any system used by the State to lo-
10 cate an individual for purposes relating to motor ve-
11 hicles or law enforcement.”.

12 **SEC. 7316. EXPANSION OF THE FEDERAL PARENT LOCATOR**
13 **SERVICE.**

14 (a) EXPANDED AUTHORITY TO LOCATE INDIVID-
15 UALS AND ASSETS.—Section 453 (42 U.S.C. 653) is
16 amended—

17 (1) in subsection (a), by striking all that follows
18 “subsection (c))” and inserting “, for the purpose of
19 establishing parentage, establishing, setting the
20 amount of, modifying, or enforcing child support ob-
21 ligations, or enforcing child visitation orders—

22 “(1) information on, or facilitating the discov-
23 ery of, the location of any individual—

24 “(A) who is under an obligation to pay
25 child support or provide child visitation rights;

1 “(B) against whom such an obligation is
2 sought;

3 “(C) to whom such an obligation is owed,
4 including the individual’s social security number (or
5 numbers), most recent address, and the name, ad-
6 dress, and employer identification number of the in-
7 dividual’s employer;

8 “(2) information on the individual’s wages (or
9 other income) from, and benefits of, employment (in-
10 cluding rights to or enrollment in group health care
11 coverage); and

12 “(3) information on the type, status, location,
13 and amount of any assets of, or debts owed by or
14 to, any such individual.”; and

15 (2) in subsection (b), in the matter preceding
16 paragraph (1), by striking “social security” and all
17 that follows through “absent parent” and inserting
18 “information described in subsection (a)”.

19 (b) AUTHORIZED PERSON FOR INFORMATION RE-
20 GARDING VISITATION RIGHTS.—Section 453(c) (42
21 U.S.C. 653(c)) is amended—

22 (1) in paragraph (1), by striking “support” and
23 inserting “support or to seek to enforce orders pro-
24 viding child visitation rights”;

1 (2) in paragraph (2), by striking “, or any
2 agent of such court; and” and inserting “or to issue
3 an order against a resident parent for visitation
4 rights, or any agent of such court;”;

5 (3) by striking the period at the end of para-
6 graph (3) and inserting “; and”; and

7 (4) by adding at the end the following new
8 paragraph:

9 “(4) the absent parent, only with regard to a
10 court order against a resident parent for child visita-
11 tion rights.”.

12 (c) REIMBURSEMENT FOR INFORMATION FROM FED-
13 ERAL AGENCIES.—Section 453(e)(2) (42 U.S.C.
14 653(e)(2)) is amended in the 4th sentence by inserting
15 “in an amount which the Secretary determines to be rea-
16 sonable payment for the information exchange (which
17 amount shall not include payment for the costs of obtain-
18 ing, compiling, or maintaining the information)” before
19 the period.

20 (d) REIMBURSEMENT FOR REPORTS BY STATE
21 AGENCIES.—Section 453 (42 U.S.C. 653) is amended by
22 adding at the end the following new subsection:

23 “(g) The Secretary may reimburse Federal and State
24 agencies for the costs incurred by such entities in furnish-
25 ing information requested by the Secretary under this sec-

1 tion in an amount which the Secretary determines to be
2 reasonable payment for the information exchange (which
3 amount shall not include payment for the costs of obtain-
4 ing, compiling, or maintaining the information).”.

5 (e) TECHNICAL AMENDMENTS.—

6 (1) Sections 452(a)(9), 453(a), 453(b), 463(a),
7 463(e), and 463(f) (42 U.S.C. 652(a)(9), 653(a),
8 653(b), 663(a), 663(e), and 663(f)) are each amend-
9 ed by inserting “Federal” before “Parent” each
10 place such term appears.

11 (2) Section 453 (42 U.S.C. 653) is amended in
12 the heading by adding “FEDERAL” before “PAR-
13 ENT”.

14 (f) NEW COMPONENTS.—Section 453 (42 U.S.C.
15 653), as amended by subsection (d) of this section, is
16 amended by adding at the end the following new sub-
17 section:

18 “(h)(1) Not later than October 1, 1998, in order to
19 assist States in administering programs under State plans
20 approved under this part and programs funded under part
21 A, and for the other purposes specified in this section, the
22 Secretary shall establish and maintain in the Federal Par-
23 ent Locator Service an automated registry (which shall be
24 known as the ‘Federal Case Registry of Child Support Or-
25 ders’), which shall contain abstracts of support orders and

1 other information described in paragraph (2) with respect
2 to each case in each State case registry maintained pursu-
3 ant to section 454A(e), as furnished (and regularly up-
4 dated), pursuant to section 454A(f), by State agencies ad-
5 ministering programs under this part.

6 “(2) The information referred to in paragraph (1)
7 with respect to a case shall be such information as the
8 Secretary may specify in regulations (including the names,
9 social security numbers or other uniform identification
10 numbers, and State case identification numbers) to iden-
11 tify the individuals who owe or are owed support (or with
12 respect to or on behalf of whom support obligations are
13 sought to be established), and the State or States which
14 have the case.

15 “(i)(1) In order to assist States in administering pro-
16 grams under State plans approved under this part and
17 programs funded under part A, and for the other purposes
18 specified in this section, the Secretary shall, not later than
19 October 1, 1996, establish and maintain in the Federal
20 Parent Locator Service an automated directory to be
21 known as the National Directory of New Hires, which
22 shall contain the information supplied pursuant to section
23 453A(g)(2).

1 “(2) Information shall be entered into the data base
2 maintained by the National Directory of New Hires within
3 2 business days of receipt pursuant to section 453A(g)(2).

4 “(3) The Secretary of the Treasury shall have access
5 to the information in the National Directory of New Hires
6 for purposes of administering section 32 of the Internal
7 Revenue Code of 1986, or the advance payment of the
8 earned income tax credit under section 3507 of such Code,
9 and verifying a claim with respect to employment in a tax
10 return.

11 “(4) The Secretary shall maintain within the Na-
12 tional Directory of New Hires a list of multistate employ-
13 ers that report information regarding newly hired employ-
14 ees pursuant to section 453A(b)(1)(B), and the State
15 which each such employer has designated to receive such
16 information.

17 “(j)(1)(A) The Secretary shall transmit information
18 on individuals and employers maintained under this sec-
19 tion to the Social Security Administration to the extent
20 necessary for verification in accordance with subparagraph
21 (B).

22 “(B) The Social Security Administration shall verify
23 the accuracy of, correct, or supply to the extent possible,
24 and report to the Secretary, the following information sup-
25 plied by the Secretary pursuant to subparagraph (A):

1 “(i) The name, social security number, and
2 birth date of each such individual.

3 “(ii) The employer identification number of
4 each such employer.

5 “(2) For the purpose of locating individuals in a pa-
6 ternity establishment case or a case involving the estab-
7 lishment, modification, or enforcement of a support order,
8 the Secretary shall—

9 “(A) compare information in the National Di-
10 rectory of New Hires against information in the sup-
11 port case abstracts in the Federal Case Registry of
12 Child Support Orders not less often than every 2
13 business days; and

14 “(B) within 2 such days after such a compari-
15 son reveals a match with respect to an individual, re-
16 port the information to the State agency responsible
17 for the case.

18 “(3) To the extent and with the frequency that the
19 Secretary determines to be effective in assisting States to
20 carry out their responsibilities under programs operated
21 under this part and programs funded under part A, the
22 Secretary shall—

23 “(A) compare the information in each compo-
24 nent of the Federal Parent Locator Service main-
25 tained under this section against the information in

1 each other such component (other than the compari-
2 son required by paragraph (2)), and report instances
3 in which such a comparison reveals a match with re-
4 spect to an individual to State agencies operating
5 such programs; and

6 “(B) disclose information in such registries to
7 such State agencies.

8 “(4) The National Directory of New Hires shall pro-
9 vide the Commissioner of Social Security with all informa-
10 tion in the National Directory, which shall be used to de-
11 termine the accuracy of payments under the supplemental
12 security income program under title XVI and in connec-
13 tion with benefits under title II.

14 “(5) The Secretary may provide access to information
15 reported by employers pursuant to section 453A(b) for re-
16 search purposes found by the Secretary to be likely to con-
17 tribute to achieving the purposes of part A or this part,
18 but without personal identifiers.

19 “(k)(1) The Secretary shall reimburse the Commis-
20 sioner of Social Security, at a rate negotiated between the
21 Secretary and the Commissioner, for the costs incurred
22 by the Commissioner in performing the verification serv-
23 ices described in subsection (j).

24 “(2) The Secretary shall reimburse costs incurred by
25 State directories of new hires in furnishing information

1 as required by subsection (j)(3), at rates which the Sec-
2 retary determines to be reasonable (which rates shall not
3 include payment for the costs of obtaining, compiling, or
4 maintaining such information).

5 “(3) A State or Federal agency that receives informa-
6 tion from the Secretary pursuant to this section shall re-
7 imburse the Secretary for costs incurred by the Secretary
8 in furnishing the information, at rates which the Secretary
9 determines to be reasonable (which rates shall include pay-
10 ment for the costs of obtaining, verifying, maintaining,
11 and comparing the information).

12 “(l) Information in the Federal Parent Locator Serv-
13 ice, and information resulting from comparisons using
14 such information, shall not be used or disclosed except as
15 expressly provided in this section, subject to section 6103
16 of the Internal Revenue Code of 1986.

17 “(m) The Secretary shall establish and implement
18 safeguards with respect to the entities established under
19 this section designed to—

20 “(1) ensure the accuracy and completeness of
21 information in the Federal Parent Locator Service;
22 and

23 “(2) restrict access to confidential information
24 in the Federal Parent Locator Service to authorized

1 persons, and restrict use of such information to au-
2 thorized purposes.

3 “(n) Each department, agency, and instrumentality
4 of the United States shall on a quarterly basis report to
5 the Federal Parent Locator Service the name and social
6 security number of each employee and the wages paid to
7 the employee during the previous quarter, except that no
8 report shall be filed with respect to an employee of a de-
9 partment, agency, or instrumentality performing intel-
10 ligence or counterintelligence functions, if the head of such
11 department, agency, or instrumentality has determined
12 that filing such a report could endanger the safety of the
13 employee or compromise an ongoing investigation or intel-
14 ligence mission.”.

15 (f) CONFORMING AMENDMENTS.—

16 (1) TO PART D OF TITLE IV OF THE SOCIAL SE-
17 CURITY ACT.—Section 454(8)(B) (42 U.S.C.
18 654(8)(B)) is amended to read as follows:

19 “(B) the Federal Parent Locator Service
20 established under section 453;”.

21 (2) TO FEDERAL UNEMPLOYMENT TAX ACT.—
22 Section 3304(a)(16) of the Internal Revenue Code of
23 1986 is amended—

24 (A) by striking “Secretary of Health, Edu-
25 cation, and Welfare” each place such term ap-

1 pears and inserting “Secretary of Health and
2 Human Services”;

3 (B) in subparagraph (B), by striking
4 “such information” and all that follows and in-
5 serting “information furnished under subpara-
6 graph (A) or (B) is used only for the purposes
7 authorized under such subparagraph;”;

8 (C) by striking “and” at the end of sub-
9 paragraph (A);

10 (D) by redesignating subparagraph (B) as
11 subparagraph (C); and

12 (E) by inserting after subparagraph (A)
13 the following new subparagraph:

14 “(B) wage and unemployment compensa-
15 tion information contained in the records of
16 such agency shall be furnished to the Secretary
17 of Health and Human Services (in accordance
18 with regulations promulgated by such Sec-
19 retary) as necessary for the purposes of the Na-
20 tional Directory of New Hires established under
21 section 453(i) of the Social Security Act, and”.

22 (3) TO STATE GRANT PROGRAM UNDER TITLE
23 III OF THE SOCIAL SECURITY ACT.—Subsection (h)
24 of section 303 (42 U.S.C. 503) is amended to read
25 as follows:

1 “(h)(1) The State agency charged with the adminis-
2 tration of the State law shall, on a reimbursable basis—

3 “(A) disclose quarterly, to the Secretary of
4 Health and Human Services wage and claim infor-
5 mation, as required pursuant to section 453(i)(1),
6 contained in the records of such agency;

7 “(B) ensure that information provided pursuant
8 to subparagraph (A) meets such standards relating
9 to correctness and verification as the Secretary of
10 Health and Human Services, with the concurrence
11 of the Secretary of Labor, may find necessary; and

12 “(C) establish such safeguards as the Secretary
13 of Labor determines are necessary to insure that in-
14 formation disclosed under subparagraph (A) is used
15 only for purposes of section 453(i)(1) in carrying out
16 the child support enforcement program under title
17 IV.

18 “(2) Whenever the Secretary of Labor, after reason-
19 able notice and opportunity for hearing to the State agen-
20 cy charged with the administration of the State law, finds
21 that there is a failure to comply substantially with the re-
22 quirements of paragraph (1), the Secretary of Labor shall
23 notify such State agency that further payments will not
24 be made to the State until the Secretary of Labor is satis-
25 fied that there is no longer any such failure. Until the

1 Secretary of Labor is so satisfied, the Secretary shall
2 make no future certification to the Secretary of the Treas-
3 ury with respect to the State.

4 “(3) For purposes of this subsection—

5 “(A) the term ‘wage information’ means infor-
6 mation regarding wages paid to an individual, the
7 social security account number of such individual,
8 and the name, address, State, and the Federal em-
9 ployer identification number of the employer paying
10 such wages to such individual; and

11 “(B) the term ‘claim information’ means infor-
12 mation regarding whether an individual is receiving,
13 has received, or has made application for, unemploy-
14 ment compensation, the amount of any such com-
15 pensation being received (or to be received by such
16 individual), and the individual’s current (or most re-
17 cent) home address.”.

18 **SEC. 7317. COLLECTION AND USE OF SOCIAL SECURITY**
19 **NUMBERS FOR USE IN CHILD SUPPORT EN-**
20 **FORCEMENT.**

21 (a) STATE LAW REQUIREMENT.—Section 466(a) (42
22 U.S.C. 666(a)), as amended by section 7315, is amended
23 by adding at the end the following new paragraph:

24 “(13) Procedures requiring that the social secu-
25 rity number of—

1 “(A) any applicant for a professional li-
2 cense, commercial driver’s license, occupational
3 license, or marriage license be recorded on the
4 application;

5 “(B) any individual who is subject to a di-
6 vorce decree, support order, or paternity deter-
7 mination or acknowledgment be placed in the
8 records relating to the matter; and

9 “(C) any individual who has died be placed
10 in the records relating to the death and be re-
11 corded on the death certificate.

12 For purposes of subparagraph (A), if a State allows
13 the use of a number other than the social security
14 number, the State shall so advise any applicants.”.

15 (b) CONFORMING AMENDMENTS.—Section
16 205(c)(2)(C) (42 U.S.C. 405(c)(2)(C)), as amended by
17 section 321(a)(9) of the Social Security Independence and
18 Program Improvements Act of 1994, is amended—

19 (1) in clause (i), by striking “may require” and
20 inserting “shall require”;

21 (2) in clause (ii), by inserting after the 1st sen-
22 tence the following: “In the administration of any
23 law involving the issuance of a marriage certificate
24 or license, each State shall require each party named
25 in the certificate or license to furnish to the State

1 (or political subdivision thereof), or any State agen-
2 cy having administrative responsibility for the law
3 involved, the social security number of the party.”;

4 (3) in clause (ii), by inserting “or marriage cer-
5 tificate” after “Such numbers shall not be recorded
6 on the birth certificate”;

7 (4) in clause (vi), by striking “may” and insert-
8 ing “shall”; and

9 (5) by adding at the end the following new
10 clauses:

11 “(x) An agency of a State (or a politi-
12 cal subdivision thereof) charged with the
13 administration of any law concerning the
14 issuance or renewal of a license, certificate,
15 permit, or other authorization to engage in
16 a profession, an occupation, or a commer-
17 cial activity shall require all applicants for
18 issuance or renewal of the license, certifi-
19 cate, permit, or other authorization to pro-
20 vide the applicant’s social security number
21 to the agency for the purpose of admin-
22 istering such laws, and for the purpose of
23 responding to requests for information
24 from an agency operating pursuant to part
25 D of title IV.

1 “(xi) All divorce decrees, support or-
2 ders, and paternity determinations issued,
3 and all paternity acknowledgments made,
4 in each State shall include the social secu-
5 rity number of each party to the decree,
6 order, determination, or acknowledgement
7 in the records relating to the matter, for
8 the purpose of responding to requests for
9 information from an agency operating pur-
10 suant to part D of title IV.”.

11 **CHAPTER 3—STREAMLINING AND**
12 **UNIFORMITY OF PROCEDURES**

13 **SEC. 7321. ADOPTION OF UNIFORM STATE LAWS.**

14 Section 466 (42 U.S.C. 666) is amended by adding
15 at the end the following new subsection:

16 “(f)(1) In order to satisfy section 454(20)(A) on or
17 after January 1, 1997, each State must have in effect the
18 Uniform Interstate Family Support Act, as approved by
19 the National Conference of Commissioners on Uniform
20 State Laws in August 1992 (with the modifications and
21 additions specified in this subsection), and the procedures
22 required to implement such Act.

23 “(2) The State law enacted pursuant to paragraph
24 (1) may be applied to any case involving an order which

1 is established or modified in a State and which is sought
2 to be modified or enforced in another State.

3 “(3) The State law enacted pursuant to paragraph
4 (1) of this subsection shall contain the following provision
5 in lieu of section 611(a)(1) of the Uniform Interstate
6 Family Support Act:

7 “(1) the following requirements are met:

8 “(i) the child, the individual obligee, and
9 the obligor—

10 “(I) do not reside in the issuing
11 State; and

12 “(II) either reside in this State or
13 are subject to the jurisdiction of this State
14 pursuant to section 201; and

15 “(ii) in any case where another State is
16 exercising or seeks to exercise jurisdiction to
17 modify the order, the conditions of section 204
18 are met to the same extent as required for pro-
19 ceedings to establish orders; or’.

20 “(4) The State law enacted pursuant to paragraph
21 (1) shall provide that, in any proceeding subject to the
22 law, process may be served (and proved) upon persons in
23 the State by any means acceptable in any State which is
24 the initiating or responding State in the proceeding.”.

1 **SEC. 7322. IMPROVEMENTS TO FULL FAITH AND CREDIT**
2 **FOR CHILD SUPPORT ORDERS.**

3 Section 1738B of title 28, United States Code, is
4 amended—

5 (1) in subsection (a)(2), by striking “subsection
6 (e)” and inserting “subsections (e), (f), and (i)”;

7 (2) in subsection (b), by inserting after the 2nd
8 undesignated paragraph the following:

9 “‘child’s home State’ means the State in which
10 a child lived with a parent or a person acting as par-
11 ent for at least 6 consecutive months immediately
12 preceding the time of filing of a petition or com-
13 parable pleading for support and, if a child is less
14 than 6 months old, the State in which the child lived
15 from birth with any of them. A period of temporary
16 absence of any of them is counted as part of the 6-
17 month period.”;

18 (3) in subsection (c), by inserting “by a court
19 of a State” before “is made”;

20 (4) in subsection (c)(1), by inserting “and sub-
21 sections (e), (f), and (g)” after “located”;

22 (5) in subsection (d)—

23 (A) by inserting “individual” before “con-
24 testant”; and

25 (B) by striking “subsection (e)” and in-
26 serting “subsections (e) and (f)”;

1 (6) in subsection (e), by striking “make a modi-
2 fication of a child support order with respect to a
3 child that is made” and inserting “modify a child
4 support order issued”;

5 (7) in subsection (e)(1), by inserting “pursuant
6 to subsection (i)” before the semicolon;

7 (8) in subsection (e)(2)—

8 (A) by inserting “individual” before “con-
9 testant” each place such term appears; and

10 (B) by striking “to that court’s making the
11 modification and assuming” and inserting “with
12 the State of continuing, exclusive jurisdiction
13 for a court of another State to modify the order
14 and assume”;

15 (9) by redesignating subsections (f) and (g) as
16 subsections (g) and (h), respectively;

17 (10) by inserting after subsection (e) the follow-
18 ing new subsection:

19 “(f) RECOGNITION OF CHILD SUPPORT ORDERS.—
20 If 1 or more child support orders have been issued in this
21 or another State with regard to an obligor and a child,
22 a court shall apply the following rules in determining
23 which order to recognize for purposes of continuing, exclu-
24 sive jurisdiction and enforcement:

1 “(1) If only 1 court has issued a child support
2 order, the order of that court must be recognized.

3 “(2) If 2 or more courts have issued child sup-
4 port orders for the same obligor and child, and only
5 1 of the courts would have continuing, exclusive ju-
6 risdiction under this section, the order of that court
7 must be recognized.

8 “(3) If 2 or more courts have issued child sup-
9 port orders for the same obligor and child, and more
10 than 1 of the courts would have continuing, exclusive
11 jurisdiction under this section, an order issued by a
12 court in the current home State of the child must
13 be recognized, but if an order has not been issued
14 in the current home State of the child, the order
15 most recently issued must be recognized.

16 “(4) If 2 or more courts have issued child sup-
17 port orders for the same obligor and child, and none
18 of the courts would have continuing, exclusive juris-
19 diction under this section, a court may issue a child
20 support order, which must be recognized.

21 “(5) The court that has issued an order recog-
22 nized under this subsection is the court having con-
23 tinuing, exclusive jurisdiction.”;

24 (11) in subsection (g) (as so redesignated)—

1 (A) by striking “PRIOR” and inserting
2 “MODIFIED”; and

3 (B) by striking “subsection (e)” and in-
4 serting “subsections (e) and (f)”;

5 (12) in subsection (h) (as so redesignated)—

6 (A) in paragraph (2), by inserting “includ-
7 ing the duration of current payments and other
8 obligations of support” before the comma; and

9 (B) in paragraph (3), by inserting “arrear
10 under” after “enforce”; and

11 (13) by adding at the end the following new
12 subsection:

13 “(i) REGISTRATION FOR MODIFICATION.—If there is
14 no individual contestant or child residing in the issuing
15 State, the party or support enforcement agency seeking
16 to modify, or to modify and enforce, a child support order
17 issued in another State shall register that order in a State
18 with jurisdiction over the nonmovant for the purpose of
19 modification.”.

20 **SEC. 7323. ADMINISTRATIVE ENFORCEMENT IN INTER-**
21 **STATE CASES.**

22 Section 466(a) (42 U.S.C. 666(a)), as amended by
23 sections 7315 and 7317(a), is amended by adding at the
24 end the following new paragraph:

25 “(14) Procedures under which—

1 “(A)(i) the State shall respond within 5
2 business days to a request made by another
3 State to enforce a support order; and

4 “(ii) the term ‘business day’ means a day
5 on which State offices are open for regular
6 business;

7 “(B) the State may, by electronic or other
8 means, transmit to another State a request for
9 assistance in a case involving the enforcement
10 of a support order, which request—

11 “(i) shall include such information as
12 will enable the State to which the request
13 is transmitted to compare the information
14 about the case to the information in the
15 data bases of the State; and

16 “(ii) shall constitute a certification by
17 the requesting State—

18 “(I) of the amount of support
19 under the order the payment of which
20 is in arrears; and

21 “(II) that the requesting State
22 has complied with all procedural due
23 process requirements applicable to the
24 case;

1 “(C) if the State provides assistance to an-
2 other State pursuant to this paragraph with re-
3 spect to a case, neither State shall consider the
4 case to be transferred to the caseload of such
5 other State; and

6 “(D) the State shall maintain records of—

7 “(i) the number of such requests for
8 assistance received by the State;

9 “(ii) the number of cases for which
10 the State collected support in response to
11 such a request; and

12 “(iii) the amount of such collected
13 support.”.

14 **SEC. 7324. USE OF FORMS IN INTERSTATE ENFORCEMENT.**

15 (a) PROMULGATION.—Section 452(a) (42 U.S.C.
16 652(a)) is amended—

17 (1) by striking “and” at the end of paragraph
18 (9);

19 (2) by striking the period at the end of para-
20 graph (10) and inserting “; and”; and

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

23 “(11) not later than 60 days after the date of
24 the enactment of the Balance Budget Reconciliation
25 Act of 1995, establish an advisory committee, which

1 shall include State directors of programs under this
2 part, and not later than June 30, 1996, after con-
3 sultation with the advisory committee, promulgate
4 forms to be used by States in interstate cases for—

5 “(A) collection of child support through in-
6 come withholding;

7 “(B) imposition of liens; and

8 “(C) administrative subpoenas.”.

9 (b) USE BY STATES.—Section 454(9) (42 U.S.C.
10 654(9)) is amended—

11 (1) by striking “and” at the end of subpara-
12 graph (C);

13 (2) by inserting “and” at the end of subpara-
14 graph (D); and

15 (3) by adding at the end the following new sub-
16 paragraph:

17 “(E) no later than October 1, 1996, in
18 using the forms promulgated pursuant to sec-
19 tion 452(a)(11) for income withholding, imposi-
20 tion of liens, and issuance of administrative
21 subpoenas in interstate child support cases;”.

22 **SEC. 7325. STATE LAWS PROVIDING EXPEDITED PROCE-**
23 **DURES.**

24 (a) STATE LAW REQUIREMENTS.—Section 466 (42
25 U.S.C. 666), as amended by section 7314, is amended—

1 (1) in subsection (a)(2), by striking the 1st sen-
2 tence and inserting the following: “Expedited admin-
3 istrative and judicial procedures (including the pro-
4 cedures specified in subsection (c)) for establishing
5 paternity and for establishing, modifying, and en-
6 forcing support obligations.”; and

7 (2) by inserting after subsection (b) the follow-
8 ing new subsection:

9 “(c) The procedures specified in this subsection are
10 the following:

11 “(1) Procedures which give the State agency
12 the authority to take the following actions relating
13 to establishment or enforcement of support orders,
14 without the necessity of obtaining an order from any
15 other judicial or administrative tribunal, and to rec-
16 ognize and enforce the authority of State agencies of
17 other States) to take the following actions:

18 “(A) To order genetic testing for the pur-
19 pose of paternity establishment as provided in
20 section 466(a)(5).

21 “(B) To subpoena any financial or other
22 information needed to establish, modify, or en-
23 force a support order, and to impose penalties
24 for failure to respond to such a subpoena.

1 “(C) To require all entities in the State
2 (including for-profit, nonprofit, and govern-
3 mental employers) to provide promptly, in re-
4 sponse to a request by the State agency of that
5 or any other State administering a program
6 under this part, information on the employ-
7 ment, compensation, and benefits of any indi-
8 vidual employed by such entity as an employee
9 or contractor, and to sanction failure to respond
10 to any such request.

11 “(D) To obtain access, subject to safe-
12 guards on privacy and information security, to
13 the following records (including automated ac-
14 cess, in the case of records maintained in auto-
15 mated data bases):

16 “(i) Records of other State and local
17 government agencies, including—

18 “(I) vital statistics (including
19 records of marriage, birth, and di-
20 vorce);

21 “(II) State and local tax and rev-
22 enue records (including information
23 on residence address, employer, in-
24 come and assets);

1 “(III) records concerning real
2 and titled personal property;

3 “(IV) records of occupational and
4 professional licenses, and records con-
5 cerning the ownership and control of
6 corporations, partnerships, and other
7 business entities;

8 “(V) employment security
9 records;

10 “(VI) records of agencies admin-
11 istering public assistance programs;

12 “(VII) records of the motor vehi-
13 cle department; and

14 “(VIII) corrections records.

15 “(ii) Certain records held by private
16 entities, including—

17 “(I) customer records of public
18 utilities and cable television compa-
19 nies; and

20 “(II) information (including in-
21 formation on assets and liabilities) on
22 individuals who owe or are owed sup-
23 port (or against or with respect to
24 whom a support obligation is sought)
25 held by financial institutions (subject

1 to limitations on liability of such enti-
2 ties arising from affording such ac-
3 cess), as provided pursuant to agree-
4 ments described in subsection (a)(18).

5 “(E) In cases where support is subject to
6 an assignment in order to comply with a re-
7 quirement imposed pursuant to part A or sec-
8 tion 2136, or to a requirement to pay through
9 the State disbursement unit established pursu-
10 ant to section 454B, upon providing notice to
11 obligor and obligee, to direct the obligor or
12 other payor to change the payee to the appro-
13 priate government entity.

14 “(F) To order income withholding in ac-
15 cordance with subsections (a)(1) and (b) of sec-
16 tion 466.

17 “(G) In cases in which there is a support
18 arrearage, to secure assets to satisfy the arrear-
19 age by—

20 “(i) intercepting or seizing periodic or
21 lump-sum payments from—

22 “(I) a State or local agency, in-
23 cluding unemployment compensation,
24 workers’ compensation, and other ben-
25 efits; and

1 “(II) judgments, settlements, and
2 lotteries;

3 “(ii) attaching and seizing assets of
4 the obligor held in financial institutions;

5 “(iii) attaching public and private re-
6 tirement funds; and

7 “(iv) imposing liens in accordance
8 with subsection (a)(4) and, in appropriate
9 cases, to force sale of property and dis-
10 tribution of proceeds.

11 “(H) For the purpose of securing overdue
12 support, to increase the amount of monthly
13 support payments to include amounts for ar-
14 rearages, subject to such conditions or limita-
15 tions as the State may provide.

16 Such procedures shall be subject to due process safe-
17 guards, including (as appropriate) requirements for
18 notice, opportunity to contest the action, and oppor-
19 tunity for an appeal on the record to an independent
20 administrative or judicial tribunal.

21 “(2) The expedited procedures required under
22 subsection (a)(2) shall include the following rules
23 and authority, applicable with respect to all proceed-
24 ings to establish paternity or to establish, modify, or
25 enforce support orders:

1 “(A) Procedures under which—

2 “(i) each party to any paternity or
3 child support proceeding is required (sub-
4 ject to privacy safeguards) to file with the
5 tribunal and the State case registry upon
6 entry of an order, and to update as appro-
7 priate, information on location and identity
8 of the party, including social security num-
9 ber, residential and mailing addresses, tele-
10 phone number, driver’s license number,
11 and name, address, and name and tele-
12 phone number of employer; and

13 “(ii) in any subsequent child support
14 enforcement action between the parties,
15 upon sufficient showing that diligent effort
16 has been made to ascertain the location of
17 such a party, the tribunal may deem State
18 due process requirements for notice and
19 service of process to be met with respect to
20 the party, upon delivery of written notice
21 to the most recent residential or employer
22 address filed with the tribunal pursuant to
23 clause (i).

24 “(B) Procedures under which—

1 “(i) the State agency and any admin-
2 istrative or judicial tribunal with authority
3 to hear child support and paternity cases
4 exerts statewide jurisdiction over the par-
5 ties; and

6 “(ii) in a State in which orders are is-
7 sued by courts or administrative tribunals,
8 a case may be transferred between local ju-
9 risdictions in the State without need for
10 any additional filing by the petitioner, or
11 service of process upon the respondent, to
12 retain jurisdiction over the parties.”.

13 (b) AUTOMATION OF STATE AGENCY FUNCTIONS.—
14 Section 454A, as added by section 7344(a)(2) and as
15 amended by sections 7311 and 7312(c), is amended by
16 adding at the end the following new subsection:

17 “(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—
18 The automated system required by this section shall be
19 used, to the maximum extent feasible, to implement the
20 expedited administrative procedures required by section
21 466(c).”.

1 CHAPTER 4—PATERNITY ESTABLISHMENT**2 SEC. 7331. STATE LAWS CONCERNING PATERNITY ESTAB-**
3 LISHMENT.

4 (a) STATE LAWS REQUIRED.—Section 466(a)(5) (42
5 U.S.C. 666(a)(5)) is amended to read as follows:

6 “(5)(A)(i) Procedures which permit the estab-
7 lishment of the paternity of a child at any time be-
8 fore the child attains 21 years of age.

9 “(ii) As of August 16, 1984, clause (i) shall
10 also apply to a child for whom paternity has not
11 been established or for whom a paternity action was
12 brought but dismissed because a statute of limita-
13 tions of less than 21 years was then in effect in the
14 State.

15 “(B)(i) Procedures under which the State is re-
16 quired, in a contested paternity case, unless other-
17 wise barred by State law, to require the child and
18 all other parties (other than individuals found under
19 section 454(29) to have good cause for refusing to
20 cooperate) to submit to genetic tests upon the re-
21 quest of any such party if the request is supported
22 by a sworn statement by the party—

23 “(I) alleging paternity, and setting forth
24 facts establishing a reasonable possibility of the
25 requisite sexual contact between the parties; or

1 “(II) denying paternity, and setting forth
2 facts establishing a reasonable possibility of the
3 nonexistence of sexual contact between the par-
4 ties.

5 “(ii) Procedures which require the State agency
6 in any case in which the agency orders genetic test-
7 ing—

8 “(I) to pay costs of such tests, subject to
9 recoupment (where the State so elects) from the
10 alleged father if paternity is established; and

11 “(II) to obtain additional testing in any
12 case where an original test result is contested,
13 upon request and advance payment by the con-
14 testant.

15 “(C)(i) Procedures for a simple civil process for
16 voluntarily acknowledging paternity under which the
17 State must provide that, before a mother and a pu-
18 tative father can sign an acknowledgment of pater-
19 nity, the mother and the putative father must be
20 given notice, orally and in writing, of the alter-
21 natives to, the legal consequences of, and the rights
22 (including, if 1 parent is a minor, any rights af-
23 farded due to minority status) and responsibilities
24 that arise from, signing the acknowledgment.

1 “(ii) Such procedures must include a hospital-
2 based program for the voluntary acknowledgment of
3 paternity focusing on the period immediately before
4 or after the birth of a child, subject to such good
5 cause and other exceptions as the State shall estab-
6 lish and taking into account the best interests of the
7 child.

8 “(iii)(I) Such procedures must require the State
9 agency responsible for maintaining birth records to
10 offer voluntary paternity establishment services.

11 “(II)(aa) The Secretary shall prescribe regula-
12 tions governing voluntary paternity establishment
13 services offered by hospitals and birth record agen-
14 cies.

15 “(bb) The Secretary shall prescribe regulations
16 specifying the types of other entities that may offer
17 voluntary paternity establishment services, and gov-
18 erning the provision of such services, which shall in-
19 clude a requirement that such an entity must use
20 the same notice provisions used by, use the same
21 materials used by, provide the personnel providing
22 such services with the same training provided by,
23 and evaluate the provision of such services in the
24 same manner as the provision of such services is

1 evaluated by, voluntary paternity establishment pro-
2 grams of hospitals and birth record agencies.

3 “(iv) Such procedures must require the State to
4 develop and use an affidavit for the voluntary ac-
5 knowledgment of paternity which includes the mini-
6 mum requirements of the affidavit developed by the
7 Secretary under section 452(a)(7) for the voluntary
8 acknowledgment of paternity, and to give full faith
9 and credit to such an affidavit signed in any other
10 State according to its procedures.

11 “(D)(i) Procedures under which the name of
12 the father shall be included on the record of birth
13 of the child only—

14 “(I) if the father and mother have signed
15 a voluntary acknowledgment of paternity; or

16 “(II) pursuant to an order issued in a judi-
17 cial or administrative proceeding.

18 Nothing in this clause shall preclude a State agency
19 from obtaining an admission of paternity from the
20 father for submission in a judicial or administrative
21 proceeding, or prohibit an order issued in a judicial
22 or administrative proceeding which bases a legal
23 finding of paternity on an admission of paternity by
24 the father and any other additional showing required
25 by State law.

1 “(ii) Procedures under which—

2 “(I) a voluntary acknowledgment of pater-
3 nity is considered a legal finding of paternity,
4 subject to the right of any signatory to rescind
5 the acknowledgment within 60 days;

6 “(II) after the 60-day period referred to in
7 subclause (I), a signed voluntary acknowledg-
8 ment of paternity may be challenged in court
9 only on the basis of fraud, duress, or material
10 mistake of fact, with the burden of proof upon
11 the challenger, and under which the legal re-
12 sponsibilities (including child support obliga-
13 tions) of any signatory arising from the ac-
14 knowledgment may not be suspended during the
15 challenge, except for good cause shown; and

16 “(III) judicial or administrative proceed-
17 ings are not required or permitted to ratify an
18 unchallenged acknowledgment of paternity.

19 “(E) Procedures under which judicial or admin-
20 istrative proceedings are not required or permitted
21 to ratify an unchallenged acknowledgment of pater-
22 nity.

23 “(F) Procedures—

1 “(i) requiring the admission into evidence,
2 for purposes of establishing paternity, of the re-
3 sults of any genetic test that is—

4 “(I) of a type generally acknowledged
5 as reliable by accreditation bodies des-
6 ignated by the Secretary; and

7 “(II) performed by a laboratory ap-
8 proved by such an accreditation body;

9 “(ii) requiring an objection to genetic test-
10 ing results to be made in writing not later than
11 a specified number of days before any hearing
12 at which the results may be introduced into evi-
13 dence (or, at State option, not later than a
14 specified number of days after receipt of the re-
15 sults); and

16 “(iii) making the test results admissible as
17 evidence of paternity without the need for foun-
18 dation testimony or other proof of authenticity
19 or accuracy, unless objection is made.

20 “(G) Procedures which create a rebuttable or,
21 at the option of the State, conclusive presumption of
22 paternity upon genetic testing results indicating a
23 threshold probability that the alleged father is the
24 father of the child.

1 “(H) Procedures requiring a default order to be
2 entered in a paternity case upon a showing of service
3 of process on the defendant and any additional
4 showing required by State law.

5 “(I) Procedures providing that the parties to an
6 action to establish paternity are not entitled to a
7 trial by jury.

8 “(J) Procedures which require that a temporary
9 order be issued, upon motion by a party, requiring
10 the provision of child support pending an adminis-
11 trative or judicial determination of parentage, where
12 there is clear and convincing evidence of paternity
13 (on the basis of genetic tests or other evidence).

14 “(K) Procedures under which bills for preg-
15 nancy, childbirth, and genetic testing are admissible
16 as evidence without requiring third-party foundation
17 testimony, and shall constitute prima facie evidence
18 of amounts incurred for such services or for testing
19 on behalf of the child.

20 “(L) Procedures ensuring that the putative fa-
21 ther has a reasonable opportunity to initiate a pater-
22 nity action.

23 “(M) Procedures under which voluntary ac-
24 knowledgments and adjudications of paternity by ju-
25 dicial or administrative processes are filed with the

1 State registry of birth records for comparison with
2 information in the State case registry.”.

3 (b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFI-
4 DAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is
5 amended by inserting “, and develop an affidavit to be
6 used for the voluntary acknowledgment of paternity which
7 shall include the social security number of each parent”
8 before the semicolon.

9 (c) TECHNICAL AMENDMENT.—Section 468 (42
10 U.S.C. 668) is amended by striking “a simple civil process
11 for voluntarily acknowledging paternity and”.

12 **SEC. 7332. OUTREACH FOR VOLUNTARY PATERNITY ESTAB-**
13 **LISHMENT.**

14 Section 454(23) (42 U.S.C. 654(23)) is amended by
15 inserting “and will publicize the availability and encourage
16 the use of procedures for voluntary establishment of pater-
17 nity and child support by means the State deems appro-
18 priate” before the semicolon.

19 **SEC. 7333. COOPERATION BY APPLICANTS FOR AND RECIPI-**
20 **ENTS OF TEMPORARY FAMILY ASSISTANCE.**

21 Section 454 (42 U.S.C. 654), as amended by sections
22 7301(b), 7304(a), 7312(a), and 7313(a), is amended—

23 (1) by striking “and” at the end of paragraph
24 (27);

1 (2) by striking the period at the end of para-
2 graph (28) and inserting “; and”; and

3 (3) by inserting after paragraph (28) the fol-
4 lowing new paragraph:

5 “(29) provide that the State agency responsible
6 for administering the State plan—

7 “(A) shall make the determination (and re-
8 determination at appropriate intervals) as to
9 whether an individual who has applied for or is
10 receiving assistance under the State program
11 funded under part A or the State program
12 under title XXI is cooperating in good faith
13 with the State in establishing the paternity of,
14 or in establishing, modifying, or enforcing a
15 support order for, any child of the individual by
16 providing the State agency with the name of,
17 and such other information as the State agency
18 may require with respect to, the noncustodial
19 parent of the child, subject to such good cause
20 and other exceptions as the State shall establish
21 and taking into account the best interests of the
22 child;

23 “(B) shall require the individual to supply
24 additional necessary information and appear at
25 interviews, hearings, and legal proceedings;

1 “(C) shall require the individual and the
2 child to submit to genetic tests pursuant to ju-
3 dicial or administrative order; and

4 “(D) shall promptly notify the individual
5 and the State agency administering the State
6 program funded under part A and the State
7 agency administering the State program under
8 title XXI of each such determination, and if
9 noncooperation is determined, the basis there-
10 fore.”.

11 **CHAPTER 5—PROGRAM ADMINISTRATION**
12 **AND FUNDING**

13 **SEC. 7341. PERFORMANCE-BASED INCENTIVES AND PEN-**
14 **ALTIES.**

15 (a) INCENTIVE PAYMENTS.—

16 (1) IN GENERAL.—Section 458 (42 U.S.C. 658)
17 is amended—

18 (A) in subsection (a), by striking “aid to
19 families” and all through the end period, and
20 inserting “assistance under a program funded
21 under part A, and regardless of the economic
22 circumstances of their parents, the Secretary
23 shall, from the support collected which would
24 otherwise represent the reimbursement to the
25 Federal government under section 457, pay to

1 each State for each fiscal year, on a quarterly
2 basis (as described in subsection (e)) beginning
3 with the quarter commencing October 1, 1999,
4 an incentive payment in an amount determined
5 under subsections (b) and (c).”;

6 (B) by striking subsections (b) and (c) and
7 inserting the following:

8 “(b)(1) Not later than 60 days after the date of the
9 enactment of the Balanced Budget Reconciliation Act of
10 1995, the Secretary shall establish a committee which
11 shall include State directors of programs under this part
12 and which shall develop for the Secretary’s approval a for-
13 mula for the distribution of incentive payments to the
14 States.

15 “(2) The formula developed and approved under
16 paragraph (1)—

17 “(A) shall result in a percentage of the collec-
18 tions described in subsection (a) being distributed to
19 each State based on the State’s comparative per-
20 formance in the following areas and any other areas
21 approved by the Secretary under this subsection:

22 “(i) The IV-D paternity establishment per-
23 centage, as defined in section 452(g)(2).

24 “(ii) The percentage of cases with a sup-
25 port order with respect to which services are

1 being provided under the State plan approved
2 under this part.

3 “(iii) The percentage of cases with a sup-
4 port order in which child support is paid with
5 respect to which services are being so provided.

6 “(iv) In cases receiving services under the
7 State plan approved under this part, the
8 amount of child support collected compared to
9 the amount of outstanding child support owed.

10 “(v) The cost-effectiveness of the State
11 program;

12 “(B) shall take into consideration—

13 “(i) the impact that incentives can have on
14 reducing the need to provide public assistance
15 and on permanently removing families from
16 public assistance;

17 “(ii) the need to balance accuracy and fair-
18 ness with simplicity of understanding and data
19 gathering;

20 “(iii) the need to reward performance
21 which improves short- and long-term program
22 outcomes, especially establishing paternity and
23 support orders and encouraging the timely pay-
24 ment of support;

1 “(iv) the Statewide paternity establishment
2 percentage;

3 “(v) baseline data on current performance
4 and projected costs of performance increases to
5 assure that top performing States can actually
6 achieve the top incentive levels with a reason-
7 able resource investment;

8 “(vi) performance outcomes which would
9 warrant an increase in the total incentive pay-
10 ments made to the States; and

11 “(vii) the use or distribution of any portion
12 of the total incentive payments in excess of the
13 total of the payments which may be distributed
14 under subsection (c);

15 “(C) shall be determined so as to distribute to
16 the States total incentive payments equal to the total
17 incentive payments for all States in fiscal year 1994,
18 plus a portion of any increase in the reimbursement
19 to the Federal Government under section 457 from
20 fiscal year 1999 or any other increase based on
21 other performance outcomes approved by the Sec-
22 retary under this subsection;

23 “(D) shall use a definition of the term ‘State’
24 which does not include any area within the jurisdic-
25 tion of an Indian tribal government; and

1 “(E) shall use a definition of the term ‘State-
2 wide paternity establishment percentage’ to mean
3 with respect to a State and a fiscal year—

4 “(i) the total number of children in the
5 State who were born out of wedlock, who have
6 not attained 1 year of age and for whom pater-
7 nity is established or acknowledged during the
8 fiscal year; divided by

9 “(ii) the total number of children born out
10 of wedlock in the State during the fiscal year.

11 “(c) The total amount of the incentives payment
12 made by the Secretary to a State in a fiscal year shall
13 not exceed 90 percent of the total amounts expended by
14 such State during such year for the operation of the plan
15 approved under section 454, less payments to the State
16 pursuant to section 455 for such year.”;

17 (2) in subsection (d), by striking “, and any
18 amounts” through “shall be excluded”.

19 (b) PAYMENTS TO POLITICAL SUBDIVISIONS.—Sec-
20 tion 454(22) (42 U.S.C. 654(22)) is amended by inserting
21 before the semicolon the following: “, but a political sub-
22 division shall not be entitled to receive, and the State may
23 retain, any amount in excess of the amount the political
24 subdivision expends on the State program under this part,

1 less the amount equal to the percentage of that expendi-
2 ture paid by the Secretary under section 455”.

3 (c) CALCULATION OF IV-D PATERNITY ESTABLISH-
4 MENT PERCENTAGE.—

5 (1) Section 452(g)(1) (42 U.S.C. 652(g)(1)) is
6 amended—

7 (A) in the matter preceding subparagraph
8 (A) by inserting “its overall performance in
9 child support enforcement is satisfactory (as de-
10 fined in section 458(b) and regulations of the
11 Secretary), and” after “1994,”; and

12 (B) in each of subparagraphs (A) and (B),
13 by striking “75” and inserting “90”.

14 (2) Section 452(g)(2)(A) (42 U.S.C.
15 652(g)(2)(A)) is amended in the matter preceding
16 clause (i)—

17 (A) by striking “paternity establishment
18 percentage” and inserting “IV-D paternity es-
19 tablishment percentage”; and

20 (B) by striking “(or all States, as the case
21 may be)”.

22 (3) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is
23 amended—

1 (A) by striking subparagraph (A) and re-
2 designating subparagraphs (B) and (C) as sub-
3 paragraphs (A) and (B), respectively;

4 (B) in subparagraph (A) (as so redesign-
5 dated), by striking “the percentage of children
6 born out-of-wedlock in a State” and inserting
7 “the percentage of children in a State who are
8 born out of wedlock or for whom support has
9 not been established”; and

10 (C) in subparagraph (B) (as so redesign-
11 dated)—

12 (i) by inserting “and overall perform-
13 ance in child support enforcement” after
14 “paternity establishment percentages”; and

15 (ii) by inserting “and securing sup-
16 port” before the period.

17 (d) EFFECTIVE DATES.—

18 (1) INCENTIVE ADJUSTMENTS.—

19 (A) IN GENERAL.—The amendments made
20 by subsections (a) and (b) shall become effec-
21 tive on the date of the enactment of this Act,
22 except to the extent provided in subparagraph
23 (B).

24 (B) EXCEPTION.—Section 458 of the So-
25 cial Security Act, as in effect before the date of

1 the enactment of this section, shall be effective
2 for purposes of incentive payments to States for
3 fiscal years before fiscal year 2000.

4 (2) PENALTY REDUCTIONS.—The amendments
5 made by subsection (c) shall become effective with
6 respect to calendar quarters beginning on and after
7 the date of the enactment of this Act.

8 **SEC. 7342. FEDERAL AND STATE REVIEWS AND AUDITS.**

9 (a) STATE AGENCY ACTIVITIES.—Section 454 (42
10 U.S.C. 654) is amended—

11 (1) in paragraph (14), by striking “(14)” and
12 inserting “(14)(A)”;

13 (2) by redesignating paragraph (15) as sub-
14 paragraph (B) of paragraph (14); and

15 (3) by inserting after paragraph (14) the fol-
16 lowing new paragraph:

17 “(15) provide for—

18 “(A) a process for annual reviews of and
19 reports to the Secretary on the State program
20 operated under the State plan approved under
21 this part, including such information as may be
22 necessary to measure State compliance with
23 Federal requirements for expedited procedures,
24 using such standards and procedures as are re-
25 quired by the Secretary, under which the State

1 agency will determine the extent to which the
2 program is operated in compliance with this
3 part; and

4 “(B) a process of extracting from the auto-
5 mated data processing system required by para-
6 graph (16) and transmitting to the Secretary
7 data and calculations concerning the levels of
8 accomplishment (and rates of improvement)
9 with respect to applicable performance indica-
10 tors (including IV–D paternity establishment
11 percentages and overall performance in child
12 support enforcement) to the extent necessary
13 for purposes of sections 452(g) and 458.”.

14 (b) FEDERAL ACTIVITIES.—Section 452(a)(4) (42
15 U.S.C. 652(a)(4)) is amended to read as follows:

16 “(4)(A) review data and calculations transmit-
17 ted by State agencies pursuant to section
18 454(15)(B) on State program accomplishments with
19 respect to performance indicators for purposes of
20 subsection (g) of this section and section 458;

21 “(B) review annual reports submitted pursuant
22 to section 454(15)(A) and, as appropriate, provide
23 to the State comments, recommendations for addi-
24 tional or alternative corrective actions, and technical
25 assistance; and

1 “(C) conduct audits, in accordance with the
2 Government auditing standards of the Comptroller
3 General of the United States—

4 “(i) at least once every 3 years (or more
5 frequently, in the case of a State which fails to
6 meet the requirements of this part concerning
7 performance standards and reliability of pro-
8 gram data) to assess the completeness, reliabil-
9 ity, and security of the data, and the accuracy
10 of the reporting systems, used in calculating
11 performance indicators under subsection (g) of
12 this section and section 458;

13 “(ii) of the adequacy of financial manage-
14 ment of the State program operated under the
15 State plan approved under this part, including
16 assessments of—

17 “(I) whether Federal and other funds
18 made available to carry out the State pro-
19 gram are being appropriately expended,
20 and are properly and fully accounted for;
21 and

22 “(II) whether collections and disburse-
23 ments of support payments are carried out
24 correctly and are fully accounted for; and

1 “(iii) for such other purposes as the Sec-
2 retary may find necessary;”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall be effective with respect to calendar
5 quarters beginning 12 months or more after the date of
6 the enactment of this Act.

7 **SEC. 7343. REQUIRED REPORTING PROCEDURES.**

8 (a) ESTABLISHMENT.—Section 452(a)(5) (42 U.S.C.
9 652(a)(5)) is amended by inserting “, and establish proce-
10 dures to be followed by States for collecting and reporting
11 information required to be provided under this part, and
12 establish uniform definitions (including those necessary to
13 enable the measurement of State compliance with the re-
14 quirements of this part relating to expedited processes) to
15 be applied in following such procedures” before the semi-
16 colon.

17 (b) STATE PLAN REQUIREMENT.—Section 454 (42
18 U.S.C. 654), as amended by sections 7301(b), 7304(a),
19 7312(a), 7313(a), and 7333, is amended—

20 (1) by striking “and” at the end of paragraph
21 (28);

22 (2) by striking the period at the end of para-
23 graph (29) and inserting “; and”; and

24 (3) by adding after paragraph (29) the follow-
25 ing new paragraph:

1 “(30) provide that the State shall use the defi-
2 nitions established under section 452(a)(5) in col-
3 lecting and reporting information as required under
4 this part.”.

5 **SEC. 7344. AUTOMATED DATA PROCESSING REQUIRE-**
6 **MENTS.**

7 (a) REVISED REQUIREMENTS.—

8 (1) IN GENERAL.—Section 454(16) (42 U.S.C.
9 654(16)) is amended—

10 (A) by striking “, at the option of the
11 State,”;

12 (B) by inserting “and operation by the
13 State agency” after “for the establishment”;

14 (C) by inserting “meeting the requirements
15 of section 454A” after “information retrieval
16 system”;

17 (D) by striking “in the State and localities
18 thereof, so as (A)” and inserting “so as”;

19 (E) by striking “(i)”; and

20 (F) by striking “(including” and all that
21 follows and inserting a semicolon.

22 (2) AUTOMATED DATA PROCESSING.—Part D of
23 title IV (42 U.S.C. 651–669) is amended by insert-
24 ing after section 454 the following new section:

1 **“SEC. 454A. AUTOMATED DATA PROCESSING.**

2 “(a) IN GENERAL.—In order for a State to meet the
3 requirements of this section, the State agency administer-
4 ing the State program under this part shall have in oper-
5 ation a single statewide automated data processing and
6 information retrieval system which has the capability to
7 perform the tasks specified in this section with the fre-
8 quency and in the manner required by or under this part.

9 “(b) PROGRAM MANAGEMENT.—The automated sys-
10 tem required by this section shall perform such functions
11 as the Secretary may specify relating to management of
12 the State program under this part, including—

13 “(1) controlling and accounting for use of Fed-
14 eral, State, and local funds in carrying out the pro-
15 gram; and

16 “(2) maintaining the data necessary to meet
17 Federal reporting requirements under this part on a
18 timely basis.

19 “(c) CALCULATION OF PERFORMANCE INDICA-
20 TORS.—In order to enable the Secretary to determine the
21 incentive and penalty adjustments required by sections
22 452(g) and 458, the State agency shall—

23 “(1) use the automated system—

24 “(A) to maintain the requisite data on
25 State performance with respect to paternity es-

1 tablishment and child support enforcement in
2 the State; and

3 “(B) to calculate the IV–D paternity es-
4 tablishment percentage and overall performance
5 in child support enforcement for the State for
6 each fiscal year; and

7 “(2) have in place systems controls to ensure
8 the completeness and reliability of, and ready access
9 to, the data described in paragraph (1)(A), and the
10 accuracy of the calculations described in paragraph
11 (1)(B).

12 “(d) INFORMATION INTEGRITY AND SECURITY.—The
13 State agency shall have in effect safeguards on the integ-
14 rity, accuracy, and completeness of, access to, and use of
15 data in the automated system required by this section,
16 which shall include the following (in addition to such other
17 safeguards as the Secretary may specify in regulations):

18 “(1) POLICIES RESTRICTING ACCESS.—Written
19 policies concerning access to data by State agency
20 personnel, and sharing of data with other persons,
21 which—

22 “(A) permit access to and use of data only
23 to the extent necessary to carry out the State
24 program under this part; and

1 “(B) specify the data which may be used
2 for particular program purposes, and the per-
3 sonnel permitted access to such data.

4 “(2) SYSTEMS CONTROLS.—Systems controls
5 (such as passwords or blocking of fields) to ensure
6 strict adherence to the policies described in para-
7 graph (1).

8 “(3) MONITORING OF ACCESS.—Routine mon-
9 itoring of access to and use of the automated sys-
10 tem, through methods such as audit trails and feed-
11 back mechanisms, to guard against and promptly
12 identify unauthorized access or use.

13 “(4) TRAINING AND INFORMATION.—Proce-
14 dures to ensure that all personnel (including State
15 and local agency staff and contractors) who may
16 have access to or be required to use confidential pro-
17 gram data are informed of applicable requirements
18 and penalties (including those in section 6103 of the
19 Internal Revenue Code of 1986), and are adequately
20 trained in security procedures.

21 “(5) PENALTIES.—Administrative penalties (up
22 to and including dismissal from employment) for un-
23 authorized access to, or disclosure or use of, con-
24 fidential data.”.

1 (3) REGULATIONS.—The Secretary of Health
2 and Human Services shall prescribe final regulations
3 for implementation of section 454A of the Social Se-
4 curity Act not later than 2 years after the date of
5 the enactment of this Act.

6 (4) IMPLEMENTATION TIMETABLE.—Section
7 454(24) (42 U.S.C. 654(24)), as amended by sec-
8 tions 7304(a)(2) and 7312(a)(1), is amended to read
9 as follows:

10 “(24) provide that the State will have in effect
11 an automated data processing and information re-
12 trieval system—

13 “(A) by October 1, 1997, which meets all
14 requirements of this part which were enacted on
15 or before the date of enactment of the Family
16 Support Act of 1988; and

17 “(B) by October 1, 1999, which meets all
18 requirements of this part enacted on or before
19 the date of the enactment of the Balanced
20 Budget Reconciliation Act of 1995, except that
21 such deadline shall be extended by 1 day for
22 each day (if any) by which the Secretary fails
23 to meet the deadline imposed by section
24 7344(a)(3) of the Balanced Budget Reconcili-
25 ation Act of 1995.”.

1 (b) SPECIAL FEDERAL MATCHING RATE FOR DE-
2 VELOPMENT COSTS OF AUTOMATED SYSTEMS.—

3 (1) IN GENERAL.—Section 455(a) (42 U.S.C.
4 655(a)) is amended—

5 (A) in paragraph (1)(B)—

6 (i) by striking “90 percent” and in-
7 serting “the percent specified in paragraph
8 (3)”;

9 (ii) by striking “so much of”; and

10 (iii) by striking “which the Secretary”
11 and all that follows and inserting “, and”;
12 and

13 (B) by adding at the end the following new
14 paragraph:

15 “(3)(A) The Secretary shall pay to each State, for
16 each quarter in fiscal years 1996 and 1997, 90 percent
17 of so much of the State expenditures described in para-
18 graph (1)(B) as the Secretary finds are for a system meet-
19 ing the requirements specified in section 454(16) (as in
20 effect on the day before the date of the enactment of the
21 Balanced Budget Reconciliation Act of 1995), but limited
22 to the amount approved for States in the advance planning
23 documents of such States submitted on or before May 1,
24 1995.

1 “(B)(i) The Secretary shall pay to each State, for
 2 each quarter in fiscal years 1997 through 2001, the per-
 3 centage specified in clause (ii) of so much of the State
 4 expenditures described in paragraph (1)(B) as the Sec-
 5 retary finds are for a system meeting the requirements
 6 of sections 454(16) and 454A.

7 “(ii) The percentage specified in this clause is the
 8 greater of—

9 “(I) 80 percent; or

10 “(II) the percentage otherwise applicable to
 11 Federal payments to the State under subparagraph
 12 (A) (as adjusted pursuant to section 458).”.

13 (2) TEMPORARY LIMITATION ON PAYMENTS
 14 UNDER SPECIAL FEDERAL MATCHING RATE.—

15 (A) IN GENERAL.—The Secretary of
 16 Health and Human Services may not pay more
 17 than \$260,000,000 in the aggregate under sec-
 18 tion 455(a)(3) of the Social Security Act for fis-
 19 cal years 1996, 1997, 1998, 1999, and 2000.

20 (B) ALLOCATION OF LIMITATION AMONG
 21 STATES.—The total amount payable to a State
 22 under section 455(a)(3) of such Act for fiscal
 23 years 1996, 1997, 1998, 1999, and 2000 shall
 24 not exceed the limitation determined for the

1 State by the Secretary of Health and Human
2 Services in regulations.

3 (C) ALLOCATION FORMULA.—The regula-
4 tions referred to in subparagraph (B) shall pre-
5 scribe a formula for allocating the amount spec-
6 ified in subparagraph (A) among States with
7 plans approved under part D of title IV of the
8 Social Security Act, which shall take into ac-
9 count—

10 (i) the relative size of State caseloads
11 under such part; and

12 (ii) the level of automation needed to
13 meet the automated data processing re-
14 quirements of such part.

15 (c) CONFORMING AMENDMENT.—Section 123(c) of
16 the Family Support Act of 1988 (102 Stat. 2352; Public
17 Law 100–485) is repealed.

18 **SEC. 7345. TECHNICAL ASSISTANCE.**

19 (a) FOR TRAINING OF FEDERAL AND STATE STAFF,
20 RESEARCH AND DEMONSTRATION PROGRAMS, AND SPE-
21 CIAL PROJECTS OF REGIONAL OR NATIONAL SIGNIFI-
22 CANCE.—Section 452 (42 U.S.C. 652) is amended by add-
23 ing at the end the following new subsection:

24 “(j) Out of any money in the Treasury of the United
25 States not otherwise appropriated, there is hereby appro-

1 priated to the Secretary for each fiscal year an amount
2 equal to 1 percent of the total amount paid to the Federal
3 Government pursuant to section 457(a) during the imme-
4 diately preceding fiscal year (as determined on the basis
5 of the most recent reliable data available to the Secretary
6 as of the end of the 3rd calendar quarter following the
7 end of such preceding fiscal year), to cover costs incurred
8 by the Secretary for—

9 “(1) information dissemination and technical
10 assistance to States, training of State and Federal
11 staff, staffing studies, and related activities needed
12 to improve programs under this part (including tech-
13 nical assistance concerning State automated systems
14 required by this part); and

15 “(2) research, demonstration, and special
16 projects of regional or national significance relating
17 to the operation of State programs under this
18 part.”.

19 (b) OPERATION OF FEDERAL PARENT LOCATOR
20 SERVICE.—Section 453 (42 U.S.C. 653), as amended by
21 section 7316(f), is amended by adding at the end the fol-
22 lowing new subsection:

23 “(n) Out of any money in the Treasury of the United
24 States not otherwise appropriated, there is hereby appro-
25 priated to the Secretary for each fiscal year an amount

1 equal to 2 percent of the total amount paid to the Federal
2 Government pursuant to section 457(a) during the imme-
3 diately preceding fiscal year (as determined on the basis
4 of the most recent reliable data available to the Secretary
5 as of the end of the 3rd calendar quarter following the
6 end of such preceding fiscal year), to cover costs incurred
7 by the Secretary for operation of the Federal Parent Loca-
8 tor Service under this section, to the extent such costs are
9 not recovered through user fees.”.

10 **SEC. 7346. REPORTS AND DATA COLLECTION BY THE SEC-**
11 **RETARY.**

12 (a) ANNUAL REPORT TO CONGRESS.—

13 (1) Section 452(a)(10)(A) (42 U.S.C.
14 652(a)(10)(A)) is amended—

15 (A) by striking “this part;” and inserting
16 “this part, including—”; and

17 (B) by adding at the end the following new
18 clauses:

19 “(i) the total amount of child support
20 payments collected as a result of services
21 furnished during the fiscal year to individ-
22 uals receiving services under this part;

23 “(ii) the cost to the States and to the
24 Federal Government of so furnishing the
25 services; and

1 “(iii) the number of cases involving
2 families—

3 “(I) who became ineligible for as-
4 sistance under State programs funded
5 under part A during a month in the
6 fiscal year; and

7 “(II) with respect to whom a
8 child support payment was received in
9 the month;”.

10 (2) Section 452(a)(10)(C) (42 U.S.C.
11 652(a)(10)(C)) is amended—

12 (A) in the matter preceding clause (i)—

13 (i) by striking “with the data required
14 under each clause being separately stated
15 for cases” and inserting “separately stated
16 for (1) cases”;

17 (ii) by striking “cases where the child
18 was formerly receiving” and inserting “or
19 formerly received”;

20 (iii) by inserting “or 2136” after
21 “471(a)(17)”; and

22 (iv) by inserting “(2)” before “all
23 other”;

1 (B) in each of clauses (i) and (ii), by strik-
2 ing “, and the total amount of such obliga-
3 tions”;

4 (C) in clause (iii), by striking “described
5 in” and all that follows and inserting “in which
6 support was collected during the fiscal year;”;

7 (D) by striking clause (iv); and

8 (E) by redesignating clause (v) as clause
9 (vii), and inserting after clause (iii) the follow-
10 ing new clauses:

11 “(iv) the total amount of support col-
12 lected during such fiscal year and distrib-
13 uted as current support;

14 “(v) the total amount of support col-
15 lected during such fiscal year and distrib-
16 uted as arrearages;

17 “(vi) the total amount of support due
18 and unpaid for all fiscal years; and”.

19 (3) Section 452(a)(10)(G) (42 U.S.C.
20 652(a)(10)(G)) is amended by striking “on the use
21 of Federal courts and”.

22 (4) Section 452(a)(10) (42 U.S.C. 652(a)(10))
23 is amended—

24 (A) in subparagraph (H), by striking
25 “and”;

1 (B) in subparagraph (I), by striking the
2 period and inserting “; and”; and

3 (C) by inserting after subparagraph (I) the
4 following new subparagraph:

5 “(J) compliance, by State, with the stand-
6 ards established pursuant to subsections (h)
7 and (i).”.

8 (5) Section 452(a)(10) (42 U.S.C. 652(a)(10))
9 is amended by striking all that follows subparagraph
10 (J), as added by paragraph (4).

11 (b) EFFECTIVE DATE.—The amendments made by
12 subsection (a) shall be effective with respect to fiscal year
13 1996 and succeeding fiscal years.

14 **CHAPTER 6—ESTABLISHMENT AND**
15 **MODIFICATION OF SUPPORT ORDERS**

16 **SEC. 7351. NATIONAL CHILD SUPPORT GUIDELINES COM-**
17 **MISSION.**

18 (a) ESTABLISHMENT.—There is hereby established a
19 commission to be known as the National Child Support
20 Guidelines Commission (in this section referred to as the
21 “Commission”).

22 (b) GENERAL DUTIES.—

23 (1) IN GENERAL.—The Commission shall deter-
24 mine—

1 (A) whether it is appropriate to develop a
2 national child support guideline for consider-
3 ation by the Congress or for adoption by indi-
4 vidual States; or

5 (B) based on a study of various guideline
6 models, the benefits and deficiencies of such
7 models, and any needed improvements.

8 (2) DEVELOPMENT OF MODELS.—If the Com-
9 mission determines under paragraph (1)(A) that a
10 national child support guideline is needed or under
11 paragraph (1)(B) that improvements to guideline
12 models are needed, the Commission shall develop
13 such national guideline or improvements.

14 (c) MATTERS FOR CONSIDERATION BY THE COMMIS-
15 SION.—In making the recommendations concerning guide-
16 lines required under subsection (b), the Commission shall
17 consider—

18 (1) the adequacy of State child support guide-
19 lines established pursuant to section 467;

20 (2) matters generally applicable to all support
21 orders, including—

22 (A) the feasibility of adopting uniform
23 terms in all child support orders;

24 (B) how to define income and under what
25 circumstances income should be imputed; and

1 (C) tax treatment of child support pay-
2 ments;

3 (3) the appropriate treatment of cases in which
4 either or both parents have financial obligations to
5 more than 1 family, including the effect (if any) to
6 be given to—

7 (A) the income of either parent's spouse;
8 and

9 (B) the financial responsibilities of either
10 parent for other children or stepchildren;

11 (4) the appropriate treatment of expenses for
12 child care (including care of the children of either
13 parent, and work-related or job-training-related child
14 care);

15 (5) the appropriate treatment of expenses for
16 health care (including uninsured health care) and
17 other extraordinary expenses for children with spe-
18 cial needs;

19 (6) the appropriate duration of support by 1 or
20 both parents, including—

21 (A) support (including shared support) for
22 postsecondary or vocational education; and

23 (B) support for disabled adult children;

24 (7) procedures to automatically adjust child
25 support orders periodically to address changed eco-

1 nomic circumstances, including changes in the
2 Consumer Price Index or either parent's income and
3 expenses in particular cases;

4 (8) procedures to help noncustodial parents ad-
5 dress grievances regarding visitation and custody or-
6 ders to prevent such parents from withholding child
7 support payments until such grievances are resolved;
8 and

9 (9) whether, or to what extent, support levels
10 should be adjusted in cases in which custody is
11 shared or in which the noncustodial parent has ex-
12 tended visitation rights.

13 (d) MEMBERSHIP.—

14 (1) NUMBER; APPOINTMENT.—

15 (A) IN GENERAL.—The Commission shall
16 be composed of 12 individuals appointed not
17 later than January 15, 1997, of which—

18 (i) 2 shall be appointed by the Chair-
19 man of the Committee on Finance of the
20 Senate, and 1 shall be appointed by the
21 ranking minority member of the Commit-
22 tee;

23 (ii) 2 shall be appointed by the Chair-
24 man of the Committee on Ways and Means
25 of the House of Representatives, and 1

1 shall be appointed by the ranking minority
2 member of the Committee; and

3 (iii) 6 shall be appointed by the Sec-
4 retary of Health and Human Services.

5 (B) QUALIFICATIONS OF MEMBERS.—

6 Members of the Commission shall have exper-
7 tise and experience in the evaluation and devel-
8 opment of child support guidelines. At least 1
9 member shall represent advocacy groups for
10 custodial parents, at least 1 member shall rep-
11 resent advocacy groups for noncustodial par-
12 ents, and at least 1 member shall be the direc-
13 tor of a State program under part D of title IV
14 of the Social Security Act.

15 (2) TERMS OF OFFICE.—Each member shall be
16 appointed for a term of 2 years. A vacancy in the
17 Commission shall be filled in the manner in which
18 the original appointment was made.

19 (e) COMMISSION POWERS, COMPENSATION, ACCESS
20 TO INFORMATION, AND SUPERVISION.—The 1st sentence
21 of subparagraph (C), the 1st and 3rd sentences of sub-
22 paragraph (D), subparagraph (F) (except with respect to
23 the conduct of medical studies), clauses (ii) and (iii) of
24 subparagraph (G), and subparagraph (H) of section
25 1886(e)(6) of the Social Security Act shall apply to the

1 Commission in the same manner in which such provisions
2 apply to the Prospective Payment Assessment Commis-
3 sion.

4 (f) REPORT.—Not later than 2 years after the ap-
5 pointment of members, the Commission shall submit to
6 the President, the Committee on Ways and Means of the
7 House of Representatives, and the Committee on Finance
8 of the Senate, a recommended national child support
9 guideline and a final assessment of issues relating to such
10 a proposed national child support guideline.

11 (g) TERMINATION.—The Commission shall terminate
12 6 months after the submission of the report described in
13 subsection (e).

14 **SEC. 7352. SIMPLIFIED PROCESS FOR REVIEW AND ADJUST-**
15 **MENT OF CHILD SUPPORT ORDERS.**

16 Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amend-
17 ed to read as follows:

18 “(10) Procedures under which the State shall
19 review and adjust each support order being enforced
20 under this part upon the request of either parent or
21 the State if there is an assignment. Such procedures
22 shall provide the following:

23 “(A) The State shall review and, as appro-
24 priate, adjust the support order every 3 years,

1 taking into account the best interests of the
2 child involved.

3 “(B)(i) The State may elect to review and,
4 if appropriate, adjust an order pursuant to sub-
5 paragraph (A) by—

6 “(I) reviewing and, if appropriate, ad-
7 justing the order in accordance with the
8 guidelines established pursuant to section
9 467(a) if the amount of the child support
10 award under the order differs from the
11 amount that would be awarded in accord-
12 ance with the guidelines; or

13 “(II) applying a cost-of-living adjust-
14 ment to the order in accordance with a for-
15 mula developed by the State and permit ei-
16 ther party to contest the adjustment, with-
17 in 30 days after the date of the notice of
18 the adjustment, by making a request for
19 review and, if appropriate, adjustment of
20 the order in accordance with the child sup-
21 port guidelines established pursuant to sec-
22 tion 467(a).

23 “(ii) Any adjustment under clause (i) shall
24 be made without a requirement for proof or
25 showing of a change in circumstances.

1 “(C) The State may use automated meth-
2 ods (including automated comparisons with
3 wage or State income tax data) to identify or-
4 ders eligible for review, conduct the review,
5 identify orders eligible for adjustment, and
6 apply the appropriate adjustment to the orders
7 eligible for adjustment under the threshold es-
8 tablished by the State.

9 “(D)(i) The State shall, at the request of
10 either parent subject to such an order or of any
11 State child support enforcement agency, review
12 and, if appropriate, adjust the order in accord-
13 ance with the guidelines established pursuant to
14 section 467(a) based upon a substantial change
15 in the circumstances of either parent.

16 “(ii) The State shall provide notice to the
17 parents subject to such an order informing
18 them of their right to request the State to re-
19 view and, if appropriate, adjust the order pur-
20 suant to clause (i). The notice may be included
21 in the order.”.

1 **SEC. 7353. FURNISHING CONSUMER REPORTS FOR CER-**
2 **TAIN PURPOSES RELATING TO CHILD SUP-**
3 **PORT.**

4 Section 604 of the Fair Credit Reporting Act (15
5 U.S.C. 1681b) is amended by adding at the end the follow-
6 ing new paragraphs:

7 “(4) In response to a request by the head of a
8 State or local child support enforcement agency (or
9 a State or local government official authorized by
10 the head of such an agency), if the person making
11 the request certifies to the consumer reporting agen-
12 cy that—

13 “(A) the consumer report is needed for the
14 purpose of establishing an individual’s capacity
15 to make child support payments or determining
16 the appropriate level of such payments;

17 “(B) the paternity of the consumer for the
18 child to which the obligation relates has been
19 established or acknowledged by the consumer in
20 accordance with State laws under which the ob-
21 ligation arises (if required by those laws);

22 “(C) the person has provided at least 10
23 days’ prior notice to the consumer whose report
24 is requested, by certified or registered mail to
25 the last known address of the consumer, that
26 the report will be requested; and

1 “(D) the consumer report will be kept con-
 2 fidential, will be used solely for a purpose de-
 3 scribed in subparagraph (A), and will not be
 4 used in connection with any other civil, admin-
 5 istrative, or criminal proceeding, or for any
 6 other purpose.

7 “(5) To an agency administering a State plan
 8 under section 454 of the Social Security Act (42
 9 U.S.C. 654) for use to set an initial or modified
 10 child support award.”.

11 **SEC. 7354. NONLIABILITY FOR DEPOSITORY INSTITUTIONS**
 12 **PROVIDING FINANCIAL RECORDS TO STATE**
 13 **CHILD SUPPORT ENFORCEMENT AGENCIES**
 14 **IN CHILD SUPPORT CASES.**

15 (a) IN GENERAL.—Notwithstanding any other provi-
 16 sion of Federal or State law, a depository institution shall
 17 not be liable under any Federal or State law to any person
 18 for disclosing any financial record of an individual to a
 19 State child support enforcement agency attempting to es-
 20 tablish, modify, or enforce a child support obligation of
 21 such individual.

22 (b) PROHIBITION OF DISCLOSURE OF FINANCIAL
 23 RECORD OBTAINED BY STATE CHILD SUPPORT EN-
 24 FORCEMENT AGENCY.—A State child support enforcement
 25 agency which obtains a financial record of an individual

1 from a financial institution pursuant to subsection (a)
2 may disclose such financial record only for the purpose
3 of, and to the extent necessary in, establishing, modifying,
4 or enforcing a child support obligation of such individual.

5 (c) CIVIL DAMAGES FOR UNAUTHORIZED DISCLO-
6 SURE.—

7 (1) DISCLOSURE BY STATE OFFICER OR EM-
8 PLOYEE.—If any person knowingly, or by reason of
9 negligence, discloses a financial record of an individ-
10 ual in violation of subsection (b), such individual
11 may bring a civil action for damages against such
12 person in a district court of the United States.

13 (2) NO LIABILITY FOR GOOD FAITH BUT ERRO-
14 NEOUS INTERPRETATION.—No liability shall arise
15 under this subsection with respect to any disclosure
16 which results from a good faith, but erroneous, in-
17 terpretation of subsection (b).

18 (3) DAMAGES.—In any action brought under
19 paragraph (1), upon a finding of liability on the part
20 of the defendant, the defendant shall be liable to the
21 plaintiff in an amount equal to the sum of—

22 (A) the greater of—

23 (i) \$1,000 for each act of unauthor-
24 ized disclosure of a financial record with

1 respect to which such defendant is found
2 liable; or

3 (ii) the sum of—

4 (I) the actual damages sustained
5 by the plaintiff as a result of such un-
6 authorized disclosure; plus

7 (II) in the case of a willful disclo-
8 sure or a disclosure which is the re-
9 sult of gross negligence, punitive dam-
10 ages; plus

11 (B) the costs (including attorney's fees) of
12 the action.

13 (d) DEFINITIONS.—For purposes of this section:

14 (1) The term “depository institution” means—

15 (A) a depository institution, as defined in
16 section 3(c) of the Federal Deposit Insurance
17 Act (12 U.S.C. 1813(c));

18 (B) an institution-affiliated party, as de-
19 fined in section 3(u) of such Act (12 U.S.C.
20 1813(v)); and

21 (C) any Federal credit union or State cred-
22 it union, as defined in section 101 of the Fed-
23 eral Credit Union Act (12 U.S.C. 1752), includ-
24 ing an institution-affiliated party of such a

1 credit union, as defined in section 206(r) of
2 such Act (12 U.S.C. 1786(r)).

3 (2) The term “financial record” has the mean-
4 ing given such term in section 1101 of the Right to
5 Financial Privacy Act of 1978 (12 U.S.C. 3401).

6 (3) The term “State child support enforcement
7 agency” means a State agency which administers a
8 State program for establishing and enforcing child
9 support obligations.

10 **CHAPTER 7—ENFORCEMENT OF SUPPORT** 11 **ORDERS**

12 **SEC. 7361. INTERNAL REVENUE SERVICE COLLECTION OF** 13 **ARREARAGES.**

14 (a) AMENDMENT TO INTERNAL REVENUE CODE.—
15 Section 6305(a) of the Internal Revenue Code of 1986 (re-
16 lating to collection of certain liability) is amended—

17 (1) by striking “and” at the end of paragraph

18 (3);

19 (2) by striking the period at the end of para-
20 graph (4) and inserting “, and”;

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

23 “(5) no additional fee may be assessed for ad-
24 justments to an amount previously certified pursu-

1 ant to such section 452(b) with respect to the same
2 obligor.”; and

3 (4) by striking “Secretary of Health, Edu-
4 cation, and Welfare” each place it appears and in-
5 serting “Secretary of Health and Human Services”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall become effective October 1, 1997.

8 **SEC. 7362. AUTHORITY TO COLLECT SUPPORT FROM FED-**
9 **ERAL EMPLOYEES.**

10 (a) CONSOLIDATION AND STREAMLINING OF AU-
11 THORITIES.—Section 459 (42 U.S.C. 659) is amended to
12 read as follows:

13 **“SEC. 459. CONSENT BY THE UNITED STATES TO INCOME**
14 **WITHHOLDING, GARNISHMENT, AND SIMILAR**
15 **PROCEEDINGS FOR ENFORCEMENT OF CHILD**
16 **SUPPORT AND ALIMONY OBLIGATIONS.**

17 “(a) CONSENT TO SUPPORT ENFORCEMENT.—Not-
18 withstanding any other provision of law (including section
19 207 of this Act and section 5301 of title 38, United States
20 Code), effective January 1, 1975, moneys (the entitlement
21 to which is based upon remuneration for employment) due
22 from, or payable by, the United States or the District of
23 Columbia (including any agency, subdivision, or instru-
24 mentality thereof) to any individual, including members
25 of the Armed Forces of the United States, shall be subject,

1 in like manner and to the same extent as if the United
2 States or the District of Columbia were a private person,
3 to withholding in accordance with State law enacted pur-
4 suant to subsections (a)(1) and (b) of section 466 and reg-
5 ulations of the Secretary under such subsections, and to
6 any other legal process brought, by a State agency admin-
7 istering a program under a State plan approved under this
8 part or by an individual obligee, to enforce the legal obliga-
9 tion of the individual to provide child support or alimony.

10 “(b) CONSENT TO REQUIREMENTS APPLICABLE TO
11 PRIVATE PERSON.—With respect to notice to withhold in-
12 come pursuant to subsection (a)(1) or (b) of section 466,
13 or any other order or process to enforce support obliga-
14 tions against an individual (if the order or process con-
15 tains or is accompanied by sufficient data to permit
16 prompt identification of the individual and the moneys in-
17 volved), each governmental entity specified in subsection
18 (a) shall be subject to the same requirements as would
19 apply if the entity were a private person, except as other-
20 wise provided in this section.

21 “(c) DESIGNATION OF AGENT; RESPONSE TO NOTICE
22 OR PROCESS—

23 “(1) DESIGNATION OF AGENT.—The head of
24 each agency subject to this section shall—

1 “(A) designate an agent or agents to re-
2 ceive orders and accept service of process in
3 matters relating to child support or alimony;
4 and

5 “(B) annually publish in the Federal Reg-
6 ister the designation of the agent or agents,
7 identified by title or position, mailing address,
8 and telephone number.

9 “(2) RESPONSE TO NOTICE OR PROCESS.—If an
10 agent designated pursuant to paragraph (1) of this
11 subsection receives notice pursuant to State proce-
12 dures in effect pursuant to subsection (a)(1) or (b)
13 of section 466, or is effectively served with any
14 order, process, or interrogatory, with respect to an
15 individual’s child support or alimony payment obli-
16 gations, the agent shall—

17 “(A) as soon as possible (but not later
18 than 15 days) thereafter, send written notice of
19 the notice or service (together with a copy of
20 the notice or service) to the individual at the
21 duty station or last-known home address of the
22 individual;

23 “(B) within 30 days (or such longer period
24 as may be prescribed by applicable State law)
25 after receipt of a notice pursuant to such State

1 procedures, comply with all applicable provi-
2 sions of section 466; and

3 “(C) within 30 days (or such longer period
4 as may be prescribed by applicable State law)
5 after effective service of any other such order,
6 process, or interrogatory, respond to the order,
7 process, or interrogatory.

8 “(d) PRIORITY OF CLAIMS.—If a governmental entity
9 specified in subsection (a) receives notice or is served with
10 process, as provided in this section, concerning amounts
11 owed by an individual to more than 1 person—

12 “(1) support collection under section 466(b)
13 must be given priority over any other process, as
14 provided in section 466(b)(7);

15 “(2) allocation of moneys due or payable to an
16 individual among claimants under section 466(b)
17 shall be governed by section 466(b) and the regula-
18 tions prescribed under such section; and

19 “(3) such moneys as remain after compliance
20 with paragraphs (1) and (2) shall be available to
21 satisfy any other such processes on a 1st-come, 1st-
22 served basis, with any such process being satisfied
23 out of such moneys as remain after the satisfaction
24 of all such processes which have been previously
25 served.

1 “(e) NO REQUIREMENT TO VARY PAY CYCLES.—A
2 governmental entity that is affected by legal process
3 served for the enforcement of an individual’s child support
4 or alimony payment obligations shall not be required to
5 vary its normal pay and disbursement cycle in order to
6 comply with the legal process.

7 “(f) RELIEF FROM LIABILITY.—

8 “(1) Neither the United States, nor the govern-
9 ment of the District of Columbia, nor any disbursing
10 officer shall be liable with respect to any payment
11 made from moneys due or payable from the United
12 States to any individual pursuant to legal process
13 regular on its face, if the payment is made in ac-
14 cordance with this section and the regulations issued
15 to carry out this section.

16 “(2) No Federal employee whose duties include
17 taking actions necessary to comply with the require-
18 ments of subsection (a) with regard to any individ-
19 ual shall be subject under any law to any discipli-
20 nary action or civil or criminal liability or penalty
21 for, or on account of, any disclosure of information
22 made by the employee in connection with the carry-
23 ing out of such actions.

24 “(g) REGULATIONS.—Authority to promulgate regu-
25 lations for the implementation of this section shall, insofar

1 as this section applies to moneys due from (or payable
2 by)—

3 “(1) the United States (other than the legisla-
4 tive or judicial branches of the Federal Government)
5 or the government of the District of Columbia, be
6 vested in the President (or the designee of the Presi-
7 dent);

8 “(2) the legislative branch of the Federal Gov-
9 ernment, be vested jointly in the President pro tem-
10 pore of the Senate and the Speaker of the House of
11 Representatives (or their designees), and

12 “(3) the judicial branch of the Federal Govern-
13 ment, be vested in the Chief Justice of the United
14 States (or the designee of the Chief Justice).

15 “(h) MONEYS SUBJECT TO PROCESS.—

16 “(1) IN GENERAL.—Subject to paragraph (2),
17 moneys paid or payable to an individual which are
18 considered to be based upon remuneration for em-
19 ployment, for purposes of this section—

20 “(A) consist of—

21 “(i) compensation paid or payable for
22 personal services of the individual, whether
23 the compensation is denominated as wages,
24 salary, commission, bonus, pay, allowances,

1 or otherwise (including severance pay, sick
2 pay, and incentive pay);

3 “(ii) periodic benefits (including a
4 periodic benefit as defined in section
5 228(h)(3)) or other payments—

6 “(I) under the insurance system
7 established by title II;

8 “(II) under any other system or
9 fund established by the United States
10 which provides for the payment of
11 pensions, retirement or retired pay,
12 annuities, dependents’ or survivors’
13 benefits, or similar amounts payable
14 on account of personal services per-
15 formed by the individual or any other
16 individual;

17 “(III) as compensation for death
18 under any Federal program;

19 “(IV) under any Federal pro-
20 gram established to provide ‘black
21 lung’ benefits; or

22 “(V) by the Secretary of Veter-
23 ans Affairs as pension, or as com-
24 pensation for a service-connected dis-
25 ability or death (except any compensa-

1 tion paid by the Secretary to a mem-
2 ber of the Armed Forces who is in re-
3 ceipt of retired or retainer pay if the
4 member has waived a portion of the
5 retired pay of the member in order to
6 receive the compensation); and

7 “(iii) workers’ compensation benefits
8 paid under Federal or State law; but

9 “(B) do not include any payment—

10 “(i) by way of reimbursement or oth-
11 erwise, to defray expenses incurred by the
12 individual in carrying out duties associated
13 with the employment of the individual; or

14 “(ii) as allowances for members of the
15 uniformed services payable pursuant to
16 chapter 7 of title 37, United States Code,
17 as prescribed by the Secretaries concerned
18 (defined by section 101(5) of such title) as
19 necessary for the efficient performance of
20 duty.

21 “(2) CERTAIN AMOUNTS EXCLUDED.—In deter-
22 mining the amount of any moneys due from, or pay-
23 able by, the United States to any individual, there
24 shall be excluded amounts which—

1 “(A) are owed by the individual to the
2 United States;

3 “(B) are required by law to be, and are,
4 deducted from the remuneration or other pay-
5 ment involved, including Federal employment
6 taxes, and fines and forfeitures ordered by
7 court-martial;

8 “(C) are properly withheld for Federal,
9 State, or local income tax purposes, if the with-
10 holding of the amounts is authorized or re-
11 quired by law and if amounts withheld are not
12 greater than would be the case if the individual
13 claimed all dependents to which he was entitled
14 (the withholding of additional amounts pursu-
15 ant to section 3402(i) of the Internal Revenue
16 Code of 1986 may be permitted only when the
17 individual presents evidence of a tax obligation
18 which supports the additional withholding);

19 “(D) are deducted as health insurance pre-
20 miums;

21 “(E) are deducted as normal retirement
22 contributions (not including amounts deducted
23 for supplementary coverage); or

24 “(F) are deducted as normal life insurance
25 premiums from salary or other remuneration

1 for employment (not including amounts de-
2 ducted for supplementary coverage).

3 “(i) DEFINITIONS.—As used in this section:

4 “(1) UNITED STATES.—The term ‘United
5 States’ includes any department, agency, or instru-
6 mentality of the legislative, judicial, or executive
7 branch of the Federal Government, the United
8 States Postal Service, the Postal Rate Commission,
9 any Federal corporation created by an Act of Con-
10 gress that is wholly owned by the Federal Govern-
11 ment, and the governments of the territories and
12 possessions of the United States.

13 “(2) CHILD SUPPORT.—The term ‘child sup-
14 port’, when used in reference to the legal obligations
15 of an individual to provide such support, means peri-
16 odic payments of funds for the support and mainte-
17 nance of a child or children with respect to which
18 the individual has such an obligation, and (subject
19 to and in accordance with State law) includes pay-
20 ments to provide for health care, education, recre-
21 ation, clothing, or to meet other specific needs of
22 such a child or children, and includes attorney’s
23 fees, interest, and court costs, when and to the ex-
24 tent that the same are expressly made recoverable as
25 such pursuant to a decree, order, or judgment issued

1 in accordance with applicable State law by a court
2 of competent jurisdiction.

3 “(3) ALIMONY.—The term ‘alimony’, when used
4 in reference to the legal obligations of an individual
5 to provide the same, means periodic payments of
6 funds for the support and maintenance of the spouse
7 (or former spouse) of the individual, and (subject to
8 and in accordance with State law) includes separate
9 maintenance, alimony pendente lite, maintenance,
10 and spousal support, and includes attorney’s fees,
11 interest, and court costs when and to the extent that
12 the same are expressly made recoverable as such
13 pursuant to a decree, order, or judgment issued in
14 accordance with applicable State law by a court of
15 competent jurisdiction. Such term does not include
16 any payment or transfer of property or its value by
17 an individual to the spouse or a former spouse of the
18 individual in compliance with any community prop-
19 erty settlement, equitable distribution of property, or
20 other division of property between spouses or former
21 spouses.

22 “(4) PRIVATE PERSON.—The term ‘private per-
23 son’ means a person who does not have sovereign or
24 other special immunity or privilege which causes the
25 person not to be subject to legal process.

1 “(5) LEGAL PROCESS.—The term ‘legal proc-
2 ess’ means any writ, order, summons, or other simi-
3 lar process in the nature of garnishment—

4 “(A) which is issued by—

5 “(i) a court of competent jurisdiction
6 in any State, territory, or possession of the
7 United States;

8 “(ii) a court of competent jurisdiction
9 in any foreign country with which the
10 United States has entered into an agree-
11 ment which requires the United States to
12 honor the process; or

13 “(iii) an authorized official pursuant
14 to an order of such a court of competent
15 jurisdiction or pursuant to State or local
16 law; and

17 “(B) which is directed to, and the purpose
18 of which is to compel, a governmental entity
19 which holds moneys which are otherwise pay-
20 able to an individual to make a payment from
21 the moneys to another party in order to satisfy
22 a legal obligation of the individual to provide
23 child support or make alimony payments.”.

24 (b) CONFORMING AMENDMENTS.—

1 (1) TO PART D OF TITLE IV.—Sections 461 and
2 462 (42 U.S.C. 661 and 662) are repealed.

3 (2) TO TITLE 5, UNITED STATES CODE.—Sec-
4 tion 5520a of title 5, United States Code, is amend-
5 ed, in subsections (h)(2) and (i), by striking “sec-
6 tions 459, 461, and 462 of the Social Security Act
7 (42 U.S.C. 659, 661, and 662)” and inserting “sec-
8 tion 459 of the Social Security Act (42 U.S.C.
9 659)”.

10 (c) MILITARY RETIRED AND RETAINER PAY.—

11 (1) DEFINITION OF COURT.—Section
12 1408(a)(1) of title 10, United States Code, is
13 amended—

14 (A) by striking “and” at the end of sub-
15 paragraph (B);

16 (B) by striking the period at the end of
17 subparagraph (C) and inserting “; and”; and

18 (C) by adding after subparagraph (C) the
19 following new subparagraph:

20 “(D) any administrative or judicial tribu-
21 nal of a State competent to enter orders for
22 support or maintenance (including a State
23 agency administering a program under a State
24 plan approved under part D of title IV of the
25 Social Security Act), and, for purposes of this

1 subparagraph, the term ‘State’ includes the
2 District of Columbia, the Commonwealth of
3 Puerto Rico, the Virgin Islands, Guam, and
4 American Samoa.”.

5 (2) DEFINITION OF COURT ORDER.—Section
6 1408(a)(2) of such title is amended by inserting “or
7 a court order for the payment of child support not
8 included in or accompanied by such a decree or set-
9 tlement,” before “which—”.

10 (3) PUBLIC PAYEE.—Section 1408(d) of such
11 title is amended—

12 (A) in the heading, by inserting “(OR FOR
13 BENEFIT OF)” before “SPOUSE OR”; and

14 (B) in paragraph (1), in the 1st sentence,
15 by inserting “(or for the benefit of such spouse
16 or former spouse to a State disbursement unit
17 established pursuant to section 454B of the So-
18 cial Security Act or other public payee des-
19 ignated by a State, in accordance with part D
20 of title IV of the Social Security Act, as di-
21 rected by court order, or as otherwise directed
22 in accordance with such part D)” before “in an
23 amount sufficient”.

1 (A) RESIDENTIAL ADDRESS.—Except as
2 provided in subparagraph (B), the address for
3 a member of the Armed Forces shown in the lo-
4 cator service shall be the residential address of
5 that member.

6 (B) DUTY ADDRESS.—The address for a
7 member of the Armed Forces shown in the loca-
8 tor service shall be the duty address of that
9 member in the case of a member—

10 (i) who is permanently assigned over-
11 seas, to a vessel, or to a routinely
12 deployable unit; or

13 (ii) with respect to whom the Sec-
14 retary concerned makes a determination
15 that the member's residential address
16 should not be disclosed due to national se-
17 curity or safety concerns.

18 (3) UPDATING OF LOCATOR INFORMATION.—
19 Within 30 days after a member listed in the locator
20 service establishes a new residential address (or a
21 new duty address, in the case of a member covered
22 by paragraph (2)(B)), the Secretary concerned shall
23 update the locator service to indicate the new ad-
24 dress of the member.

1 (4) AVAILABILITY OF INFORMATION.—The Sec-
2 retary of Defense shall make information regarding
3 the address of a member of the Armed Forces listed
4 in the locator service available, on request, to the
5 Federal Parent Locator Service established under
6 section 453 of the Social Security Act.

7 (b) FACILITATING GRANTING OF LEAVE FOR AT-
8 TENDANCE AT HEARINGS.—

9 (1) REGULATIONS.—The Secretary of each
10 military department, and the Secretary of Transpor-
11 tation with respect to the Coast Guard when it is
12 not operating as a service in the Navy, shall pre-
13 scribe regulations to facilitate the granting of leave
14 to a member of the Armed Forces under the juris-
15 diction of that Secretary in a case in which—

16 (A) the leave is needed for the member to
17 attend a hearing described in paragraph (2);

18 (B) the member is not serving in or with
19 a unit deployed in a contingency operation (as
20 defined in section 101 of title 10, United States
21 Code); and

22 (C) the exigencies of military service (as
23 determined by the Secretary concerned) do not
24 otherwise require that such leave not be grant-
25 ed.

1 (2) COVERED HEARINGS.—Paragraph (1) ap-
2 plies to a hearing that is conducted by a court or
3 pursuant to an administrative process established
4 under State law, in connection with a civil action—

5 (A) to determine whether a member of the
6 Armed Forces is a natural parent of a child; or

7 (B) to determine an obligation of a mem-
8 ber of the Armed Forces to provide child sup-
9 port.

10 (3) DEFINITIONS.—For purposes of this sub-
11 section:

12 (A) The term “court” has the meaning
13 given that term in section 1408(a) of title 10,
14 United States Code.

15 (B) The term “child support” has the
16 meaning given such term in section 459(i) of
17 the Social Security Act (42 U.S.C. 659(i)).

18 (c) PAYMENT OF MILITARY RETIRED PAY IN COM-
19 PLIANCE WITH CHILD SUPPORT ORDERS.—

20 (1) DATE OF CERTIFICATION OF COURT
21 ORDER.—Section 1408 of title 10, United States
22 Code, as amended by section 7362(c)(4), is amend-
23 ed—

24 (A) by redesignating subsections (i) and (j)
25 as subsections (j) and (k), respectively; and

1 (B) by inserting after subsection (h) the
2 following new subsection:

3 “(i) CERTIFICATION DATE.—It is not necessary that
4 the date of a certification of the authenticity or complete-
5 ness of a copy of a court order for child support received
6 by the Secretary concerned for the purposes of this section
7 be recent in relation to the date of receipt by the Sec-
8 retary.”.

9 (2) PAYMENTS CONSISTENT WITH ASSIGN-
10 MENTS OF RIGHTS TO STATES.—Section 1408(d)(1)
11 of such title is amended by inserting after the 1st
12 sentence the following: “In the case of a spouse or
13 former spouse who assigns to a State the rights of
14 the spouse or former spouse to receive support, the
15 Secretary concerned may make the child support
16 payments referred to in the preceding sentence to
17 that State in amounts consistent with that assign-
18 ment of rights.”.

19 (3) ARREARAGES OWED BY MEMBERS OF THE
20 UNIFORMED SERVICES.—Section 1408(d) of such
21 title is amended by adding at the end the following
22 new paragraph:

23 “(6) In the case of a court order for which effective
24 service is made on the Secretary concerned on or after
25 the date of the enactment of this paragraph and which

1 provides for payments from the disposable retired pay of
2 a member to satisfy the amount of child support set forth
3 in the order, the authority provided in paragraph (1) to
4 make payments from the disposable retired pay of a mem-
5 ber to satisfy the amount of child support set forth in a
6 court order shall apply to payment of any amount of child
7 support arrearages set forth in that order as well as to
8 amounts of child support that currently become due.”.

9 (4) PAYROLL DEDUCTIONS.—The Secretary of
10 Defense shall begin payroll deductions within 30
11 days after receiving notice of withholding, or for the
12 1st pay period that begins after such 30-day period.

13 **SEC. 7364. VOIDING OF FRAUDULENT TRANSFERS.**

14 Section 466 (42 U.S.C. 666), as amended by section
15 7321, is amended by adding at the end the following new
16 subsection:

17 “(g) In order to satisfy section 454(20)(A), each
18 State must have in effect—

19 “(1)(A) the Uniform Fraudulent Conveyance
20 Act of 1981;

21 “(B) the Uniform Fraudulent Transfer Act of
22 1984; or

23 “(C) another law, specifying indicia of fraud
24 which create a prima facie case that a debtor trans-
25 ferred income or property to avoid payment to a

1 child support creditor, which the Secretary finds af-
2 fords comparable rights to child support creditors;
3 and

4 “(2) procedures under which, in any case in
5 which the State knows of a transfer by a child sup-
6 port debtor with respect to which such a prima facie
7 case is established, the State must—

8 “(A) seek to void such transfer; or

9 “(B) obtain a settlement in the best inter-
10 ests of the child support creditor.”.

11 **SEC. 7365. WORK REQUIREMENT FOR PERSONS OWING**
12 **CHILD SUPPORT.**

13 Section 466(a) (42 U.S.C. 666(a)), as amended by
14 sections 7301(a), 7315, 7317(a), and 7323, is amended
15 by adding at the end the following new paragraph:

16 “(15) Procedures requiring the State, in any
17 case in which an individual owes support with re-
18 spect to a child receiving services under this part, to
19 seek a court order or administrative order that re-
20 quires the individual to—

21 “(A) pay such support in accordance with
22 a plan approved by the court; or

23 “(B) if the individual is not working and
24 is not incapacitated, participate in work activi-
25 ties (including, at State option, work activities

1 as defined in section 482) as the court deems
2 appropriate.”.

3 **SEC. 7366. DEFINITION OF SUPPORT ORDER.**

4 Section 453 (42 U.S.C. 653) as amended by sections
5 7316 and 7345(b), is amended by adding at the end the
6 following new subsection:

7 “(o) As used in this part, the term ‘support order’
8 means a judgment, decree, or order, whether temporary,
9 final, or subject to modification, issued by a court or an
10 administrative agency of competent jurisdiction, for the
11 support and maintenance of a child, including a child who
12 has attained the age of majority under the law of the issu-
13 ing State, or a child and the parent with whom the child
14 is living, which provides for monetary support, health care,
15 arrearages, or reimbursement, and which may include re-
16 lated costs and fees, interest and penalties, income with-
17 holding, attorneys’ fees, and other relief.”.

18 **SEC. 7367. REPORTING ARREARAGES TO CREDIT BUREAUS.**

19 Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended
20 to read as follows:

21 “(7)(A) Procedures (subject to safeguards pur-
22 suant to subparagraph (B)) requiring the State to
23 report periodically to consumer reporting agencies
24 (as defined in section 603(f) of the Fair Credit Re-
25 porting Act (15 U.S.C. 1681a(f)) the name of any

1 absent parent who is delinquent in the payment of
2 support, and the amount of overdue support owed by
3 such parent.

4 “(B) Procedures ensuring that, in carrying out
5 subparagraph (A), information with respect to an
6 absent parent is reported—

7 “(i) only after such parent has been af-
8 firmed all due process required under State law,
9 including notice and a reasonable opportunity
10 to contest the accuracy of such information;
11 and

12 “(ii) only to an entity that has furnished
13 evidence satisfactory to the State that the en-
14 tity is a consumer reporting agency.”.

15 **SEC. 7368. LIENS.**

16 Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended
17 to read as follows:

18 “(4) Procedures under which—

19 “(A) liens arise by operation of law against
20 real and personal property for amounts of over-
21 due support owed by an absent parent who re-
22 sides or owns property in the State; and

23 “(B) the State accords full faith and credit
24 to liens described in subparagraph (A) arising

1 in another State, without registration of the un-
2 derlying order.”.

3 **SEC. 7369. STATE LAW AUTHORIZING SUSPENSION OF LI-**
4 **CENSES.**

5 Section 466(a) (42 U.S.C. 666(a)), as amended by
6 sections 7315, 7317(a), 7323, and 7365, is amended by
7 adding at the end the following new paragraph:

8 “(16) Procedures under which the State has
9 (and uses in appropriate cases) authority to withhold
10 or suspend, or to restrict the use of, driver’s li-
11 censes, professional and occupational licenses, and
12 recreational licenses of individuals owing overdue
13 support or failing, after receiving appropriate notice,
14 to comply with subpoenas or warrants relating to
15 paternity or child support proceedings.”.

16 **SEC. 7370. DENIAL OF PASSPORTS FOR NONPAYMENT OF**
17 **CHILD SUPPORT.**

18 (a) HHS CERTIFICATION PROCEDURE.—

19 (1) SECRETARIAL RESPONSIBILITY.—Section
20 452 (42 U.S.C. 652), as amended by section 7345,
21 is amended by adding at the end the following new
22 subsection:

23 “(k)(1) If the Secretary receives a certification by a
24 State agency in accordance with the requirements of sec-
25 tion 454(31) that an individual owes arrearages of child

1 support in an amount exceeding \$5,000, the Secretary
2 shall transmit such certification to the Secretary of State
3 for action (with respect to denial, revocation, or limitation
4 of passports) pursuant to section 7370(b) of the Balanced
5 Budget Reconciliation Act of 1995.

6 “(2) The Secretary shall not be liable to an individual
7 for any action with respect to a certification by a State
8 agency under this section.”

9 (2) STATE CSE AGENCY RESPONSIBILITY.—Sec-
10 tion 454 (42 U.S.C. 654), as amended by sections
11 7301(b), 7304(a), 7312(b), 7313(a), 7333, and
12 7343(a), is amended—

13 (A) by striking “and” at the end of para-
14 graph (29);

15 (B) by striking the period at the end of
16 paragraph (30) and inserting “; and”; and

17 (C) by adding after paragraph (30) the fol-
18 lowing new paragraph:

19 “(31) provide that the State agency will have in
20 effect a procedure (which may be combined with the
21 procedure for tax refund offset under section 464)
22 for certifying to the Secretary, for purposes of the
23 procedure under section 452(k) (concerning denial of
24 passports), determinations that individuals owe ar-

1 rearages of child support in an amount exceeding
2 \$5,000, under which procedure—

3 “(A) each individual concerned is afforded
4 notice of such determination and the con-
5 sequences thereof, and an opportunity to con-
6 test the determination; and

7 “(B) the certification by the State agency
8 is furnished to the Secretary in such format,
9 and accompanied by such supporting docu-
10 mentation, as the Secretary may require.”.

11 (b) STATE DEPARTMENT PROCEDURE FOR DENIAL
12 OF PASSPORTS.—

13 (1) IN GENERAL.—The Secretary of State shall,
14 upon certification by the Secretary of Health and
15 Human Services transmitted under section 452(k) of
16 the Social Security Act, refuse to issue a passport to
17 such individual, and may revoke, restrict, or limit a
18 passport issued previously to such individual.

19 (2) LIMIT ON LIABILITY.—The Secretary of
20 State shall not be liable to an individual for any ac-
21 tion with respect to a certification by a State agency
22 under this section.

23 (c) EFFECTIVE DATE.—This section and the amend-
24 ments made by this section shall become effective October
25 1, 1996.

1 **SEC. 7371. INTERNATIONAL CHILD SUPPORT ENFORCE-**
2 **MENT.**

3 The Secretary of State is authorized to negotiate re-
4 ciprocal agreements with foreign nations on behalf of the
5 States, territories, and possessions of the United States
6 regarding the international enforcement of child support
7 obligations and designating the Department of Health and
8 Human Services as the central authority for such enforce-
9 ment.

10 **SEC. 7372. DENIAL OF MEANS-TESTED FEDERAL BENEFITS**
11 **TO NONCUSTODIAL PARENTS WHO ARE DE-**
12 **LINQUENT IN PAYING CHILD SUPPORT.**

13 (a) IN GENERAL.—Notwithstanding any other provi-
14 sion of law, a non-custodial parent who is more than 2
15 months delinquent in paying child support shall not be eli-
16 gible to receive any means-tested Federal benefits.

17 (b) EXCEPTION.—

18 (1) IN GENERAL.—Subsection (a) shall not
19 apply to an unemployed non-custodial parent who is
20 more than 2 months delinquent in paying child sup-
21 port if such parent—

22 (A) enters into a schedule of repayment for
23 past due child support with the entity that is-
24 sued the underlying child support order; and

1 (B) meets all of the terms of repayment
2 specified in the schedule of repayment as en-
3 forced by the appropriate disbursing entity.

4 (2) 2-YEAR EXCLUSION.—(A) A non-custodial
5 parent who becomes delinquent in child support a
6 second time or any subsequent time shall not be eli-
7 gible to receive any means-tested Federal benefits
8 for a 2-year period beginning on the date that such
9 parent failed to meet such terms.

10 (B) At the end of that two-year period, para-
11 graph (A) shall once again apply to that individual.

12 (c) MEANS-TESTED FEDERAL BENEFITS.— For pur-
13 poses of this section, the term “means-tested Federal ben-
14 efits” means benefits under any program of assistance,
15 funded in whole or in part, by the Federal Government,
16 for which eligibility for benefits is based on need.

17 **SEC. 7373. CHILD SUPPORT ENFORCEMENT FOR INDIAN**
18 **TRIBES.**

19 (a) CHILD SUPPORT ENFORCEMENT AGREE-
20 MENTS.—Section 454 (42 U.S.C. 654), as amended by
21 sections 7301(b), 7304(a), 7312(b), 9313(a), 7333,
22 7343(a), and 7370(a)(2) is amended—

23 (1) by striking “and” at the end of paragraph
24 (30);

1 (2) by striking the period at the end of para-
2 graph (31) and inserting “; and”; and

3 (3) by adding after paragraph (31) the follow-
4 ing new paragraph:

5 “(32) provide that a State that receives funding
6 pursuant to section 429 and that has within its bor-
7 ders Indian country (as defined in section 1151 of
8 title 18, United States Code) shall, through the
9 State administering agency, make reasonable efforts
10 to enter into cooperative agreements with an Indian
11 tribe or tribal organization (as defined in paragraphs
12 (1) and (2) of section 428(c)), if the Indian tribe or
13 tribal organization demonstrates that such tribe or
14 organization has an established tribal court system
15 or a Court of Indian Offenses with the authority to
16 establish paternity, establish and enforce support or-
17 ders, and to enter support orders in accordance with
18 child support guidelines established by such tribe or
19 organization, under which the State and tribe or or-
20 ganization shall provide for the cooperative delivery
21 of child support enforcement services in Indian coun-
22 try and for the forwarding of all funding collected
23 pursuant to the functions performed by the tribe or
24 organization to the State agency, or conversely, by
25 the State agency to the tribe or organization, which

1 shall distribute such funding in accordance with
2 such agreement.”.

3 (b) DIRECT FEDERAL FUNDING TO INDIAN TRIBES
4 AND TRIBAL ORGANIZATIONS.—Section 455 (42 U.S.C.
5 655) is amended by adding at the end the following new
6 subsection:

7 “(b) The Secretary may, in appropriate cases, make
8 direct payments under this part to an Indian tribe or trib-
9 al organization which has an approved child support en-
10 forcement plan under this title. In determining whether
11 such payments are appropriate, the Secretary shall, at a
12 minimum, consider whether services are being provided to
13 eligible Indian recipients by the State agency through an
14 agreement entered into pursuant to section 454(32). The
15 Secretary shall provide for an appropriate adjustment to
16 the State allotment under this section to take into account
17 any payments made under this subsection to Indian tribes
18 or tribal organizations located within such State.”.

19 (c) COOPERATIVE ENFORCEMENT AGREEMENTS.—
20 Paragraph (7) of section 454 (42 U.S.C. 654) is amended
21 by inserting “and Indian tribes or tribal organizations (as
22 defined in section 450(b) of title 25, United States Code)”
23 after “law enforcement officials”.

1 **SEC. 7374. FINANCIAL INSTITUTION DATA MATCHES.**

2 Section 466(a) (42 U.S.C. 666(a)), as amended by
3 sections 7315, 7317(a), 7323, 7365, and 7369, is amend-
4 ed by adding at the end the following new paragraph:

5 “(17) Procedures under which the State agency
6 shall enter into agreements with financial institu-
7 tions doing business within the State to develop and
8 operate a data match system, using automated data
9 exchanges to the maximum extent feasible, in which
10 such financial institutions are required to provide for
11 each calendar quarter the name, record address, so-
12 cial security number, and other identifying informa-
13 tion for each absent parent identified by the State
14 who maintains an account at such institution and, in
15 response to a notice of lien or levy, to encumber or
16 surrender, as the case may be, assets held by such
17 institution on behalf of any absent parent who is
18 subject to a child support lien pursuant to para-
19 graph (4). For purposes of this paragraph, the term
20 ‘financial institution’ means Federal and State com-
21 mercial savings banks, including savings and loan
22 associations and cooperative banks, Federal and
23 State chartered credit unions, benefit associations,
24 insurance companies, safe deposit companies,
25 money-market mutual funds, and any similar entity
26 authorized to do business in the State, and the term

1 ‘account’ means a demand deposit account, checking
2 or negotiable withdrawal order account, savings ac-
3 count, time deposit account, or money-market mu-
4 tual fund account.”.

5 **SEC. 7375. CHILD SUPPORT ENFORCEMENT FEES FOR NON-**
6 **ASSISTANCE FAMILIES.**

7 (a) IN GENERAL.—Part D of title IV (42 U.S.C.
8 651–669), as amended by sections 7312(b) and
9 7344(a)(2), is amended by inserting after section 454B
10 the following new section:

11 **“SEC. 454C. COLLECTION OF CHILD SUPPORT ENFORCE-**
12 **MENT COSTS AND FEES FOR NON-ASSIST-**
13 **ANCE FAMILIES.**

14 “(a) MANDATORY ENFORCEMENT FEES.—

15 “(1) IN GENERAL.—With respect to individuals
16 described in section 454(6)(B) for services described
17 in section 454(4), the State, under the State plan,
18 shall impose and collect an amount equal to the sum
19 of the following fees:

20 “(A) APPLICATION FEES.—An application
21 fee of \$25 per applicant.

22 “(B) COLLECTION FEES.—In addition to
23 any child support collected, a collection fee in
24 an amount equal to the applicable percentage of
25 the amount of child support collected.

1 “(2) RULES REGARDING ENFORCEMENT
2 FEES.—

3 “(A) IN GENERAL.—At the option of the
4 State, the fees described in paragraph (1) may
5 be—

6 “(i) paid by individuals applying for
7 the services described in section 454(4);

8 “(ii) recovered from absent parents;
9 or

10 “(iii) paid by the State out of its own
11 funds, the payment of which from State
12 funds shall not be considered as an admin-
13 istrative cost of the State for the operation
14 of the plan, and shall be considered income
15 to the program.

16 “(B) LIMITATION OF COLLECTION FEES
17 APPLIED TO CERTAIN CUSTODIAL PARENTS.—

18 With respect to any individual to whom such
19 services are made available—

20 “(i) whose family income is below 185
21 percent of the poverty line applicable to the
22 size of the family involved (as defined in
23 section 673(2) of the Community Services
24 Block Grant Act (42 U.S.C. 9902(2)), in-
25 cluding any revision required by such sec-

1 tion), no fee under paragraph (1)(B) may
2 be collected from such individual;

3 “(ii) whose family income is not less
4 than 185 percent nor more than 300 per-
5 cent of such poverty line, such fee collected
6 from such individual may not exceed 2 per-
7 cent of the amount of child support col-
8 lected; and

9 “(iii) whose family income is more
10 than 300 percent of such poverty line, such
11 fee collected from such individual may not
12 exceed the amount of such fee collected
13 from the absent parent.

14 “(C) MEANS-TESTED.—The State at its
15 option may vary the amount of the fees under
16 paragraph (1) among individuals on the basis of
17 ability to pay.

18 “(D) APPLICABLE PERCENTAGE.—For
19 purposes of paragraph (1)(B), the applicable
20 percentage for any State shall equal such per-
21 centage as is required, after taking into account
22 subparagraphs (B) and (C), to provide an
23 amount of total fees under paragraph (1) which
24 equals the amount which would be provided by
25 imposing the fee under paragraph (1)(A) and a

1 6.6 percent fee under paragraph (1)(B) without
2 regard to such subparagraphs.

3 “(E) DISPOSITION OF COLLECTION
4 FEES.—Notwithstanding any other provision of
5 this part, 100 percent of any amount represent-
6 ing collection fees under paragraph (1)(B) shall
7 be remitted to the Federal Government.

8 “(b) PERMISSIVE FEES.—With respect to any indi-
9 vidual described in section 454(6)(B), the State may im-
10 pose—

11 “(1) a fee of not more than \$25 in any case
12 where the State requests the Secretary of the Treas-
13 ury to withhold past-due support owed to or on be-
14 half of such individual from a tax refund pursuant
15 to section 464(a)(2), and

16 “(2) a fee (in accordance with regulations of
17 the Secretary) for performing genetic tests.

18 “(c) COLLECTION OF EXCESS COSTS OF ENFORCE-
19 MENT.—With respect to any individual described in sec-
20 tion 454(6)(B), any costs of enforcement under this part
21 in excess of the fees imposed under this section may be
22 collected—

23 “(1) from the parent who owes the child or
24 spousal support obligation involved, or

1 “(2) at the option of the State, from the indi-
 2 vidual to whom such services are made available, but
 3 only if such State has in effect a procedure whereby
 4 all persons in such State having authority to order
 5 child or spousal support are informed that such
 6 costs are to be collected from the individual to whom
 7 such services were made available.”.

8 (b) SENSE OF THE SENATE.—It is the sense of the
 9 Senate that although States have the overall choice as to
 10 how to collect enforcement costs under part D of title IV
 11 of the Social Security Act, such States should pursue such
 12 collection from—

13 (1) any noncustodial parent who denies pater-
 14 nity and is later determined to be the father; and

15 (2) any noncustodial parent who does not vol-
 16 untarily comply with judicial or administrative en-
 17 forcement orders under such part.

18 **SEC. 7376. ENFORCEMENT OF ORDERS AGAINST PATERNAL**
 19 **GRANDPARENTS IN CASES OF MINOR PAR-**
 20 **ENTS.**

21 Section 466(a) (42 U.S.C. 666(a)), as amended by
 22 sections 7315, 7317(a), 7323, 7365, 7369, and 7374, is
 23 amended by adding at the end the following new para-
 24 graph:

1 “(18) Procedures under which any child sup-
2 port order enforced under this part with respect to
3 a child of minor parents, if the mother of such child
4 is receiving assistance under the State grant under
5 part A, shall be enforceable, jointly and severally,
6 against the paternal grandparents of such child.”.

7 **SEC. 7377. SENSE OF THE SENATE REGARDING THE INABIL-**
8 **ITY OF THE NON-CUSTODIAL PARENT TO PAY**
9 **CHILD SUPPORT.**

10 It is the sense of the Senate that—

11 (a) States should diligently continue their ef-
12 forts to enforce child support payments by the non-
13 custodial parent to the custodial parent, regardless
14 of the employment status or location of the non-cus-
15 todial parent; and

16 (b) States are encouraged to pursue pilot pro-
17 grams in which the parents of a non-adult, non-cus-
18 todial parent who refuses to or is unable to pay child
19 support must—

20 (1) pay or contribute to the child support
21 owed by the non-custodial parent; or

22 (2) otherwise fulfill all financial obligations
23 and meet all conditions imposed on the non-cus-
24 todial parent, such as participation in a work
25 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

1 1st plan year beginning on or after January 1,
2 1996, if—

3 (A) during the period after the date before
4 the date of the enactment of this Act and be-
5 fore such 1st plan year, the plan is operated in
6 accordance with the requirements of the amend-
7 ments made by this section; and

8 (B) such plan amendment applies retro-
9 actively to the period after the date before the
10 date of the enactment of this Act and before
11 such 1st plan year.

12 A plan shall not be treated as failing to be operated
13 in accordance with the provisions of the plan merely
14 because it operates in accordance with this para-
15 graph.

16 **SEC. 7379. ENFORCEMENT OF ORDERS FOR HEALTH CARE**
17 **COVERAGE.**

18 Section 466(a) (42 U.S.C. 666(a)), as amended by
19 sections 7315, 7317(a), 7323, 7365, 7369, 7374, and
20 7376, is amended by adding at the end the following new
21 paragraph:

22 “(19) Procedures under which all child support
23 orders enforced under this part shall include a provi-
24 sion for the health care coverage of the child, and
25 in the case in which an absent parent provides such

1 coverage and changes employment, and the new em-
 2 ployer provides health care coverage, the State agen-
 3 cy shall transfer notice of the provision to the em-
 4 ployer, which notice shall operate to enroll the child
 5 in the absent parent’s health plan, unless the absent
 6 parent contests the notice.”.

7 **CHAPTER 9—ENHANCING RESPONSIBIL-**
 8 **ITY AND OPPORTUNITY FOR**
 9 **NONRESIDENTIAL PARENTS**

10 **SEC. 7381. GRANTS TO STATES FOR ACCESS AND VISITA-**
 11 **TION PROGRAMS.**

12 Part D of title IV (42 U.S.C. 651–669) is amended
 13 by adding at the end the following new section:

14 **“SEC. 469A. GRANTS TO STATES FOR ACCESS AND VISITA-**
 15 **TION PROGRAMS.**

16 “(a) IN GENERAL.—The Administration for Children
 17 and Families shall make grants under this section to en-
 18 able States to establish and administer programs to sup-
 19 port and facilitate absent parents’ access to and visitation
 20 of their children, by means of activities including medi-
 21 ation (both voluntary and mandatory), counseling, edu-
 22 cation, development of parenting plans, visitation enforce-
 23 ment (including monitoring, supervision and neutral drop-
 24 off and pickup), and development of guidelines for visita-
 25 tion and alternative custody arrangements.

1 “(b) AMOUNT OF GRANT.—The amount of the grant
2 to be made to a State under this section for a fiscal year
3 shall be an amount equal to the lesser of—

4 “(1) 90 percent of State expenditures during
5 the fiscal year for activities described in subsection
6 (a); or

7 “(2) the allotment of the State under sub-
8 section (c) for the fiscal year.

9 “(c) ALLOTMENTS TO STATES.—

10 “(1) IN GENERAL.—The allotment of a State
11 for a fiscal year is the amount that bears the same
12 ratio to the amount appropriated for grants under
13 this section for the fiscal year as the number of chil-
14 dren in the State living with only 1 biological parent
15 bears to the total number of such children in all
16 States.

17 “(2) MINIMUM ALLOTMENT.—The Administra-
18 tion for Children and Families shall adjust allot-
19 ments to States under paragraph (1) as necessary to
20 ensure that no State is allotted less than—

21 “(A) \$50,000 for fiscal year 1996 or 1997;

22 or

23 “(B) \$100,000 for any succeeding fiscal
24 year.

1 “(d) NO SUPPLANTATION OF STATE EXPENDITURES
2 FOR SIMILAR ACTIVITIES.—A State to which a grant is
3 made under this section may not use the grant to supplant
4 expenditures by the State for activities specified in sub-
5 section (a), but shall use the grant to supplement such
6 expenditures at a level at least equal to the level of such
7 expenditures for fiscal year 1995.

8 “(e) STATE ADMINISTRATION.—Each State to which
9 a grant is made under this section—

10 “(1) may administer State programs funded
11 with the grant, directly or through grants to or con-
12 tracts with courts, local public agencies, or nonprofit
13 private entities;

14 “(2) shall not be required to operate such pro-
15 grams on a statewide basis; and

16 “(3) shall monitor, evaluate, and report on such
17 programs in accordance with regulations prescribed
18 by the Secretary.”.

19 **CHAPTER 10—EFFECT OF ENACTMENT**

20 **SEC. 7391. EFFECTIVE DATES.**

21 (a) IN GENERAL.—Except as otherwise specifically
22 provided (but subject to subsections (b) and (c))—

23 (1) the provisions of this subtitle requiring the
24 enactment or amendment of State laws under sec-
25 tion 466 of the Social Security Act, or revision of

1 State plans under section 454 of such Act, shall be
2 effective with respect to periods beginning on and
3 after October 1, 1996; and

4 (2) all other provisions of this subtitle shall be-
5 come effective upon the date of the enactment of
6 this Act.

7 (b) GRACE PERIOD FOR STATE LAW CHANGES.—The
8 provisions of this subtitle shall become effective with re-
9 spect to a State on the later of—

10 (1) the date specified in this subtitle, or

11 (2) the effective date of laws enacted by the leg-
12 islature of such State implementing such provisions,
13 but in no event later than the 1st day of the 1st calendar
14 quarter beginning after the close of the 1st regular session
15 of the State legislature that begins after the date of the
16 enactment of this Act. For purposes of the previous sen-
17 tence, in the case of a State that has a 2-year legislative
18 session, each year of such session shall be deemed to be
19 a separate regular session of the State legislature.

20 (c) GRACE PERIOD FOR STATE CONSTITUTIONAL
21 AMENDMENT.—A State shall not be found out of compli-
22 ance with any requirement enacted by this subtitle if the
23 State is unable to so comply without amending the State
24 constitution until the earlier of—

1 (1) 1 year after the effective date of the nec-
2 essary State constitutional amendment; or

3 (2) 5 years after the date of the enactment of
4 this subtitle.

5 **Subtitle F—Noncitizens**

6 **SEC. 7401. STATE OPTION TO PROHIBIT ASSISTANCE FOR** 7 **CERTAIN ALIENS.**

8 (a) IN GENERAL.—A State may, at its option, pro-
9 hibit the use of any Federal funds received for the provi-
10 sion of assistance under any means-tested public assist-
11 ance program for any individual who is a noncitizen of
12 the United States.

13 (b) EXCEPTIONS.—Subsection (a) shall not apply
14 to—

15 (1) any individual who is described in subclause
16 (II), (III), or (IV) of section 1614(a)(1)(B)(i) of the
17 Social Security Act (42 U.S.C. 1382c(a)(1)(B)(i));
18 and

19 (2) any program described in section
20 7402(f)(2).

21 **SEC. 7402. DEEMED INCOME REQUIREMENT FOR FEDERAL** 22 **AND FEDERALLY FUNDED PROGRAMS.**

23 (a) DEEMING REQUIREMENT FOR FEDERAL AND
24 FEDERALLY FUNDED PROGRAMS.—Subject to subsection
25 (d), for purposes of determining the eligibility of an indi-

1 vidual (whether a citizen or national of the United States
2 or an alien) for assistance and the amount of assistance,
3 under any Federal program of assistance provided or
4 funded, in whole or in part, by the Federal Government
5 for which eligibility is based on need, the income and re-
6 sources described in subsection (b) shall, notwithstanding
7 any other provision of law, be deemed to be the income
8 and resources of such individual.

9 (b) DEEMED INCOME AND RESOURCES.—The income
10 and resources described in this subsection include the fol-
11 lowing:

12 (1) The income and resources of any person
13 who, as a sponsor of such individual's entry into the
14 United States, or in order to enable such individual
15 lawfully to remain in the United States, executed an
16 affidavit of support or similar agreement with re-
17 spect to such individual.

18 (2) The income and resources of the sponsor's
19 spouse.

20 (c) LENGTH OF DEEMING PERIOD.—The require-
21 ment of subsection (a) shall apply for the period for which
22 the sponsor has agreed, in such affidavit or agreement,
23 to provide support for such individual, or for a period of
24 5 years beginning on the date such individual was first

1 lawfully in the United States after the execution of such
2 affidavit or agreement, whichever period is longer.

3 (d) LIMITATION ON MEASUREMENT OF DEEMED IN-
4 COME AND RESOURCES.—

5 (1) IN GENERAL.—If a determination described
6 in paragraph (2) is made, the amount of income and
7 resources of the sponsor or the sponsor's spouse
8 which shall be attributed to the sponsored individual
9 shall not exceed the amount actually provided, for a
10 period beginning on the date of such determination
11 and lasting 12 months or, if the address of the spon-
12 sor is unknown to the sponsored individual on the
13 date of such determination, for 12 months after the
14 address becomes known to the sponsored individual
15 or to the agency (which shall inform such individual
16 within 7 days).

17 (2) DETERMINATION.—The determination de-
18 scribed in this paragraph is a determination by an
19 agency that a sponsored individual would, in the ab-
20 sence of the assistance provided by the agency, be
21 unable to obtain food and shelter, taking into ac-
22 count the individual's own income, plus any cash,
23 food, housing, or other assistance provided by other
24 individuals, including the sponsor.

1 (e) DEEMING AUTHORITY TO STATE AND LOCAL
2 AGENCIES.—

3 (1) IN GENERAL.—Notwithstanding any other
4 provision of law, but subject to an exception equiva-
5 lent to that in subsection (d), the State or local gov-
6 ernment may, for purposes of determining the eligi-
7 bility of an individual (whether a citizen or national
8 of the United States or an alien) for assistance, and
9 the amount of assistance, under any State or local
10 program of assistance for which eligibility is based
11 on need, or any need-based program of assistance
12 administered by a State or local government other
13 than a program described in subsection (a), require
14 that the income and resources described in para-
15 graph (2) be deemed to be the income and resources
16 of such individual.

17 (2) DEEMED INCOME AND RESOURCES.—The
18 income and resources described in this paragraph in-
19 clude the following:

20 (A) The income and resources of any per-
21 son who, as a sponsor of such individual's entry
22 into the United States, or in order to enable
23 such individual lawfully to remain in the United
24 States, executed an affidavit of support or simi-
25 lar agreement with respect to such individual.

1 (B) The income and resources of the spon-
2 sor's spouse.

3 (3) LENGTH OF DEEMED INCOME PERIOD.—

4 Subject to an exception equivalent to subsection (d),
5 a State or local government may impose a require-
6 ment described in paragraph (1) for the period for
7 which the sponsor has agreed, in such affidavit or
8 agreement, to provide support for such individual, or
9 for a period of 5 years beginning on the date such
10 individual was first lawfully in the United States
11 after the execution of such affidavit or agreement,
12 whichever period is longer.

13 (f) APPLICABILITY OF SECTION.—

14 (1) INDIVIDUALS.—The provisions of this sec-
15 tion shall not apply to the eligibility of any individ-
16 ual who is described in subclause (II), (III), or (IV)
17 of section 1614(a)(1)(B)(i) of the Social Security
18 Act (42 U.S.C. 1382c(a)(1)(B)(i)).

19 (2) PROGRAMS.—The provisions of this section
20 shall not apply to eligibility for—

21 (A) emergency medical services under title
22 XXI of the Social Security Act;

23 (B) short-term emergency disaster relief;

24 (C) assistance or benefits under the Na-
25 tional School Lunch Act;

1 (D) assistance or benefits under the Child
2 Nutrition Act of 1966;

3 (E) public health assistance for immuniza-
4 tions with respect to immunizable diseases and
5 for testing and treatment for communicable dis-
6 eases if the Secretary of Health and Human
7 Services determines that such testing and treat-
8 ment is necessary;

9 (F) the Head Start program (42 U.S.C.
10 9801); and

11 (G) programs specified by the Attorney
12 General, in the Attorney General's sole and
13 unreviewable discretion after consultation with
14 appropriate Federal agencies and departments,
15 which (i) deliver services at the community
16 level, including through public or private non-
17 profit agencies; (ii) do not condition the provi-
18 sion of assistance, the amount of assistance
19 provided, or the cost of assistance provided on
20 the individual recipient's income or resources;
21 and (iii) are necessary for the protection of life,
22 safety, or public health.

23 (g) CONFORMING AMENDMENTS.—

24 (1) Section 1621 (42 U.S.C. 1382j) is repealed.

1 individual has worked in the United States for 40
2 qualifying quarters; and

3 (3) in which the sponsor agrees to submit to
4 the jurisdiction of any Federal or State court for the
5 purpose of actions brought under subsection (d)(4).

6 (b) FORMS.—Not later than 90 days after the date
7 of the enactment of this Act, the Secretary of State, the
8 Attorney General, and the Secretary of Health and
9 Human Services shall jointly formulate the affidavit of
10 support described in this section.

11 (c) NOTIFICATION OF CHANGE OF ADDRESS.—

12 (1) IN GENERAL.—The sponsor shall notify the
13 Attorney General and the State, district, territory,
14 or possession in which the sponsored individual is
15 currently resident within 30 days of any change of
16 address of the sponsor during the period specified in
17 subsection (a)(1).

18 (2) PENALTY.—Any person subject to the re-
19 quirement of paragraph (1) who fails to satisfy such
20 requirement shall be subject to a civil penalty of—

21 (A) not less than \$250 or more than
22 \$2,000, or

23 (B) if such failure occurs with knowledge
24 that the sponsored individual has received any
25 benefit described in section 241(a)(5)(C) of the

1 Immigration and Nationality Act, not less than
2 \$2,000 or more than \$5,000.

3 (d) REIMBURSEMENT OF GOVERNMENT EX-
4 PENSES.—

5 (1) IN GENERAL.—Upon notification that a
6 sponsored individual has received any benefit under
7 a program described in paragraph (2), the appro-
8 priate Federal, State, or local official shall request
9 reimbursement by the sponsor in the amount of such
10 assistance.

11 (2) PROGRAMS DESCRIBED.—The programs de-
12 scribed in this paragraph include the following:

13 (A) Assistance under a State program
14 funded under part A of title IV of the Social
15 Security Act.

16 (B) The medicaid program under title XXI
17 of the Social Security Act.

18 (C) The food stamp program under the
19 Food Stamp Act of 1977.

20 (D) The supplemental security income pro-
21 gram under title XVI of the Social Security
22 Act.

23 (E) Any State general assistance program.

24 (F) Any other program of assistance fund-
25 ed, in whole or in part, by the Federal Govern-

1 ment or any State or local government entity,
2 for which eligibility for benefits is based on
3 need, except the programs specified in section
4 7402(f)(2).

5 (3) REGULATIONS.—The Commissioner of So-
6 cial Security shall prescribe such regulations as may
7 be necessary to carry out paragraph (1). Such regu-
8 lations shall provide for notification to the sponsor
9 by certified mail to the sponsor’s last known ad-
10 dress.

11 (4) REIMBURSEMENT.—If within 45 days after
12 requesting reimbursement, the appropriate Federal,
13 State, or local agency has not received a response
14 from the sponsor indicating a willingness to com-
15 mence payments, an action may be brought against
16 the sponsor pursuant to the affidavit of support.

17 (5) ACTION IN CASE OF FAILURE.—If the spon-
18 sor fails to abide by the repayment terms established
19 by such agency, the agency may, within 60 days of
20 such failure, bring an action against the sponsor
21 pursuant to the affidavit of support.

22 (6) STATUTE OF LIMITATIONS.—No cause of
23 action may be brought under this subsection later
24 than 10 years after the sponsored individual last re-

1 ceived any benefit under a program described in
2 paragraph (2).

3 (e) JURISDICTION.—For purposes of this section, no
4 State court shall decline for lack of jurisdiction to hear
5 any action brought against a sponsor for reimbursement
6 of the cost of any benefit under a program described in
7 subsection (d)(2) if the sponsored individual received pub-
8 lic assistance while residing in the State.

9 (f) DEFINITIONS.—For the purposes of this section—

10 (1) the term “sponsor” means an individual
11 who—

12 (A) is a United States citizen or national
13 or an alien who is lawfully admitted to the
14 United States for permanent residence;

15 (B) is 18 years of age or over;

16 (C) is domiciled in any of the several
17 States of the United States, the District of Co-
18 lumbia, or any territory or possession of the
19 United States; and

20 (D) demonstrates the means to maintain
21 an annual income equal to at least 200 percent
22 of the poverty line for the individual and the in-
23 dividual’s family (including the sponsored indi-
24 vidual), through evidence that shall include a
25 copy of the individual’s Federal income tax re-

1 turns for his or her most recent two taxable
2 years and a written statement, executed under
3 oath or as permitted under penalty of perjury
4 under section 1746 of title 28, United States
5 Code, that the copies are true copies of such
6 returns;

7 (2) the term “poverty line” has the same mean-
8 ing given such term in section 673(2) of the Com-
9 munity Services Block Grant Act (42 U.S.C.
10 9902(2)); and

11 (3) the term “qualifying quarter” means a
12 three-month period in which the sponsored individ-
13 ual has—

14 (A) earned at least the minimum necessary
15 for the period to count as one of the 40 cal-
16 endar quarters required to qualify for social se-
17 curity retirement benefits;

18 (B) not received need-based public assist-
19 ance; and

20 (C) had income tax liability for the tax
21 year of which the period was part.

22 **SEC. 7404. LIMITED ELIGIBILITY OF NONCITIZENS FOR SSI**
23 **BENEFITS.**

24 (a) IN GENERAL.—Paragraph (1) of section 1614(a)
25 (42 U.S.C. 1382c(a)) is amended—

1 (1) in subparagraph (B)(i), by striking “either”
2 and all that follows through “, or” and inserting
3 “(I) a citizen; (II) a noncitizen who is granted asy-
4 lum under section 208 of the Immigration and Na-
5 tionality Act or whose deportation has been withheld
6 under section 243(h) of such Act for a period of not
7 more than 5 years after the date of arrival into the
8 United States; (III) a noncitizen who is admitted to
9 the United States as a refugee under section 207 of
10 such Act for not more than such 5-year period; (IV)
11 a noncitizen, lawfully present in any State (or any
12 territory or possession of the United States), who is
13 a veteran (as defined in section 101 of title 38,
14 United States Code) with a discharge characterized
15 as an honorable discharge and not on account of
16 alienage or who is the spouse or unmarried depend-
17 ent child of such veteran; or (V) a noncitizen who
18 has worked sufficient calendar quarters of coverage
19 to be a fully insured individual for benefits under
20 title II, or”;

21 (2) by adding at the end the following new
22 flush sentence:

23 “For purposes of subparagraph (B)(i)(IV), the determina-
24 tion of whether a noncitizen is lawfully present in the
25 United States shall be made in accordance with regula-

1 tions of the Attorney General. A noncitizen shall not be
2 considered to be lawfully present in the United States for
3 purposes of this title merely because the noncitizen may
4 be considered to be permanently residing in the United
5 States under color of law for purposes of any particular
6 program.”.

7 (b) EFFECTIVE DATE.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the amendments made by subsection (a)
10 shall apply to applicants for benefits for months be-
11 ginning on or after the date of the enactment of this
12 Act, without regard to whether regulations have
13 been issued to implement such amendments.

14 (2) APPLICATION TO CURRENT RECIPIENTS.—

15 (A) APPLICATION AND NOTICE.—Notwith-
16 standing any other provision of law, in the case
17 of an individual who is receiving supplemental
18 security income benefits under title XVI of the
19 Social Security Act as of the date of the enact-
20 ment of this Act and whose eligibility for such
21 benefits would terminate by reason of the
22 amendments made by subsection (a), such
23 amendments shall apply with respect to the
24 benefits of such individual for months beginning
25 on or after January 1, 1997, and the Commis-

1 sioner of Social Security shall so notify the indi-
2 vidual not later than 90 days after the date of
3 the enactment of this Act.

4 (B) REAPPLICATION.—

5 (i) IN GENERAL.—Not later than 120
6 days after the date of the enactment of
7 this Act, each individual notified pursuant
8 to subparagraph (A) who desires to re-
9 apply for benefits under title XVI of the
10 Social Security Act shall reapply to the
11 Commissioner of Social Security.

12 (ii) DETERMINATION OF ELIGI-
13 BILITY.—Not later than 1 year after the
14 date of the enactment of this Act, the
15 Commissioner of Social Security shall de-
16 termine the eligibility of each individual
17 who reapplies for benefits under clause (i)
18 pursuant to the procedures of such title
19 XVI.

20 **SEC. 7405. TREATMENT OF NONCITIZENS.**

21 (a) IN GENERAL.—Notwithstanding any other provi-
22 sion of law, a noncitizen who has entered into the United
23 States on or after the date of the enactment of this Act
24 shall not, during the 5-year period beginning on the date
25 of such noncitizen's entry into the United States, be eligi-

1 ble to receive any benefits under any program of assist-
2 ance provided, or funded, in whole or in part, by the Fed-
3 eral Government, for which eligibility for benefits is based
4 on need.

5 (b) EXCEPTIONS.—Subsection (a) shall not apply
6 to—

7 (1) any individual who is described in subclause
8 (II), (III), (IV), or (V) of section 1614(a)(1)(B)(i)
9 of the Social Security Act (42 U.S.C.
10 1382c(a)(1)(B)(i));

11 (2) any program described in section
12 7402(f)(2); and

13 (3) payments for foster care and adoption as-
14 sistance under part E of title IV of the Social Secu-
15 rity Act for a child who would, in the absence of this
16 section, be eligible to have such payments made on
17 the child's behalf under such part, but only if the
18 foster or adoptive parent or parents of such child are
19 not noncitizens described in subsection (a).

20 **SEC. 7406. INFORMATION REPORTING.**

21 (a) TITLE IV OF THE SOCIAL SECURITY ACT.—Sec-
22 tion 405 of the Social Security Act, as added by section
23 7201(b), is amended by adding at the end the following
24 new subsection:

1 “(g) STATE REQUIRED TO PROVIDE CERTAIN IN-
2 FORMATION.—Each State to which a grant is made under
3 section 403 shall, at least 4 times annually and upon re-
4 quest of the Immigration and Naturalization Service, fur-
5 nish the Immigration and Naturalization Service with the
6 name and address of, and other identifying information
7 on, any individual who the State knows is unlawfully in
8 the United States.”.

9 (b) SSI.—Section 1631(e) (42 U.S.C. 1383(e)) is
10 amended—

11 (1) by redesignating the paragraphs (6) and (7)
12 inserted by sections 206(d)(2) and 206(f)(1) of the
13 Social Security Independence and Programs Im-
14 provement Act of 1994 (Public Law 103–296; 108
15 Stat. 1514, 1515) as paragraphs (7) and (8), re-
16 spectively; and

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

19 “(9) Notwithstanding any other provision of
20 law, the Commissioner shall, at least 4 times annu-
21 ally and upon request of the Immigration and Natu-
22 ralization Service (hereafter in this paragraph re-
23 ferred to as the ‘Service’), furnish the Service with
24 the name and address of, and other identifying in-
25 formation on, any individual who the Commissioner

1 knows is unlawfully in the United States, and shall
2 ensure that each agreement entered into under sec-
3 tion 1616(a) with a State provides that the State
4 shall furnish such information at such times with re-
5 spect to any individual who the State knows is un-
6 lawfully in the United States.”.

7 (c) HOUSING PROGRAMS.—Title I of the United
8 States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is
9 amended by adding at the end the following new section:
10 **“SEC. 27. PROVISION OF INFORMATION TO LAW ENFORCE-**
11 **MENT AND OTHER AGENCIES.**

12 “(a) NOTICE TO IMMIGRATION AND NATURALIZA-
13 TION SERVICE OF ILLEGAL ALIENS.—Notwithstanding
14 any other provision of law, the Secretary shall, at least
15 4 times annually and upon request of the Immigration and
16 Naturalization Service (hereafter in this subsection re-
17 ferred to as the ‘Service’), furnish the Service with the
18 name and address of, and other identifying information
19 on, any individual who the Secretary knows is unlawfully
20 in the United States, and shall ensure that each contract
21 for assistance entered into under section 6 or 8 of this
22 Act with a public housing agency provides that the public
23 housing agency shall furnish such information at such
24 times with respect to any individual who the public hous-
25 ing agency knows is unlawfully in the United States.”.

1 **SEC. 7407. PROHIBITION ON PAYMENT OF FEDERAL BENE-**
2 **FITS TO CERTAIN PERSONS.**

3 (a) **IN GENERAL.**—Notwithstanding any other provi-
4 sion of law and except as provided in subsection (b), Fed-
5 eral benefits shall not be paid or provided to any person
6 who is not a person lawfully present within the United
7 States.

8 (b) **EXCEPTIONS.**—Subsection (a) shall not apply
9 with respect to the following benefits:

10 (1) Emergency medical services under title XXI
11 of the Social Security Act.

12 (2) Short-term emergency disaster relief.

13 (3) Assistance or benefits under the National
14 School Lunch Act.

15 (4) Assistance or benefits under the Child Nu-
16 trition Act of 1966.

17 (5) Public health assistance for immunizations
18 and, if the Secretary of Health and Human Services
19 determines that it is necessary to prevent the spread
20 of a serious communicable disease, for testing and
21 treatment of such disease.

22 (c) **DEFINITIONS.**—For purposes of this section:

23 (1) **FEDERAL BENEFIT.**—The term “Federal
24 benefit” means—

25 (A) the issuance of any grant, contract,
26 loan, professional license, or commercial license

1 provided by an agency of the United States or
2 by appropriated funds of the United States; and

3 (B) any retirement, welfare, Social Secu-
4 rity, health, disability, public housing, post-sec-
5 ondary education, food stamps, unemployment
6 benefit, or any other similar benefit for which
7 payments or assistance are provided by an
8 agency of the United States or by appropriated
9 funds of the United States.

10 (2) PERSON LAWFULLY PRESENT WITHIN THE
11 UNITED STATES.—The term “person lawfully
12 present within the United States” means a person
13 who, at the time the person applies for, receives, or
14 attempts to receive a Federal benefit, is a United
15 States citizen, a permanent resident alien, an alien
16 whose deportation has been withheld under section
17 243(h) of the Immigration and Nationality Act (8
18 U.S.C. 1253(h)), an asylee, a refugee, a parolee who
19 has been paroled for a period of at least 1 year, a
20 national, or a national of the United States for pur-
21 poses of the immigration laws of the United States
22 (as defined in section 101(a)(17) of the Immigration
23 and Nationality Act (8 U.S.C. 1101(a)(17)).

24 (d) STATE OBLIGATION.—Notwithstanding any other
25 provision of law, a State that administers a program that

1 provides a Federal benefit (described in subsection (c)(1))
2 or provides State benefits pursuant to such a program
3 shall not be required to provide such benefit to a person
4 who is not a person lawfully present within the United
5 States (as defined in subsection (c)(2)) through a State
6 agency or with appropriated funds of such State.

7 (e) VERIFICATION OF ELIGIBILITY.—

8 (1) IN GENERAL.—Not later than 18 months
9 after the date of the enactment of this Act, the At-
10 torney General of the United States, after consulta-
11 tion with the Secretary of Health and Human Serv-
12 ices, shall promulgate regulations requiring verifica-
13 tion that a person applying for a Federal benefit, in-
14 cluding a benefit described in subsection (b), is a
15 person lawfully present within the United States and
16 is eligible to receive such benefit. Such regulations
17 shall, to the extent feasible, require that information
18 requested and exchanged be similar in form and
19 manner to information requested and exchanged
20 under section 1137 of the Social Security Act.

21 (2) STATE COMPLIANCE.—Not later than 24
22 months after the date the regulations described in
23 paragraph (1) are adopted, a State that administers
24 a program that provides a Federal benefit described

1 in such paragraph shall have in effect a verification
2 system that complies with the regulations.

3 (3) AUTHORIZATION OF APPROPRIATIONS.—

4 There are authorized to be appropriated such sums
5 as may be necessary to carry out the purpose of this
6 section.

7 (f) SEVERABILITY.—If any provision of this section
8 or the application of such provision to any person or cir-
9 cumstance is held to be unconstitutional, the remainder
10 of this section and the application of the provisions of such
11 to any person or circumstance shall not be affected there-
12 by.

13 **Subtitle G—Additional Provisions** 14 **Relating to Welfare Reform**

15 **CHAPTER 1—REDUCTIONS IN FEDERAL** 16 **GOVERNMENT POSITIONS**

17 **SEC. 7411. REDUCTIONS.**

18 (a) DEFINITIONS.—As used in this section:

19 (1) APPROPRIATE EFFECTIVE DATE.—The term
20 “appropriate effective date”, used with respect to a
21 Department referred to in this section, means the
22 date on which all provisions of subtitle D of title I,
23 this subtitle, or subtitles C, D, E, and F of this title
24 that the Department is required to carry out, and
25 amendments and repeals made by such titles and

1 subtitles to provisions of Federal law that the De-
2 partment is required to carry out, are effective.

3 (2) COVERED ACTIVITY.—The term “covered
4 activity”, used with respect to a Department re-
5 ferred to in this section, means an activity that the
6 Department is required to carry out under—

7 (A) a provision of subtitle D of title I, this
8 subtitle, or subtitle C, D, E, or F of this title;
9 or

10 (B) a provision of Federal law that is
11 amended or repealed by any such title or sub-
12 titles.

13 (b) REPORTS.—

14 (1) CONTENTS.—Not later than December 31,
15 1995, each Secretary referred to in paragraph (2)
16 shall prepare and submit to the relevant committees
17 described in paragraph (3) a report containing—

18 (A) the determinations described in sub-
19 section (c);

20 (B) appropriate documentation in support
21 of such determinations; and

22 (C) a description of the methodology used
23 in making such determinations.

24 (2) SECRETARY.—The Secretaries referred to in
25 this paragraph are—

- 1 (A) the Secretary of Agriculture;
2 (B) the Secretary of Education;
3 (C) the Secretary of Labor;
4 (D) the Secretary of Housing and Urban
5 Development; and
6 (E) the Secretary of Health and Human
7 Services.

8 (3) RELEVANT COMMITTEES.—The relevant
9 Committees described in this paragraph are the fol-
10 lowing:

11 (A) With respect to each Secretary de-
12 scribed in paragraph (2), the Committee on
13 Government Reform and Oversight of the
14 House of Representatives and the Committee
15 on Governmental Affairs of the Senate.

16 (B) With respect to the Secretary of Agri-
17 culture, the Committee on Agriculture and the
18 Committee on Economic and Educational Op-
19 portunities of the House of Representatives and
20 the Committee on Agriculture, Nutrition, and
21 Forestry of the Senate.

22 (C) With respect to the Secretary of Edu-
23 cation, the Committee on Economic and Edu-
24 cational Opportunities of the House of Rep-

1 representatives and the Committee on Labor and
2 Human Resources of the Senate.

3 (D) With respect to the Secretary of
4 Labor, the Committee on Economic and Edu-
5 cational Opportunities of the House of Rep-
6 resentatives and the Committee on Labor and
7 Human Resources of the Senate.

8 (E) With respect to the Secretary of Hous-
9 ing and Urban Development, the Committee on
10 Banking and Financial Services of the House of
11 Representatives and the Committee on Bank-
12 ing, Housing, and Urban Affairs of the Senate.

13 (F) With respect to the Secretary of
14 Health and Human Services, the Committee on
15 Economic and Educational Opportunities of the
16 House of Representatives, the Committee on
17 Labor and Human Resources of the Senate, the
18 Committee on Ways and Means of the House of
19 Representatives, and the Committee on Finance
20 of the Senate.

21 (4) REPORT ON CHANGES.—Not later than De-
22 cember 31, 1996, and each December 31 thereafter,
23 each Secretary referred to in paragraph (2) shall
24 prepare and submit to the relevant Committees de-
25 scribed in paragraph (3), a report concerning any

1 changes with respect to the determinations made
2 under subsection (c) for the year in which the report
3 is being submitted.

4 (c) DETERMINATIONS.—Not later than December 31,
5 1995, each Secretary referred to in subsection (b)(2) shall
6 determine—

7 (1) the number of full-time equivalent positions
8 required by the Department headed by such Sec-
9 retary to carry out the covered activities of the De-
10 partment, as of the day before the date of enactment
11 of this Act;

12 (2) the number of such positions required by
13 the Department to carry out the activities, as of the
14 appropriate effective date for the Department; and

15 (3) the difference obtained by subtracting the
16 number referred to in paragraph (2) from the num-
17 ber referred to in paragraph (1).

18 (d) ACTIONS.—Not later than 30 days after the ap-
19 propriate effective date for the Department involved, each
20 Secretary referred to in subsection (b)(2) shall take such
21 actions as may be necessary, including reduction in force
22 actions, consistent with sections 3502 and 3595 of title
23 5, United States Code, to reduce the number of positions
24 of personnel of the Department by at least the difference
25 referred to in subsection (c)(3).

1 (e) CONSISTENCY.—

2 (1) EDUCATION.—The Secretary of Education
3 shall carry out this section in a manner that enables
4 the Secretary to meet the requirements of this sec-
5 tion.

6 (2) LABOR.—The Secretary of Labor shall
7 carry out this section in a manner that enables the
8 Secretary to meet the requirements of this section.

9 (3) HEALTH AND HUMAN SERVICES.—The Sec-
10 retary of Health and Human Services shall carry out
11 this section in a manner that enables the Secretary
12 to meet the requirements of this section and section
13 7412.

14 (f) CALCULATION.—In determining, under subsection
15 (c), the number of full-time equivalent positions required
16 by a Department to carry out a covered activity, a Sec-
17 retary referred to in subsection (b)(2), shall include the
18 number of such positions occupied by personnel carrying
19 out program functions or other functions (including budg-
20 etary, legislative, administrative, planning, evaluation, and
21 legal functions) related to the activity.

22 (g) GENERAL ACCOUNTING OFFICE REPORT.—Not
23 later than July 1, 1996, the Comptroller General of the
24 United States shall prepare and submit to the committees
25 described in subsection (b)(3), a report concerning the de-

1 terminations made by each Secretary under subsection (c).
2 Such report shall contain an analysis of the determina-
3 tions made by each Secretary under subsection (c) and
4 a determination as to whether further reductions in full-
5 time equivalent positions are appropriate.

6 **SEC. 7412. REDUCTIONS IN FEDERAL BUREAUCRACY.**

7 (a) IN GENERAL.—The Secretary of Health and
8 Human Services shall reduce the Federal workforce within
9 the Department of Health and Human Services by an
10 amount equal to the sum of—

11 (1) 75 percent of the full-time equivalent posi-
12 tions at such Department that relate to any direct
13 spending program, or any program funded through
14 discretionary spending, that has been converted into
15 a block grant program under subtitle D of title I,
16 this subtitle, or subtitle C, D, E, or F of this title
17 and the amendments made by such title or subtitles;
18 and

19 (2) an amount equal to 75 percent of that por-
20 tion of the total full-time equivalent departmental
21 management positions at such Department that
22 bears the same relationship to the amount appro-
23 priated for the programs referred to in paragraph
24 (1) as such amount relates to the total amount ap-
25 propriated for use by such Department.

1 (b) REDUCTIONS IN THE DEPARTMENT OF HEALTH
 2 AND HUMAN SERVICES.—Notwithstanding any other pro-
 3 vision of this Act, the Secretary of Health and Human
 4 Services shall take such actions as may be necessary, in-
 5 cluding reductions in force actions, consistent with sec-
 6 tions 3502 and 3595 of title 5, United States Code, to
 7 reduce the full-time equivalent positions within the De-
 8 partment of Health and Human Services—

9 (1) by 245 full-time equivalent positions related
 10 to the program converted into a block grant under
 11 the amendment made by section 7201(b); and

12 (2) by 60 full-time equivalent managerial posi-
 13 tions in the Department.

14 **SEC. 7413. REDUCING PERSONNEL IN WASHINGTON, D.C.**
 15 **AREA.**

16 In making reductions in full-time equivalent posi-
 17 tions, the Secretary of Health and Human Services is en-
 18 couraged to reduce personnel in the Washington, DC, area
 19 office (agency headquarters) before reducing field person-
 20 nel.

21 **CHAPTER 2—BLOCK GRANTS FOR SOCIAL**
 22 **SERVICES**

23 **SEC. 7421. REDUCTION IN BLOCK GRANTS FOR SOCIAL**
 24 **SERVICES.**

25 Section 2003(c) (42 U.S.C. 1397b) is amended—

1 (1) by striking “and” at the end of paragraph
2 (4); and

3 (2) by striking paragraph (5) and inserting the
4 following:

5 “(5) \$2,800,000,000 for each of the fiscal years
6 1990 through 1996; and

7 “(6) \$2,240,000,000 for each fiscal year after
8 fiscal year 1996.”.

9 **SEC. 7422. ESTABLISHING NATIONAL GOALS TO PREVENT**
10 **TEENAGE PREGNANCIES.**

11 (a) IN GENERAL.—Not later than January 1, 1997,
12 the Secretary of Health and Human Services shall estab-
13 lish and implement a strategy for—

14 (1) preventing an additional 2 percent of out-
15 of-wedlock teenage pregnancies a year, and

16 (2) assuring that at least 25 percent of the
17 communities in the United States have teenage preg-
18 nancy prevention programs in place.

19 (b) REPORT.—Not later than June 30, 1998, and an-
20 nually thereafter, the Secretary shall report to the Con-
21 gress with respect to the progress that has been made in
22 meeting the goals described in paragraphs (1) and (2) of
23 subsection (a).

24 (c) OUT-OF-WEDLOCK AND TEENAGE PREGNANCY
25 PREVENTION PROGRAMS.—Section 2002 (42 U.S.C.

1 1397a) is amended by adding at the end the following new
2 subsection:

3 “(f)(1) The Secretary shall conduct a study with re-
4 spect to State programs that have been implemented to
5 determine the relative effectiveness of the different ap-
6 proaches for reducing out-of-wedlock pregnancies and pre-
7 venting teenage pregnancy and the approaches that can
8 be best replicated by other States.

9 “(2) Each State shall provide to the Secretary, in
10 such form and with such frequency as the Secretary re-
11 quires, data from the programs the State has imple-
12 mented. The Secretary shall report to the Congress annu-
13 ally on the progress of the programs and shall, not later
14 than June 30, 1998, submit to the Congress a report on
15 the study required under paragraph (1).”.

16 **CHAPTER 3—FOSTER CARE MAINTENANCE**

17 **PAYMENTS PROGRAM**

18 **SEC. 7431. LIMITATION ON GROWTH OF ADMINISTRATIVE**

19 **EXPENSES FOR FOSTER CARE MAINTENANCE**

20 **PAYMENTS PROGRAM.**

21 Section 474(b) (42 U.S.C. 674) is amended by add-
22 ing at the end the following new paragraph:

23 “(5) Notwithstanding the provisions of subpara-
24 graphs (D) and (E) of subsection (a)(3), the total amount
25 of the payment under such subparagraphs with respect to

1 the foster care maintenance payments program for any fis-
 2 cal year beginning with fiscal year 1996 shall not exceed
 3 110 percent of the total amount of such payment for the
 4 preceding fiscal year.”.

5 **CHAPTER 4—MISCELLANEOUS PROVISIONS**

6 **SEC. 7441. EXEMPTION OF BATTERED INDIVIDUALS FROM**
 7 **CERTAIN REQUIREMENTS.**

8 (a) IN GENERAL.—Notwithstanding any other provi-
 9 sion of, or amendment made by, subtitle D of title I of
 10 this Act, this subtitle, or subtitle C, D, E, or F of this
 11 title, the applicable administering authority of any speci-
 12 fied provision may exempt from (or modify) the applica-
 13 tion of such provision to any individual who was battered
 14 or subjected to extreme cruelty if the physical, mental, or
 15 emotional well-being of the individual would be endangered
 16 by the application of such provision to such individual.
 17 The applicable administering authority may take into con-
 18 sideration the family circumstances and the counseling
 19 and other supportive service needs of the individual.

20 (b) SPECIFIED PROVISIONS.—For purposes of this
 21 section, the term “specified provision” means any require-
 22 ment, limitation, or penalty under any of the following:

23 (1) Sections 404, 405 (a) and (b), 406 (b), (c),
 24 and (d), 414(d), 453(c), 469A, and 1614(a)(1) of
 25 the Social Security Act.

1 (2) Sections 5(i) (other than paragraph (3)
2 thereof) and 6 (d) and (j), and the provision relating
3 to work requirements in section 6 of the Food
4 Stamp Act of 1977.

5 (3) Sections 7401(a) and 7402 of this Act.

6 (c) DEFINITIONS AND SPECIAL RULES.—For pur-
7 poses of this section—

8 (1) BATTERED OR SUBJECTED TO EXTREME
9 CRUELTY.—The term “battered or subjected to ex-
10 treme cruelty” includes, but is not limited to—

11 (A) physical acts resulting in, or threaten-
12 ing to result in, physical injury;

13 (B) sexual abuse, sexual activity involving
14 a dependent child, forcing the caretaker relative
15 of a dependent child to engage in nonconsensual
16 sexual acts or activities, or threats of or at-
17 tempts at physical or sexual abuse;

18 (C) mental abuse; and

19 (D) neglect or deprivation of medical care.

20 (2) CALCULATION OF PARTICIPATION RATES.—

21 An individual exempted from the work requirements
22 under section 404 of the Social Security Act by rea-
23 son of subsection (a) shall not be included for pur-
24 poses of calculating the State’s participation rate
25 under such section.

1 **SEC. 7442. SENSE OF THE SENATE ON LEGISLATIVE AC-**
2 **COUNTABILITY FOR UNFUNDED MANDATES**
3 **IN WELFARE REFORM LEGISLATION.**

4 (a) FINDINGS.—The Senate finds that the purposes
5 of the Unfunded Mandates Reform Act of 1995 are—

6 (1) to strengthen the partnership between the
7 Federal Government and State, local and tribal gov-
8 ernments;

9 (2) to end the imposition, in the absence of full
10 consideration by Congress, of Federal mandates on
11 State, local and tribal governments without adequate
12 Federal funding, in a manner that may displace
13 other essential State, local and tribal governmental
14 priorities;

15 (3) to assist Congress in its consideration of
16 proposed legislation establishing or revising Federal
17 programs containing Federal mandates affecting
18 State, local and tribal governments, and the private
19 sector by—

20 (A) providing for the development of infor-
21 mation about the nature and size of mandates
22 in proposed legislation; and

23 (B) establishing a mechanism to bring
24 such information to the attention of the Senate
25 and the House of Representatives before the

1 Senate and the House of Representatives vote
2 on proposed legislation;

3 (4) to promote informed and deliberate deci-
4 sions by Congress on the appropriateness of Federal
5 mandates in any particular instance; and

6 (5) to require that Congress consider whether
7 to provide funding to assist State, local and tribal
8 governments in complying with Federal mandates.

9 (b) SENSE OF THE SENATE.—It is the sense of the
10 Senate that prior to the Senate acting on the conference
11 report on either H.R. 4 or any other legislation including
12 welfare reform provisions, the Congressional Budget Of-
13 fice shall prepare an analysis of the conference report to
14 include—

15 (1) estimates, over each of the next 7 fiscal
16 years, by State and in total, of—

17 (A) the costs to States of meeting all work
18 requirements in the conference report, including
19 those for single-parent families, two-parent
20 families, and those who have received cash as-
21 sistance for 2 years;

22 (B) the resources available to the States to
23 meet these work requirements, defined as Fed-
24 eral appropriations authorized in the conference
25 report for this purpose in addition to what

1 States are projected to spend under current
2 welfare law; and

3 (C) the amount of any additional revenue
4 needed by the States to meet the work require-
5 ments in the conference report, beyond re-
6 sources available as defined under subpara-
7 graph (B);

8 (2) an estimate, based on the analysis in para-
9 graph (1), of how many States would opt to pay any
10 penalty provided for by the conference report rather
11 than raise the additional revenue needed to meet the
12 work requirements in the conference report; and

13 (3) estimates, over each of the next 7 fiscal
14 years, of the costs to States of any other require-
15 ments imposed on them by such legislation.

16 **SEC. 7443. SENSE OF THE SENATE REGARDING ENFORCE-**
17 **MENT OF STATUTORY RAPE LAWS.**

18 It is the sense of the Senate that States and local
19 jurisdictions should aggressively enforce statutory rape
20 laws.

21 **SEC. 7444. SANCTIONING FOR TESTING POSITIVE FOR CON-**
22 **TROLLED SUBSTANCES.**

23 Notwithstanding any other provision of law, States
24 shall not be prohibited by the Federal Government from

1 sanctioning welfare recipients who test positive for use of
2 controlled substances.

3 **SEC. 7445. ABSTINENCE EDUCATION.**

4 (a) INCREASES IN FUNDING.—Section 501(a) (42
5 U.S.C. 701(a)) is amended in the matter preceding para-
6 graph (1) by striking “fiscal year 1994 and each fiscal
7 year thereafter” and inserting “fiscal years 1994 and
8 1995 and \$761,000,000 for fiscal year 1996 and each fis-
9 cal year thereafter”.

10 (b) ABSTINENCE EDUCATION.—Section 501(a)(1)
11 (42 U.S.C. 701(a)(1)) is amended—

12 (1) by striking “and” at the end of subpara-
13 graph (C);

14 (2) by inserting “and” at the end of subpara-
15 graph (D); and

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

18 “(E) to provide abstinence education, and
19 at the option of the State, where appropriate,
20 mentoring, counseling, and adult supervision to
21 promote abstinence from sexual activity, with a
22 focus on those groups which are most likely to
23 bear children out-of-wedlock;”.

1 (c) ABSTINENCE EDUCATION DEFINED.—Section
2 501(b) (42 U.S.C. 701(b)) is amended by adding at the
3 end the following new paragraph:

4 “(5) ABSTINENCE EDUCATION.—The term ‘ab-
5 stinence education’ means an educational or motiva-
6 tional program which—

7 “(A) has as its exclusive purpose, teaching
8 the social, psychological, and health gains to be
9 realized by abstaining from sexual activity;

10 “(B) teaches abstinence from sexual activ-
11 ity outside marriage as the expected standard
12 for all school age children;

13 “(C) teaches that abstinence from sexual
14 activity is the only certain way to avoid out-of-
15 wedlock pregnancy, sexually transmitted dis-
16 eases, and other associated health problems;

17 “(D) teaches that a mutually faithful
18 monogamous relationship in context of marriage
19 is the expected standard of human sexual activ-
20 ity;

21 “(E) teaches that sexual activity outside of
22 the context of marriage is likely to have harm-
23 ful psychological and physical effects;

1 “(F) teaches that bearing children out-of-
2 wedlock is likely to have harmful consequences
3 for the child, the child’s parents, and society;

4 “(G) teaches young people how to reject
5 sexual advances and how alcohol and drug use
6 increases vulnerability to sexual advances; and

7 “(H) teaches the importance of attaining
8 self-sufficiency before engaging in sexual activ-
9 ity.”.

10 (d) SET-ASIDE.—

11 (1) IN GENERAL.—Section 502(c) (42 U.S.C.
12 702(c)) is amended in the matter preceding para-
13 graph (1) by striking “From” and inserting “Except
14 as provided in subsection (e), from”.

15 (2) SET-ASIDE.—Section 502 (42 U.S.C. 702)
16 is amended by adding at the end the following new
17 subsection:

18 “(e) Of the amounts appropriated under section
19 501(a) for any fiscal year, the Secretary shall set aside
20 \$75,000,000 for abstinence education in accordance with
21 section 501(a)(1)(E).”.

22 **SEC. 7446. FRAUD UNDER MEANS-TESTED WELFARE AND**
23 **PUBLIC ASSISTANCE PROGRAMS.**

24 (a) IN GENERAL.—If an individual’s benefits under
25 a Federal, State, or local law relating to a means-tested

1 welfare or a public assistance program are reduced be-
2 cause of an act of fraud by the individual under the law
3 or program, the individual may not, for the duration of
4 the reduction, receive an increased benefit under any other
5 means-tested welfare or public assistance program for
6 which Federal funds are appropriated as a result of a de-
7 crease in the income of the individual (determined under
8 the applicable program) attributable to such reduction.

9 (b) WELFARE OR PUBLIC ASSISTANCE PROGRAMS
10 FOR WHICH FEDERAL FUNDS ARE APPROPRIATED.—For
11 purposes of subsection (a), the term “means-tested welfare
12 or public assistance program for which Federal funds are
13 appropriated” shall include the food stamp program under
14 the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), any
15 program of public or assisted housing under title I of the
16 United States Housing Act of 1937 (42 U.S.C. 1437 et
17 seq.), and State programs funded under part A of title
18 IV of the Social Security Act (42 U.S.C. 601 et seq.).

19 **Subtitle H—Reform of the Earned**
20 **Income Tax Credit**

21 **SEC. 7460. AMENDMENT OF 1986 CODE.**

22 Except as otherwise expressly provided, whenever in
23 this subtitle an amendment or repeal is expressed in terms
24 of an amendment to, or repeal of, a section or other provi-
25 sion, the reference shall be considered to be made to a

1 section or other provision of the Internal Revenue Code
2 of 1986.

3 **SEC. 7461. EARNED INCOME CREDIT DENIED TO INDIVID-**
4 **UALS NOT AUTHORIZED TO BE EMPLOYED IN**
5 **THE UNITED STATES.**

6 (a) IN GENERAL.—Section 32(c)(1) (relating to indi-
7 viduals eligible to claim the earned income tax credit) is
8 amended by adding at the end the following new subpara-
9 graph:

10 “(F) IDENTIFICATION NUMBER REQUIRE-
11 MENT.—The term ‘eligible individual’ does not
12 include any individual who does not include on
13 the return of tax for the taxable year—

14 “(i) such individual’s taxpayer identi-
15 fication number, and

16 “(ii) if the individual is married (with-
17 in the meaning of section 7703), the tax-
18 payer identification number of such indi-
19 vidual’s spouse.”

20 (b) SPECIAL IDENTIFICATION NUMBER.—Section 32
21 is amended by adding at the end the following new sub-
22 section:

23 “(1) IDENTIFICATION NUMBERS.—Solely for pur-
24 poses of subsections (c)(1)(F) and (c)(3)(D), a taxpayer
25 identification number means a social security number is-

1 sued to an individual by the Social Security Administra-
2 tion (other than a social security number issued pursuant
3 to clause (II) (or that portion of clause (III) that relates
4 to clause (II)) of section 205(c)(2)(B)(i) of the Social Se-
5 curity Act).”

6 (c) EXTENSION OF PROCEDURES APPLICABLE TO
7 MATHEMATICAL OR CLERICAL ERRORS.—Section
8 6213(g)(2) (relating to the definition of mathematical or
9 clerical errors) is amended by striking “and” at the end
10 of subparagraph (D), by striking the period at the end
11 of subparagraph (E) and inserting a comma, and by in-
12 serting after subparagraph (E) the following new subpara-
13 graphs:

14 “(F) an omission of a correct taxpayer
15 identification number required under section 32
16 (relating to the earned income tax credit) to be
17 included on a return, and

18 “(G) an entry on a return claiming the
19 credit under section 32 with respect to net
20 earnings from self-employment described in sec-
21 tion 32(c)(2)(A) to the extent the tax imposed
22 by section 1401 (relating to self-employment
23 tax) on such net earnings has not been paid.”

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1995.

4 **SEC. 7462. REPEAL OF EARNED INCOME CREDIT FOR INDI-**
5 **VIDUALS WITHOUT CHILDREN.**

6 (a) IN GENERAL.—Subparagraph (A) of section
7 32(c)(1) (defining eligible individual) is amended to read
8 as follows:

9 “(A) IN GENERAL.—The term ‘eligible in-
10 dividual’ means any individual who has a quali-
11 fying child for the taxable year.”

12 (b) CONFORMING AMENDMENTS.—Each of the tables
13 contained in paragraphs (1) and (2) of section 32(b) are
14 amended by striking the items relating to no qualifying
15 children.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years beginning after
18 December 31, 1995.

19 **SEC. 7463. MODIFICATION OF EARNED INCOME CREDIT**
20 **AMOUNT AND PHASEOUT.**

21 (a) DECREASE IN CREDIT RATE.—

22 (1) IN GENERAL.—Subsection (b) of section 32,
23 as amended by section 7462(b), is amended to read
24 as follows:

25 “(b) PERCENTAGES AND AMOUNTS.—

1 “(1) IN GENERAL.—The credit percentage shall
2 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

3 “(2) AMOUNTS.—The earned income amount
4 and the phaseout amount shall be determined as
5 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.”

6 (2) CONFORMING AMENDMENT.—Paragraph (1)
7 of section 32(j) is amended by striking “subsection
8 (b)(2)(A)” and inserting “subsection (b)(2)”.

9 (b) PHASEOUT.—Paragraph (2) of section 32(a) (re-
10 lating to limitation) is amended to read as follows:

11 “(2) LIMITATION.—The amount of the credit
12 allowable to a taxpayer under paragraph (1) for any
13 taxable year shall be reduced by 0.66 percent (0.86
14 percent if only 1 qualifying child) for each \$100 or
15 fraction thereof by which the taxpayer’s adjusted
16 gross income (or, if greater, earned income) for the
17 taxable year exceeds the phaseout amount.”

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning after
20 December 31, 1995.

1 **SEC. 7464. RULES RELATING TO DENIAL OF EARNED IN-**
2 **COME CREDIT ON BASIS OF DISQUALIFIED**
3 **INCOME.**

4 (a) DEFINITION OF DISQUALIFIED INCOME.—Para-
5 graph (2) of section 32(i) (defining disqualified income)
6 is amended by striking “and” at the end of subparagraph
7 (B), by striking the period at the end of subparagraph
8 (C) and inserting “, and”, and by adding at the end the
9 following new subparagraphs:

10 “(D) capital gain net income, and

11 “(E) the excess (if any) of—

12 “(i) the aggregate income from all
13 passive activities for the taxable year (de-
14 termined without regard to any amount de-
15 scribed in a preceding subparagraph), over

16 “(ii) the aggregate losses from all pas-
17 sive activities for the taxable year (as so
18 determined).

19 For purposes of subparagraph (E), the term ‘passive
20 activity’ has the meaning given such term by section
21 469.”

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to taxable years beginning after
24 December 31, 1995.

1 **SEC. 7465. MODIFICATION OF ADJUSTED GROSS INCOME**

2 **DEFINITION FOR EARNED INCOME CREDIT.**

3 (a) IN GENERAL.—Subsections (a)(2), (c)(1)(C), and
4 (f)(2)(B) of section 32 are each amended by striking “ad-
5 justed gross income” and inserting “modified adjusted
6 gross income”.

7 (b) MODIFIED ADJUSTED GROSS INCOME DE-
8 FINED.—Section 32(c) (relating to definitions and special
9 rules) is amended by adding at the end the following new
10 paragraph:

11 “(5) MODIFIED ADJUSTED GROSS INCOME.—

12 “(A) IN GENERAL.—The term ‘modified
13 adjusted gross income’ means adjusted gross in-
14 come—

15 “(i) increased by the sum of the
16 amounts described in subparagraph (B),
17 and

18 “(ii) determined without regard to—

19 “(I) the amounts described in
20 subparagraph (C), or

21 “(II) the deduction allowed under
22 section 172.

23 “(B) NONTAXABLE INCOME TAKEN INTO
24 ACCOUNT.—Amounts described in this subpara-
25 graph are—

1 “(i) social security benefits (as defined
2 in section 86(d)) received by the taxpayer
3 during the taxable year to the extent not
4 included in gross income,

5 “(ii) amounts which—

6 “(I) are received during the tax-
7 able year by (or on behalf of) a spouse
8 pursuant to a divorce or separation
9 instrument (as defined in section
10 71(b)(2)), and

11 “(II) under the terms of the in-
12 strument are fixed as payable for the
13 support of the children of the payor
14 spouse (as determined under section
15 71(c)),

16 but only to the extent such amounts exceed
17 \$6,000,

18 “(iii) interest received or accrued dur-
19 ing the taxable year which is exempt from
20 tax imposed by this chapter, and

21 “(iv) amounts received as a pension or
22 annuity, and any distributions or payments
23 received from an individual retirement
24 plan, by the taxpayer during the taxable

1 year to the extent not included in gross in-
2 come.

3 Clause (iv) shall not include any amount which
4 is not includible in gross income by reason of
5 section 402(c), 403(a)(4), 403(b)(8), 408(d)
6 (3), (4), or (5), or 457(e)(10).

7 “(C) CERTAIN AMOUNTS DISREGARDED.—
8 An amount is described in this subparagraph if
9 it is—

10 “(i) the amount of losses from sales
11 or exchanges of capital assets in excess of
12 gains from such sales or exchanges to the
13 extent such amount does not exceed the
14 amount under section 1211(b)(1),

15 “(ii) the net loss from the carrying on
16 of trades or businesses, computed sepa-
17 rately with respect to—

18 “(I) trades or businesses (other
19 than farming) conducted as sole pro-
20 prietorships,

21 “(II) trades or businesses of
22 farming conducted as sole proprietor-
23 ships, and

24 “(III) other trades or business,

1 “(iii) the net loss from estates and
2 trusts, and

3 “(iv) the excess (if any) of amounts
4 described in subsection (i)(2)(C)(ii) over
5 the amounts described in subsection
6 (i)(2)(C)(i) (relating to nonbusiness rents
7 and royalties).

8 For purposes of clause (ii), there shall not be
9 taken into account items which are attributable
10 to a trade or business which consists of the per-
11 formance of services by the taxpayer as an em-
12 ployee.”

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 1995.

16 **SEC. 7466. PROVISIONS TO IMPROVE TAX COMPLIANCE.**

17 (a) INCREASE IN PENALTIES FOR RETURN PREPAR-
18 ERS.—

19 (1) UNDERSTATEMENT PENALTY.—Section
20 6694 (relating to understatement of income tax li-
21 ability by income tax return preparer) is amended—

22 (A) by striking “\$250” in subsection (a)
23 and inserting “\$500”, and

24 (B) by striking “\$1,000” in subsection (b)
25 and inserting “\$2,000”.

1 (2) OTHER ASSESSABLE PENALTIES.—Section
2 6695 (relating to other assessable penalties) is
3 amended—

4 (A) by striking “\$50” and “\$25,000” in
5 subsections (a), (b), (c), (d), and (e) and insert-
6 ing “\$100” and “\$50,000”, respectively, and

7 (B) by striking “\$500” in subsection (f)
8 and inserting “\$1,000”.

9 (b) AIDING AND ABETTING PENALTY.—Section
10 6701(b) (relating to amount of penalty) is amended—

11 (1) by striking “\$1,000” in paragraph (1) and
12 inserting “2,000”, and

13 (2) by striking “10,000” in paragraph (2) and
14 inserting “20,000”.

15 (c) REVIEW OF ELECTRONIC FILING OF EARNED IN-
16 COME CREDIT CLAIMS.—The Secretary of the Treasury
17 shall use the maximum review process that is administra-
18 tively feasible to ensure that originators of electronic re-
19 turns involving the earned income credit under section 32
20 of the Internal Revenue Code of 1986 comply with the
21 law.

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to penalties with respect to taxable
24 years beginning after December 31, 1995.

1 **Subtitle I—Increase in Public Debt**

2 **SEC. 7471. INCREASE IN PUBLIC DEBT.**

3 Subsection (b) of section 3101 of title 31, United
4 States Code, is amended by striking the dollar amount
5 contained therein and inserting “\$5,500,000,000,000”.

6 **Subtitle J—Correction of Cost of**
7 **Living Adjustments**

8 **SEC. 7481. SENSE OF THE SENATE REGARDING CORREC-**
9 **TION OF COST OF LIVING ADJUSTMENTS.**

10 (a) FINDINGS.—The Senate finds that—

11 (1) the Consumer Price Index overstates the
12 cost of living in the United States; and

13 (2) overstatement of the cost of living under-
14 mines the equitable administration of Federal bene-
15 fit and tax policies.

16 (b) SENSE OF THE SENATE.—It is the sense of the
17 Senate that all cost of living adjustments required by Fed-
18 eral law should be corrected as soon as possible to accu-
19 rately reflect future changes in the cost of living.

1 **TITLE VIII—COMMITTEE ON**
2 **GOVERNMENTAL AFFAIRS**

3 **SEC. 8001. EXTENSION OF DELAY IN COST-OF-LIVING AD-**
4 **JUSTMENTS IN FEDERAL EMPLOYEE RETIRE-**
5 **MENT BENEFITS THROUGH FISCAL YEAR**
6 **2002.**

7 Section 11001(a) of the Omnibus Budget Reconcili-
8 ation Act of 1993 (Public Law 103–66; 107 Stat. 408)
9 is amended in the matter preceding paragraph (1) by
10 striking out “or 1996,” and inserting in lieu thereof
11 “1996, 1997, 1998, 1999, 2000, 2001, or 2002.”.

12 **SEC. 8002. INCREASED CONTRIBUTIONS TO FEDERAL CI-**
13 **VILIAN RETIREMENT SYSTEMS.**

14 (a) CIVIL SERVICE RETIREMENT SYSTEM.—

15 (1) DEDUCTIONS.—The first sentence of section
16 8334(a)(1) of title 5, United States Code, is amend-
17 ed to read as follows: “The employing agency shall
18 deduct and withhold from the basic pay of an em-
19 ployee, Member, Congressional employee, law en-
20 forcement officer, firefighter, bankruptcy judge,
21 judge of the United States Court of Appeals for the
22 Armed Forces, United States magistrate, or Claims
23 Court judge, as the case may be, the percentage of
24 basic pay applicable under subsection (e).”.

25 (2) AGENCY CONTRIBUTIONS.—

1 (A) INCREASE IN AGENCY CONTRIBUTIONS
2 DURING CALENDAR YEARS 1996 THROUGH
3 2002.—Section 8334(a)(1) of title 5, United
4 States Code (as amended by this section) is fur-
5 ther amended—

6 (i) by inserting “(A)” after “(1)”; and
7 (ii) by adding at the end thereof the
8 following new subparagraph:

9 “(B)(i) Notwithstanding subparagraph
10 (A), the agency contribution under the second
11 sentence of such subparagraph, during the pe-
12 riod beginning on January 1, 1996, through
13 December 31, 2002—

14 “(I) for each employing agency (other
15 than the United States Postal Service)
16 shall be 8.5 percent of the basic pay of an
17 employee, Congressional employee, and a
18 Member of Congress, 9 percent of the
19 basic pay of a law enforcement officer and
20 a firefighter, and 9.5 percent of the basic
21 pay of a Claims Court judge, a United
22 States magistrate, a judge of the United
23 States Court of Appeals for the Armed
24 Services, and a bankruptcy judge, as the
25 case may be; and

1 “(II) for the United States Postal
2 Service shall be 7 percent of the basic pay
3 of an employee and 9 percent of the basic
4 pay of a law enforcement officer.”.

5 (B) NO REDUCTION IN AGENCY CONTRIBU-
6 TIONS BY THE POSTAL SERVICE.—Agency con-
7 tributions by the United States Postal Service
8 under section 8348(h) of title 5, United States
9 Code—

10 (i) shall not be reduced as a result of
11 the amendments made under paragraph
12 (3) of this subsection; and

13 (ii) shall be computed as though such
14 amendments had not been enacted.

15 (3) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS,
16 AND DEPOSITS.—The table under section 8334(c) of
17 title 5, United States Code, is amended—

18 (A) in the matter relating to an employee
19 by striking out

“7 After December 31,
1969.”

20 and inserting in lieu thereof the following:

“7 January 1, 1970, to De-
cember 31, 1995.

7.25 ... January 1, 1996, to De-
cember 31, 1996.

7.4 January 1, 1997, to De-
cember 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.”;

1 (D) in the matter relating to a law enforce-
 2 ment officer for law enforcement service and
 3 firefighter for firefighter service by striking out
 “7½ After December 31,
 1974.”

4 and inserting in lieu thereof the following:
 “7.5 January 1, 1975, to De-
 cember 31, 1995.
 7.75 ... January 1, 1996, to De-
 cember 31, 1996.
 7.9 January 1, 1997, to De-
 cember 31, 1997.
 8 January 1, 1998, to De-
 cember 31, 2002.
 7.5 After December 31,
 2002.”;

5 (E) in the matter relating to a bankruptcy
 6 judge by striking out
 “8 After December 31,
 1983.”

7 and inserting in lieu thereof the following:
 “8 January 1, 1984, to De-
 cember 31, 1995.
 8.25 ... January 1, 1996, to De-
 cember 31, 1996.
 8.4 January 1, 1997, to De-
 cember 31, 1997.
 8.5 January 1, 1998, to De-
 cember 31, 2002.
 8 After December 31,
 2002.”;

8 (F) in the matter relating to a judge of the
 9 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 De-
fense Authorization
Act, 1984.”

3 and inserting in lieu thereof the following:

“8 The date of the enact-
ment of the Depart-
ment of Defense Au-
thorization Act, 1984,
to December 31,
1995.
8.25 ... January 1, 1996, to De-
cember 31, 1996.
8.4 January 1, 1997, to De-
cember 31, 1997.
8.5 January 1, 1998, to De-
cember 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 De-
cember 31, 1995.
8.25 ... January 1, 1996, to De-
cember 31, 1996.
8.4 January 1, 1997, to De-
cember 31, 1997.
8.5 January 1, 1998, to De-
cember 31, 2002.
8 After December 31,
2002.”;

7 and

1 (H) in the matter relating to a Claims
2 Court judge by striking out

“8 After September 30,
1988.”

3 and inserting in lieu thereof the following:

“8 October 1, 1988, to De-
cember 31, 1995.

8.25 ... January 1, 1996, to De-
cember 31, 1996.

8.4 January 1, 1997, to De-
cember 31, 1997.

8.5 January 1, 1998, to De-
cember 31, 2002.

8 After December 31,
2002.”.

4 (4) OTHER SERVICE.—

5 (A) MILITARY SERVICE.—Section 8334(j)

6 of title 5, United States Code, is amended—

7 (i) in paragraph (1)(A) by inserting

8 “and subject to paragraph (5),” after “Ex-

9 cept as provided in subparagraph (B),”;

10 and

11 (ii) by adding at the end thereof the

12 following new paragraph:

13 “(5) Effective with respect to any period of military

14 service after December 31, 1995, the percentage of basic

15 pay under section 204 of title 37 payable under paragraph

16 (1) shall be equal to the same percentage as would be ap-

17 plicable under section 8334(e) for that same period for

18 service as an employee, subject to paragraph (1)(B).”.

1 (B) VOLUNTEER SERVICE.—Section
 2 8334(l) of title 5, United States Code, is
 3 amended—

4 (i) in paragraph (1) by adding at the
 5 end thereof the following: “This paragraph
 6 shall be subject to paragraph (4).”; and

7 (ii) by adding at the end thereof the
 8 following new paragraph:

9 “(4) Effective with respect to any period of service
 10 after December 31, 1995, the percentage of the readjust-
 11 ment allowance or stipend (as the case may be) payable
 12 under paragraph (1) shall be equal to the same percentage
 13 as would be applicable under section 8334(c) for that same
 14 period for service as an employee.”.

15 (b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

16 (1) INDIVIDUAL DEDUCTIONS AND
 17 WITHHOLDINGS.—

18 (A) IN GENERAL.—Section 8422(a) of title
 19 5, United States Code, is amended by striking
 20 out paragraph (2) and inserting in lieu thereof
 21 the following:

22 “(2) The percentage to be deducted and withheld
 23 from basic pay for any pay period shall be equal to—

24 “(A) the applicable percentage under paragraph
 25 (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:

	“Per- centage of basic pay	Service period
Employee	7	Before January 1, 1996.
	7.25	January 1, 1996, to De- cember 31, 1996.
	7.4	January 1, 1997, to De- cember 31, 1997.
	7.5	January 1, 1998, to De- cember 31, 2002.
	7	After December 31, 2002.
Congressional employee	7.5	Before January 1, 1996.
	7.25	January 1, 1996, to De- cember 31, 1996.
	7.4	January 1, 1997, to De- cember 31, 1997.
	7.5	January 1, 1998, to De- cember 31, 2002.
	7	After December 31, 2002.
Member	7.5	Before January 1, 1996.
	7.25	January 1, 1996, to De- cember 31, 1996.
	7.4	January 1, 1997, to De- cember 31, 1997.
	7.5	January 1, 1998, to De- cember 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 De- cember 31, 1996.
	7.9	January 1, 1997, to De- cember 31, 1997.

	“Per- centage of basic pay	Service period
8		January 1, 1998, to De- cember 31, 2002.
7.5		After December 31, 2002.

1 (B) MILITARY SERVICE.—Section 8422(e)
2 of title 5, United States Code, is amended—

3 (i) in paragraph (1)(A) by inserting
4 “and subject to paragraph (6),” after “Ex-
5 cept as provided in subparagraph (B),”;
6 and

7 (ii) by adding at the end thereof the
8 following:

9 “(6) The percentage of basic pay under section
10 204 of title 37 payable under paragraph (1), with
11 respect to any period of military service performed
12 during—

13 “(A) January 1, 1996, through December
14 31, 1996, shall be 3.25 percent;

15 “(B) January 1, 1997, through December
16 31, 1997, shall be 3.4 percent; and

17 “(C) January 1, 1998, through December
18 31, 2002, shall be 3.5 percent.”.

19 (C) VOLUNTEER SERVICE.—Section
20 8422(f) of title 5, United States Code, is
21 amended—

1 (i) in paragraph (1) by adding at the
2 end thereof the following: “This paragraph
3 shall be subject to paragraph (4).”; and

4 (ii) by adding at the end the follow-
5 ing:

6 “(4) The percentage of the readjustment allow-
7 ance or stipend (as the case may be) payable under
8 paragraph (1), with respect to any period of volun-
9 teer service performed during—

10 “(A) January 1, 1996, through December
11 31, 1996, shall be 3.25 percent;

12 “(B) January 1, 1997, through December
13 31, 1997, shall be 3.4 percent; and

14 “(C) January 1, 1998, through December
15 31, 2002, shall be 3.5 percent.”.

16 (2) NO REDUCTION IN AGENCY CONTRIBU-
17 TIONS.—Agency contributions under section 8423
18 (a) and (b) of title 5, United States Code , shall not
19 be reduced as a result of the amendments made
20 under paragraph (1) of this subsection.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect on the first day of the first
23 applicable pay period beginning on or after January 1,
24 1996.

1 **SEC. 8003. FEDERAL RETIREMENT PROVISIONS RELATING**
2 **TO MEMBERS OF CONGRESS AND CONGRES-**
3 **SIONAL EMPLOYEES.**

4 (a) RELATING TO THE YEARS OF SERVICE AS A
5 MEMBER OF CONGRESS AND CONGRESSIONAL EMPLOY-
6 EES FOR PURPOSES OF COMPUTING AN ANNUITY.—

7 (1) CSRS.—Section 8339 of title 5, United
8 States Code, is amended—

9 (A) in subsection (a) by inserting “or
10 Member” after “employee”; and

11 (B) by striking out subsections (b) and (c).

12 (2) FERS.—Section 8415 of title 5, United
13 States Code, is amended—

14 (A) by striking out subsections (b) and (c);

15 (B) in subsections (a) and (g) by inserting
16 “or Member” after “employee” each place it
17 appears; and

18 (C) in subsection (g)(2) by striking out
19 “Congressional employee”.

20 (b) ADMINISTRATIVE REGULATIONS.—The Secretary
21 of the Senate and the Clerk of the House of Representa-
22 tives, in consultation with the Office of Personnel Manage-
23 ment, may prescribe regulations to carry out the provi-
24 sions of this section and the amendments made by this
25 section for applicable employees and Members of Con-
26 gress.

1 (c) EFFECTIVE DATES.—

2 (1) YEARS OF SERVICE; ANNUITY COMPUTA-
3 TION.—(A) The amendments made by subsection (a)
4 shall take effect on the date of the enactment of this
5 Act and shall apply only with respect to the com-
6 putation of an annuity relating to—

7 (i) the service of a Member of Congress as
8 a Member or as a Congressional employee per-
9 formed on or after January 1, 1996; and

10 (ii) the service of a Congressional employee
11 as a Congressional employee performed on or
12 after January 1, 1996.

13 (B) An annuity shall be computed as though
14 the amendments made under subsection (a) had not
15 been enacted with respect to—

16 (i) the service of a Member of Congress as
17 a Member or a Congressional employee or mili-
18 tary service performed before January 1, 1996;
19 and

20 (ii) the service of a Congressional employee
21 as a Congressional employee or military service
22 performed before January 1, 1996.

23 (2) REGULATIONS.—The provisions of sub-
24 section (b) shall take effect on the date of the enact-
25 ment of this Act.

1 **TITLE IX—COMMITTEE ON THE**
 2 **JUDICIARY**

3 **SEC. 9001. PATENT AND TRADEMARK FEES.**

4 Section 10101 of the Omnibus Budget Reconciliation
 5 Act of 1990 (35 U.S.C. 41 note) is amended—

6 (1) in subsection (a) by striking “1998” and in-
 7 serting “2002”;

8 (2) in subsection (b)(2) by striking “1998” and
 9 inserting “2002”; and

10 (3) in subsection (c)—

11 (A) by striking “through 1998” and insert-
 12 ing “through 2002”; and

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

14 “(9) \$119,000,000 in fiscal year 1999.

15 “(10) \$119,000,000 in fiscal year 2000.

16 “(11) \$119,000,000 in fiscal year 2001.

17 “(12) \$119,000,000 in fiscal year 2002.”.

18 **TITLE X—COMMITTEE ON LABOR**
 19 **AND HUMAN RESOURCES**

20 **SECTION 10001. REFERENCES; GENERAL EFFECTIVE DATE.**

21 (a) REFERENCES.—Except as otherwise expressly
 22 provided, whenever in this title an amendment or repeal
 23 is expressed in terms of an amendment to, or repeal of,
 24 a section or other provision, the reference shall be consid-

1 ered to be made to a section or other provision of the
2 Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

3 (b) GENERAL EFFECTIVE DATE.—Unless otherwise
4 specified in this title, the amendments made by this title
5 shall take effect on January 1, 1996.

6 **SEC. 10002. PARTICIPATION OF INSTITUTIONS AND ADMIN-**
7 **ISTRATION OF LOAN PROGRAMS.**

8 (a) LIMITATION ON PROPORTION OF LOANS MADE
9 UNDER THE DIRECT LOAN PROGRAM.—Section 453(a)
10 (20 U.S.C. 1087c(a)) is amended—

11 (1) by amending paragraph (2) to read as fol-
12 lows:

13 “(2) DETERMINATION OF NUMBER OF AGREE-
14 MENTS.—The Secretary may enter into agreements
15 under subsections (a) and (b) of section 454 with in-
16 stitutions for participation in the direct loan pro-
17 gram under this part, subject to the following:

18 “(A) For academic year 1994–1995, loans
19 made under this part shall represent not more
20 than 5 percent of new student loan volume for
21 such year.

22 “(B) For academic year 1995–1996, loans
23 made under this part, including Federal Direct
24 Consolidation Loans, shall represent not more
25 than 30 percent of the new student loan volume

1 for such year, except that the Secretary shall
2 not enter into such an agreement with an eligi-
3 ble institution that has not applied and been ac-
4 cepted for participation in the direct loan pro-
5 gram under this part on or before September
6 30, 1995.

7 “(C) For academic year 1996–1997 and
8 for each succeeding academic year, loans made
9 under this part, including Federal Direct Con-
10 solidation Loans, shall represent not more than
11 20 percent of the new student loan volume for
12 such year, except that the Secretary shall not
13 enter into such an agreement with an eligible
14 institution that has not applied and been ac-
15 cepted for participation in the direct loan pro-
16 gram under this part on or before September
17 30, 1995.”;

18 (2) by striking paragraph (3);

19 (3) by redesignating paragraph (4) as para-
20 graph (3); and

21 (4) in the second sentence of paragraph (3) (as
22 redesignated by paragraph (3)), by striking “on the
23 most recent program data available” and inserting
24 “on data from the academic year preceding the aca-
25 demic year for which the estimate is made”.

1 (b) ELIMINATION OF CONSCRIPTION.—Section
2 453(b)(2) (20 U.S.C. 1087c(b)(2)) is amended—

3 (1) by striking subparagraph (B); and

4 (2) in subparagraph (A)—

5 (A) by striking “(i) categorizing” and in-
6 serting “categorizing”;

7 (B) in clause (ii)—

8 (i) by striking “beginning”; and

9 (ii) by striking “; and” and inserting
10 a period; and

11 (C) by redesignating clause (ii) (as amend-
12 ed by subparagraph (B)) as subparagraph (B).

13 (c) CONTROL OF ADMINISTRATIVE EXPENSES.—Sec-
14 tion 458 (10 U.S.C. 1087h) is amended—

15 (1) by amending subsection (a) to read as fol-
16 lows:

17 “(a) EXPENSES.—

18 “(1) IN GENERAL.—

19 “(A) IN GENERAL.—Except as provided in
20 subparagraph (B), each fiscal year there shall
21 be available to the Secretary from funds not
22 otherwise appropriated, funds to be obligated
23 for subsidy costs under this part. There shall
24 also be available from funds not otherwise ap-
25 propriated, funds to be obligated for indirect

1 administrative expenses under this part and
2 part B, not to exceed (from such funds not oth-
3 erwise appropriated) \$260,000,000 for fiscal
4 year 1994, \$345,000,000 for fiscal year 1995,
5 \$85,000,000 (and such sums as may be nec-
6 essary for administrative cost allowances for
7 guaranty agencies for costs accrued prior to
8 January 1, 1996) for fiscal year 1996, and
9 \$85,000,000 for each of the fiscal years 1997
10 through 2002.

11 “(B) REDUCTION.—The amount author-
12 ized to be made available for fiscal year 1997
13 under subparagraph (A) shall be reduced by the
14 amount of any unobligated unexpended funds
15 available to carry out this subsection for any
16 fiscal year prior to fiscal year 1996.

17 “(C) PROHIBITION.—Notwithstanding any
18 other provision of this subsection, funds made
19 available under this subsection shall not be
20 available for subsidy costs or direct administra-
21 tive expenses under part B.

22 “(2) DIRECT AND INDIRECT ADMINISTRATIVE
23 EXPENSES.—

24 “(A) DIRECT ADMINISTRATIVE EX-
25 PENSES.—For purposes of this subsection the

1 term ‘direct administrative expenses’ means the
2 cost of—

3 “(i) activities related to credit exten-
4 sion, loan origination, loan servicing, man-
5 agement of contractors, and payments to
6 contractors, other government entities, and
7 program participants;

8 “(ii) collection of delinquent loans;
9 and

10 “(iii) write-off and closeout of loans.

11 “(B) INDIRECT ADMINISTRATIVE EX-
12 PENSES.—For purposes of this subsection the
13 term ‘indirect administrative expenses’ means
14 the cost of—

15 “(i) personnel engaged in developing
16 program regulations, policy and adminis-
17 trative guidance;

18 “(ii) audits of institutions and con-
19 tractors;

20 “(iii) program reviews; and

21 “(iv) other oversight of the program
22 under this part or under part B.

23 “(C) LIMITATION ON CERTAIN EXPENDI-
24 TURES.—

1 “(i) INDIRECT ADMINISTRATIVE EX-
 2 PENSES.—Expenditures for indirect ad-
 3 ministrative expenses for loans made pur-
 4 suant to this part for a fiscal year shall
 5 not exceed 50 percent of the amount of
 6 funds appropriated under the second sen-
 7 tence of paragraph (1)(A) for such year.

8 “(ii) DIRECT AND INDIRECT ADMINIS-
 9 TRATIVE EXPENSES.—No funds made
 10 available for direct administrative expenses
 11 or indirect administrative expenses may be
 12 used for marketing, advertising or pro-
 13 motion of the William D. Ford Federal Di-
 14 rect Loan Program, or for the hiring of
 15 advertising agencies or other third parties
 16 to provide advertising services.

17 “(3) SUBSIDY COST.—The term ‘subsidy cost’
 18 means the estimated long-term cost to the Federal
 19 Government of direct administrative expenses cal-
 20 culated on a net present value basis.”; and

21 (2) by striking subsection (d).

22 (d) DEFAULT RATE LIMITATIONS ON DIRECT LEND-
 23 ING.—

24 (1) INSTITUTIONAL ELIGIBILITY BASED ON DE-
 25 FAULT RATES.—The first sentence of section

1 435(a)(2)(A) (20 U.S.C. 1085(a)(2)(A)) is amended
2 by inserting “or part D” after “under this part”.

3 (2) COHORT DEFAULT RATE.—Section
4 435(m)(1) (20 U.S.C. 1085(m)(1)) is amended—

5 (A) in subparagraph (A)—

6 (i) by striking “428, 428A, or 428H”
7 and inserting “428, 428A, 428H, or part
8 D (other than Federal Direct PLUS
9 Loans)”; and

10 (ii) by striking “428C” and inserting
11 “428C or 455(g)”;

12 (B) in subparagraph (B)—

13 (i) by striking “only”; and

14 (ii) by inserting “and loans made
15 under part D determined by the Secretary
16 to be in default,” after “for insurance,”
17 and

18 (C) in subparagraph (C), by striking
19 “428C” and inserting “428C or 455(g)”.

20 (3) TERMINATION OF INSTITUTIONAL PARTICI-
21 PATION.—Section 455 (20 U.S.C. 1087e) is amend-
22 ed by adding at the end the following new sub-
23 section:

24 “(l) TERMINATION OF INSTITUTIONS FOR HIGH DE-
25 FAULT RATES.—

1 “(1) METHODOLOGY AND CRITERIA.—After
2 consultation with institutions of higher education
3 and other members of the higher education commu-
4 nity, the Secretary shall develop—

5 “(A) a methodology for the calculation of
6 institutional default rates under the loan pro-
7 grams operated pursuant to this part;

8 “(B) criteria for the initiation of termi-
9 nation proceedings on the basis of such default
10 rates; and

11 “(C) procedures for the conduct of such
12 termination proceedings.

13 “(2) DATA COLLECTION.—

14 “(A) IN GENERAL.—The Secretary shall
15 compile data on loans subject to repayment
16 schedules under sections 428(b)(1)(E)(i),
17 428C(e)(2)(A), and 455(e)(4) at the end of
18 each fiscal year setting forth for such year by
19 institution, and by programs under parts B and
20 D individually and combined—

21 “(i) the number and amount of loans
22 scheduled for payments that did not equal
23 the interest accruing on the loans;

24 “(ii) the number and amount of loans
25 where no payment was scheduled to be re-

1 ceived from the borrower due to their low-
2 income status;

3 “(iii) the number and amount of loans
4 where a scheduled payment was more than
5 90 days delinquent; and

6 “(iv) the projected amount of interest
7 and principal to be forgiven at the end of
8 the 25 year repayment period, based on
9 the projected payment schedule for the
10 borrower over that period.

11 “(B) ANNUAL COLLECTION AND USE.—
12 Such data shall be compiled annually and used
13 in developing the methodology, criteria and pro-
14 cedures required by paragraph (1). Such data
15 shall be available for review by institutions of
16 higher education, members of the higher edu-
17 cation community, and the Advisory Committee
18 on Student Financial Assistance established
19 under section 491.

20 “(3) COMPARABILITY TO PART B.—In develop-
21 ing the methodology, criteria, and procedures re-
22 quired by paragraph (1), the Secretary, to the maxi-
23 mum extent possible, shall establish standards for
24 the termination of institutions from participation in
25 loan programs under this part that are comparable

1 to the standards established for the termination of
2 institutions from participation in the loan programs
3 under part B. Such procedures shall include provi-
4 sions for the appeal of default rate calculations
5 based on deficiencies in the servicing of loans under
6 this part that are comparable to the provisions for
7 such appeals based on deficiencies in the servicing of
8 loans under part B.

9 “(4) LIMITATIONS ON AUTHORIZATION TO
10 ISSUE NEW LOANS UNDER THIS PART.—The meth-
11 odology, criteria, procedures and standards required
12 by paragraphs (1) and (3) shall be promulgated in
13 final form not later than 120 days after the date of
14 enactment of this paragraph. Notwithstanding any
15 other provision of this part, if such methodology, cri-
16 teria, procedures and standards have not been pro-
17 mulgated in final form within 120 days after the
18 date of enactment of this paragraph, then no loans
19 under this part shall be made until the Secretary
20 promulgates such methodology, criteria, procedures
21 and standards.”.

22 (e) ELIMINATION OF TRANSITION TO DIRECT
23 LOANS.—The Act (20 U.S.C. 1001 et seq.) is further
24 amended—

1 (1) in section 422(c)(7) (20 U.S.C.
2 1072(e)(7)—

3 (A) in subparagraph (A), by striking “dur-
4 ing the transition” and all that follows through
5 “part D of this title”; and

6 (B) in subparagraph (B), by striking “sec-
7 tion 428(c)(10)(F)(v)” and inserting “section
8 428(c)(9)(F)(v)”;

9 (2) in section 428(c)(8) (20 U.S.C.
10 1078(e)(8))—

11 (A) by striking subparagraph (B); and

12 (B) by striking “(A) If” and inserting
13 “If”;

14 (3) in clause (vii) of section 428(c)(9)(F) (20
15 U.S.C. 1078(c)(9)(F))—

16 (A) by inserting “and” before “to avoid
17 disruption”; and

18 (B) by striking “, and to ensure an orderly
19 transition” and all that follows through the end
20 of such clause and inserting a period;

21 (4) in section 428(c)(9)(K) (20 U.S.C.
22 1078(c)(9)(K)), by striking “the progress of the
23 transition from the loan programs under this part
24 to” and inserting “the integrity and administration
25 of”;

1 (5) in section 428(e)(1)(B)(ii) (20 U.S.C.
2 1078(e)(1)(B)(ii)), by striking “during the transi-
3 tion” and all that follows through “under part D of
4 this title”;

5 (6) in section 428(e)(3) (20 U.S.C. 1078(e)(3)),
6 by striking “of transition”;

7 (7) in section 428(j)(3) (20 U.S.C.
8 1078(j)(3))—

9 (A) in the heading for paragraph (3), by
10 striking “DURING TRANSITION TO DIRECT
11 LENDING”; and

12 (B) in subparagraph (A), by striking “dur-
13 ing the transition” and all that follows through
14 “part D of this title”;

15 (8) in the heading for paragraph (2) of section
16 453(c) (20 U.S.C. 1078c(c)), by striking “TRANSI-
17 TION” and inserting “INSTITUTIONAL”;

18 (9) in the heading for paragraph (3) of section
19 453(c) (20 U.S.C. 1078c(c)), by striking “AFTER
20 TRANSITION”;

21 (10) in section 456(b) (20 U.S.C. 1087f(b))—

22 (A) in paragraph (3), by inserting “and”
23 after the semicolon;

24 (B) by striking paragraph (4);

1 (C) by redesignating paragraph (5) as
2 paragraph (4);

3 (D) in paragraph (4) (as redesignated by
4 subparagraph (C)), by striking “successful op-
5 eration” and inserting “integrity and effi-
6 ciency”; and

7 (11) in paragraph (1) of section 422(g)—

8 (A) in the first sentence, by striking “or
9 the program authorized by part D of this title”;
10 and

11 (B) in the second sentence, by striking “or
12 the program authorized by part D of this title”.

13 (f) FEES FOR ORIGINATION SERVICES.—Subsection
14 (b) of section 452 (20 U.S.C. 1087b) is repealed.

15 (g) SCHOOL ORIGINATION PAYMENT.—

16 (1) PAYMENT.—

17 (A) FFELP.—Part B of title IV (20
18 U.S.C. 1071 et seq.) is amended by adding at
19 the end the following new section:

20 **“SEC. 440. LOAN PAYMENTS FROM INSTITUTIONS.**

21 “(a) LOAN PAYMENTS BY ELIGIBLE INSTITUTIONS
22 ON CERTAIN LOANS.—With respect to each loan under
23 this part (other than a consolidation loan under section
24 428C) for which the first disbursement is made on or after
25 January 1, 1996 for attendance at an eligible institution,

1 such eligible institution shall pay to the Secretary a pay-
2 ment in an amount equal to 0.85 percent of the principal
3 amount of the loan. Such payment shall be made within
4 60 days after the close of the calendar quarter in which
5 such loan is disbursed. It is the sense of the Senate that
6 such payment shall not be charged to students attending
7 such institution in the form of increased tuition or student
8 fees.

9 “(b) DISTRIBUTION OF LOAN PAYMENT.—The Sec-
10 retary shall deposit all payments collected pursuant to
11 subsection (a) into the insurance fund established in sec-
12 tion 431, which payments shall be available to offset the
13 costs of the loan program under this part.”.

14 (B) DIRECT LOAN PROGRAM.—Section 455
15 (20 U.S.C. 1087e) is amended by adding at the
16 end the following new subsection:

17 “(m) LOAN PAYMENTS BY ELIGIBLE INSTITUTIONS
18 ON CERTAIN LOANS.—With respect to each loan under
19 this part (other than a Federal Direct Consolidation
20 Loan) for which the first disbursement is made on or after
21 January 1, 1996, for attendance at an institution of high-
22 er education participating in the program under this part,
23 such institution shall pay to the Secretary a payment in
24 an amount equal to 0.85 percent of the principal amount
25 of such loan. It is the sense of the Senate that such pay-

1 ment shall not be charged to students attending such insti-
2 tution in the form of increased tuition or student fees.”.

3 (2) ENFORCEMENT.—Section 435(a) (20
4 U.S.C. 1085(a)) is amended by adding at the end
5 the following new paragraph:

6 “(4) INSTITUTIONAL PAYMENT REQUIRE-
7 MENT.—To be an eligible institution under this sub-
8 section, for purposes of this part and part D, an eli-
9 gible institution shall pay the loan payments re-
10 quired under section 440 and 455(l) within 60 days
11 after the close of the calendar quarter in which the
12 loans are disbursed. The first such payment shall be
13 due on May 30, 1996.”.

14 (h) RISK SHARING.—Section 428(n) (20 U.S.C.
15 1078(n)) is amended by adding at the end the following
16 new paragraph:

17 “(5) APPLICABILITY TO PART D LOANS.—The
18 provisions of this subsection shall apply to institu-
19 tions of higher education participating in direct lend-
20 ing under part D with respect to loans made under
21 such part, and for the purposes of this paragraph,
22 paragraph (4) shall be applied by inserting ‘or part
23 D’ after ‘this part’.”.

1 **SEC. 10003. LOAN TERMS AND CONDITIONS.**

2 (a) **ELIMINATION OF GRACE PERIOD INTEREST SUB-**
 3 **SIDIES.**—Section 428(a)(3) (20 U.S.C. 1078(a)(3)) is
 4 amended by adding at the end the following new subpara-
 5 graph:

6 “(C) Notwithstanding subparagraph (A),
 7 no portion of the interest which accrues after
 8 the student ceases to carry at an eligible insti-
 9 tution at least one-half the normal full-time
 10 academic workload (as determined by the insti-
 11 tution) and prior to the beginning of the repay-
 12 ment period of the loan shall be paid by the
 13 Secretary under this subsection on any loan for
 14 which the first disbursement is made on or
 15 after January 1, 1996, to an individual who is
 16 a new borrower on such date. Interest on the
 17 unpaid principal amount of any such loan dur-
 18 ing the interval described in the preceding sen-
 19 tence shall, at the option of the borrower—

20 “(i) be paid monthly or quarterly; or

21 “(ii) be added by the lender to the
 22 principal amount of the loan at the com-
 23 mencement of the repayment period.”.

24 (b) **PLUS LOAN INTEREST RATE AND SUBSIDY RE-**
 25 **BATE.**—

26 (1) **INTEREST RATE.**—

1 (A) IN GENERAL.—Section 427A(c)(4) (20
2 U.S.C. 1077a(c)(4)) is amended by adding at
3 the end the following new subparagraph:

4 “(F) Notwithstanding subparagraphs (A),
5 (D), and (E), for any loan made pursuant to
6 section 428B for which the first disbursement
7 is made on or after January 1, 1996—

8 “(i) subparagraph (B) shall be applied
9 by substituting ‘4.0’ for ‘3.25’; and

10 “(ii) the interest rate shall not exceed
11 10 percent.”.

12 (B) CONFORMING AMENDMENT.—Section
13 427A(h) (20 U.S.C. 1077a(h)) is amended—

14 (i) by striking paragraph (2); and

15 (ii) by redesignating paragraph (3) as
16 paragraph (4).

17 (2) INTEREST REBATE.—

18 (A) AMENDMENT.—Section 428B (20
19 U.S.C. 1078–2) is amended by adding at the
20 end the following new subsection:

21 “(f) INTEREST REBATE.—

22 “(1) REBATE.—Each holder of a loan under
23 this section shall pay to the Secretary, on a biannual
24 basis, an interest rebate in an amount equal to 1
25 percent of the unpaid principal amount of each loan

1 made, insured or guaranteed under this section that
2 such holder holds.

3 “(2) DEPOSIT.—The Secretary shall deposit all
4 rebates collected pursuant to paragraph (1) into the
5 insurance fund established in section 431.”.

6 (B) EFFECTIVE DATE.—The amendment
7 made by this paragraph shall apply with respect
8 to loans for which the first disbursement is
9 made on or after January 1, 1996.

10 (c) COMPARABILITY PROVISIONS.—Paragraph (1) of
11 section 455(a) (20 U.S.C. 1087e(a)) is amended to read
12 as follows:

13 “(1) PARALLEL TERMS, CONDITIONS, ELIGI-
14 BILITY REQUIREMENTS, BENEFITS AND AMOUNTS.—
15 Unless otherwise specified in this part, loans made
16 to borrowers under this part shall have the same
17 terms, conditions, eligibility requirements and bene-
18 fits, be subject to the same administrative require-
19 ments for origination, payment and processing of ap-
20 plications, deferments and forbearances, be available
21 in the same amounts, and be subject to the same in-
22 terest rates and same amount of fees, as the cor-
23 responding types of loans made to borrowers under
24 sections 428, 428B, and 428H. The Secretary shall
25 promulgate regulations implementing this paragraph

1 not later than 120 days after the date of enactment
2 of the Balanced Budget Reconciliation Act of
3 1995.”.

4 (d) USE OF ELECTRONIC FORMS.—Section 483(a)
5 (20 U.S.C. 1090(a)) is amended by adding at the end the
6 following new paragraph:

7 “(5) ELECTRONIC FORMS.—

8 “(A) The Secretary, in cooperation with
9 representatives of institutions of higher edu-
10 cation, eligible lenders, and guaranty agencies,
11 shall prescribe an electronic version of the form
12 described in paragraph (1). Such electronic ver-
13 sion shall not require signatures to be collected
14 at the time such version is submitted if the
15 data contained in such version is verified by the
16 student in one or more separate writings. The
17 Secretary shall prescribe such version not later
18 than 120 days after the date of enactment of
19 this subparagraph.

20 “(B) Nothing in this Act shall be con-
21 strued to prohibit the use of the electronic ver-
22 sion prescribed under subparagraph (A)
23 through software developed, produced, distrib-
24 uted (including by diskette, modem or network
25 communication, or otherwise) and collected, by

1 an eligible lender, a guaranty agency, or a con-
2 sortium thereof.

3 “(C) Each eligible lender, guaranty agency,
4 or consortium that intends to reproduce the
5 electronic version described in subparagraph
6 (A) shall submit to the Secretary for review a
7 copy of such reproduction. If such reproduction
8 is inconsistent with this section, the Secretary
9 shall notify such lender, agency, or consortium
10 of the Secretary’s objections within 60 days of
11 such submission, and shall specifically identify
12 the changes necessary to make such reproduc-
13 tion consistent with this section. In the absence
14 of such an objection, such lender, agency, or
15 consortium may use such reproduction as so
16 submitted.

17 “(D) No fee may be charged to a student
18 or an eligible institution (as defined in section
19 435(a)) for use of the electronic version de-
20 scribed in subparagraph (A), or for any other
21 electronic form used with such version in apply-
22 ing for—

23 “(i) assistance under this Act; or

24 “(ii) State student financial assist-
25 ance.”.

1 (e) APPLICATION FOR PART B LOANS USING FREE
2 FEDERAL APPLICATION.—

3 (1) IN GENERAL.—Section 483(a) (20 U.S.C.
4 1090(a)) is further amended—

5 (A) in paragraph (1)—

6 (i) by inserting “B,” after “assistance
7 under parts A,”;

8 (ii) by striking “part A) and to deter-
9 mine the need of a student for the purpose
10 of part B of this title” and inserting “part
11 A”); and

12 (iii) by striking the last sentence; and
13 (B) in paragraph (3)—

14 (i) by striking “and States shall re-
15 ceive,” and inserting “, any guaranty agen-
16 cy authorized by an institution of higher
17 education, and States, shall receive, at
18 their request and”;

19 (ii) by inserting “processing loan ap-
20 plications under part B and” before “de-
21 termining need –and eligibility”.

22 (2) CONFORMING AMENDMENT.—Section
23 432(m)(1)(D) is amended by inserting “or to pro-
24 hibit the use of the form described in section

1 483(a)(1) as the application for loans under this
2 part” before the period.

3 (f) ABILITY OF PART D BORROWERS TO OBTAIN
4 FEDERAL STAFFORD CONSOLIDATION LOANS.—Section
5 428C(a)(4) (20 U.S.C. 1078–3(a)(4)) is amended—

6 (1) by redesignating subparagraphs (B), (C)
7 and (D) as subparagraphs (C), (D) and (E), respec-
8 tively; and

9 (2) by inserting after subparagraph (A) the fol-
10 lowing new subparagraph:

11 “(B) made under part D of this title;”.

12 (g) ABILITY OF PART B BORROWERS TO OBTAIN
13 FEDERAL DIRECT CONSOLIDATION LOANS.—Paragraph
14 (5) of section 428C(b) (20 U.S.C. 1078–3(b)) is amended
15 to read as follows:

16 “(5) DIRECT CONSOLIDATION LOANS FOR BOR-
17 ROWERS IN SPECIFIED CIRCUMSTANCES.—

18 “(A) Subject to section 453(a)(2)(B), the
19 Secretary may offer a borrower a Federal Di-
20 rect Consolidation loan if a borrower otherwise
21 eligible for a consolidation loan pursuant to this
22 section is—

23 “(i) unable to obtain a consolidation
24 loan from a lender with an agreement
25 under subsection (a)(1); or

1 “(ii) unable to obtain a consolidation
2 loan with income contingent repayment
3 terms from a lender with an agreement
4 under subsection (a)(1).

5 “(B) The Secretary shall establish appro-
6 priate certification procedures to verify the eli-
7 gibility of borrowers for consolidation loans
8 under this paragraph.

9 “(C) The Secretary shall not offer consoli-
10 dation loans under this paragraph if, in the
11 Secretary’s judgment, the Department does not
12 have the necessary origination and servicing ar-
13 rangements in place for such loans, or the pro-
14 jected volume in such loans will be destabilizing
15 to the availability of loans otherwise available
16 under this part.”.

17 (h) INCOME CONTINGENT REPAYMENT IN THE FED-
18 ERAL FAMILY EDUCATION LOAN PROGRAM.—

19 (1) INSURANCE PROGRAM AGREEMENTS.—Sec-
20 tion 428(b)(1)(E)(i) (20 U.S.C. 1078(b)(1)(E)(i)) is
21 amended by striking “or income sensitive-repayment
22 schedule” and inserting “repayment schedule, an in-
23 come-sensitive repayment schedule, or an income
24 contingent repayment schedule,”.

1 (2) REPAYMENT SCHEDULES.—The matter pre-
2 ceding clause (i) of section 428C(c)(2)(A) (20
3 U.S.C. 1078–3(c)(2)(A)) is amended—

4 (A) in the first sentence, by striking “or
5 income-sensitive repayment schedules” and in-
6 serting “repayment schedules, income-sensitive
7 repayment schedules, or income contingent re-
8 payment schedules”; and

9 (B) in the second sentence, by striking “in-
10 come-sensitive” and inserting “graduated, in-
11 come-sensitive, or income contingent”.

12 (3) COMPARABLE TERMS AND CONDITIONS.—
13 Section 428(m) (20 U.S.C. 1078(m)) is amended by
14 adding at the end the following new paragraph:

15 “(3) INCOME CONTINGENT REPAYMENT SCHED-
16 ULES.—For the purpose of this part, income contin-
17 gent repayment schedules established pursuant to
18 subsections (b)(1)(E)(i) and (c)(2)(A) may have
19 terms and conditions comparable to the terms and
20 conditions established by the Secretary pursuant to
21 section 455(e)(4).”.

22 **SEC. 10004. AMENDMENTS AFFECTING FFELP LENDERS**
23 **AND LOAN HOLDERS.**

24 (a) RISK SHARING BY THE LOAN HOLDERS.—

1 (1) AMENDMENT.—Section 428(b)(1)(G) (20
2 U.S.C. 1078(b)(1)(G)) is amended by striking “98
3 percent” and inserting “95 percent”.

4 (2) EFFECTIVE DATE.—The amendment made
5 by this subsection shall apply with respect to loans
6 for which the first disbursement is made on or after
7 January 1, 1996.

8 (b) EXCEPTIONAL PERFORMANCE INSURANCE RE-
9 Duction.—Section 428I(b)(1) (20 U.S.C. 1078–9(b)(1))
10 is amended—

11 (1) in the paragraph heading, by striking “100
12 PERCENT”; and

13 (2) by striking “100 percent of” and inserting
14 “95 percent of”.

15 (c) LOAN FEES FROM LENDERS.—

16 (1) AMENDMENT.—Section 438(d)(2) (20
17 U.S.C. 1087–1(d)(2)) is amended by striking “0.50
18 percent” and inserting “1.0 percent”.

19 (2) EFFECTIVE DATE.—The amendment made
20 by this subsection shall apply with respect to loans
21 for which the first disbursement is made on or after
22 January 1, 1996.

23 (d) LENDER AND HOLDER REBATE.—

1 (1) AMENDMENT.—Section 438 (20 U.S.C.
2 1078) is amended by adding at the end the following
3 new subsection:

4 “(g) SUBSIDY REBATE ON STAFFORD LOANS.—

5 “(1) REBATE.—Each holder of a subsidized or
6 unsubsidized Federal Stafford loan under this part
7 shall pay to the Secretary, on a biannual basis, a
8 subsidy rebate in an amount equal to .025 percent
9 of the unpaid principal amount of each such loan in
10 repayment that such holder holds.

11 “(2) DEPOSIT.—The Secretary shall deposit all
12 subsidy rebates collected under paragraph (1) into
13 the insurance fund established in section 431.”.

14 (2) EFFECTIVE DATE.—The amendment made
15 by this subsection shall apply with respect to loans
16 for which the first disbursement is made on or after
17 January 1, 1996.

18 (e) SMALL LENDER AUDIT EXEMPTION.—Section
19 428(b)(1)(U)(iii) (20 U.S.C. 1078(b)(1)(U)(iii)) is amend-
20 ed—

21 (1) by inserting “in the case of any lender that
22 originates or holds more than \$5,000,000 in prin-
23 cipal on loans made under this title in any fiscal
24 year,” before “for (I)”;

1 (2) by inserting “such” before “lender at least
2 once”;

3 (3) by inserting “such” before “a lender that is
4 audited”; and

5 (4) by striking “if the lender” and inserting “if
6 such lender”.

7 **SEC. 10005. AMENDMENTS AFFECTING GUARANTY AGEN-**
8 **CIES.**

9 (a) USE OF RESERVE FUNDS TO PURCHASE DE-
10 FAULTED LOANS.—Section 422 (20 U.S.C. 1072) is
11 amended by adding at the end the following new sub-
12 section:

13 “(h) USE OF RESERVE FUNDS TO PURCHASE DE-
14 FAULTED LOANS.—

15 “(1) IN GENERAL.—Except as provided in para-
16 graph (2), a guaranty agency shall use not less than
17 50 percent of such agency’s reserve funds to pur-
18 chase and hold defaulted loans that are guaranteed
19 by such agency and for which a claim for insurance
20 is filed with such agency by an eligible lender. The
21 amount of such purchases shall be considered as re-
22 serve funds under this section and used in the cal-
23 culation of the minimum reserve level under section
24 428(c)(9).

1 “(2) SPECIAL RULE.—A guaranty agency shall
2 not be required to use its reserve funds to purchase
3 and hold defaulted loans in accordance with para-
4 graph (1) to the extent that—

5 “(A) the dollar volume of insurance claims
6 filed with such agency does not amount to 50
7 percent of such agency’s available reserve
8 funds;

9 “(B) such use is prohibited by State law;
10 or

11 “(C) such use will compromise the ability
12 of the guaranty agency to pay program ex-
13 penses.”.

14 (b) EXTENSION OF PERIOD A GUARANTY AGENCY
15 MUST HOLD A DEFAULTED LOAN.—

16 (1) EXEMPTION FOR EXTENDED HOLDING PE-
17 RIOD.—The last sentence of section 428(c)(1)(A)
18 (20 U.S.C. 1078(c)(1)(A)) is amended by striking
19 “A guaranty agency” and inserting “Except as pro-
20 vided in section 428K, a guaranty agency”.

21 (2) NEW EXTENDED HOLDING PERIOD PRO-
22 GRAM.—

23 (A) AMENDMENT.—Part B of title IV (20
24 U.S.C. 1071 et seq.) is amended by inserting
25 after section 428J the following new section:

1 **“SEC. 428K. GUARANTOR PURCHASE OF CLAIMS WITH RE-**
2 **SERVE FUNDS.**

3 “(a) LOANS SUBJECT TO EXTENDED HOLDING PE-
4 RIOD.—Except as provided in subsection (b), a guaranty
5 agency shall file a claim for reimbursement with respect
6 to losses (resulting from the default of a borrower) subject
7 to reimbursement by the Secretary pursuant to section
8 428(c)(1) not less than 180 days nor more than 225 days
9 after the guaranty agency discharges such agency’s insur-
10 ance obligation on a loan insured under this part. Such
11 claim shall include losses on the unpaid principal and ac-
12 crued interest of any such loan, including interest accrued
13 from the date of such discharge to the date such agency
14 files the claim for reimbursement from the Secretary.

15 “(b) LOANS EXCLUDED FROM EXTENDED HOLD-
16 ING.—A guaranty agency may file a claim with respect
17 to losses subject to reimbursement by the Secretary pursu-
18 ant to section 428(c)(1) prior to 180 days after the date
19 the guaranty agency discharges such agency’s insurance
20 obligation on a loan insured under this part, if—

21 “(1) such agency used 50 percent or more of
22 such agency’s reserve funds to purchase or hold
23 loans in accordance with section 422(h);

24 “(2) such claim is based on an inability to lo-
25 cate the borrower and the guaranty agency certifies
26 to the Secretary that—

1 “(A) diligent attempts were made to locate
2 the borrower through the use of reasonable
3 skip-tracing techniques in accordance with sec-
4 tion 428(c)(2)(G); and

5 “(B) such skip-tracing attempts to locate
6 the borrower were unsuccessful; or

7 “(3) the guaranty agency determines that the
8 borrower is unlikely to possess the financial re-
9 sources to begin repaying the loan prior to 180 days
10 after default by the borrower.

11 “(c) GUARANTY AGENCY EFFORTS DURING EX-
12 TENDED HOLDING PERIOD.—A guaranty agency shall at-
13 tempt to bring a loan described in subsection (a) into re-
14 payment status during the period prior to 180 days after
15 the date the guaranty agency discharges its insurance obli-
16 gation on such loan, so that no claim for reimbursement
17 by the Secretary is necessary. Upon securing payments
18 satisfactory to the guaranty agency during such period,
19 such agency shall, if practicable, sell such loan to an eligi-
20 ble lender. Such loan shall not be sold to an eligible lender
21 that the guaranty agency determines has substantially
22 failed to exercise the due diligence required of lenders
23 under this part.

24 “(d) REGULATION PROHIBITED.—The Secretary
25 shall not promulgate regulations regarding the collection

1 activity of a guaranty agency with respect to a loan de-
2 scribed in subsection (a) for which reinsurance has not
3 been paid under section 428(c)(1).”.

4 (B) EFFECTIVE DATE.—The amendment
5 made by this paragraph shall apply with respect
6 to loans for which claims for insurance are filed
7 by eligible lenders on or after January 1, 1996.

8 (c) ADMINISTRATIVE COST ALLOWANCE.—Section
9 428(f)(1) (20 U.S.C. 1078(f)(1)) is amended—

10 (1) in the matter preceding clause (i) of sub-
11 paragraph (A), by striking “For a fiscal year prior
12 to fiscal year 1994, the” and inserting “The”; and

13 (2) by amending subparagraph (B) to read as
14 follows:

15 “(B)(i) The total amount of payments for
16 any fiscal year prior to fiscal year 1994 made
17 under this paragraph shall be equal to 1 per-
18 cent of the total principal amount of the loans
19 upon which insurance was issued under this
20 part during such fiscal year by such guaranty
21 agency.

22 “(ii) For fiscal year 1996 and each suc-
23 ceeding fiscal year, each guaranty agency shall
24 elect to receive an administrative cost allow-

1 ance, payable quarterly, for such fiscal year cal-
2 culated on the basis of either of the following:

3 “(I) 0.85 percent of the total principal
4 amount of the loans upon which insurance
5 was issued under this part during such fis-
6 cal year by such guaranty agency; or

7 “(II) 0.08 percent of the original prin-
8 cipal amount of loans under this part
9 guaranteed by the guaranty agency that
10 was outstanding at the end of the previous
11 fiscal year.

12 “(iii) The guaranty agency shall be deemed
13 to have a contractual right against the United
14 States to receive payments according to the
15 provisions of this subparagraph. Payments shall
16 be made promptly and without administrative
17 delay to any guaranty agency submitting an ac-
18 curate and complete application therefor under
19 this subparagraph.

20 “(iv) Notwithstanding clauses (ii) and (iii),
21 for each of the fiscal years 1996 through 2002,
22 the Secretary shall pay an aggregate amount
23 for such year of not more than \$180,000,000 to
24 all guaranty agencies receiving administrative
25 cost allowances under this subparagraph.

1 (d) SECRETARY'S EQUITABLE SHARE OF COLLEC-
2 TIONS ON CONSOLIDATED DEFAULTED LOANS.—Section
3 428(c)(6)(A) (20 U.S.C. 1078(C)(6)(A) is amended—

4 (1) in the matter preceding clause (i)—

5 (A) by inserting “or on behalf of” after
6 “made by”; and

7 (B) by inserting “, including payments
8 made to discharge loans made under this title
9 to obtain a consolidation loan pursuant to this
10 part or part D,” after “borrower”; and

11 (2) in clause (ii), by inserting after “an amount
12 equal to” the following: “—

13 “(I) for defaulted loans consoli-
14 dated pursuant to this part or part D
15 on or after January 1, 1996, 25 per-
16 cent of the amount of the balance of
17 the principal and accrued interest out-
18 standing at the time of such consoli-
19 dation; or

20 “(II) for all other loans,”.

21 (e) RESERVE FUND REFORMS.—

22 (1) STRENGTHENING AND STABILIZING GUAR-
23 ANTY AGENCIES.—Section 428(c) (20 U.S.C.
24 1078(c)) is amended—

1 (A) in paragraph (8) (as amended by sec-
2 tion 10002(e)(2)), by adding at the end the fol-
3 lowing new sentences: “Prior to making such
4 determination for guaranty agencies, the Sec-
5 retary shall, in consultation with guaranty
6 agencies, develop criteria to determine whether
7 such agencies have made adequate collection ef-
8 forts. Such criteria shall be prescribed by regu-
9 lations that are developed through negotiated
10 rulemaking and that include procedures for ad-
11 ministrative due process. In determining wheth-
12 er a guaranty agency’s collection efforts have
13 met such criteria, the Secretary shall consider
14 such agency’s record of success in collecting on
15 defaulted loans, the age of the loans, and the
16 amount of recent payments received on the
17 loans.”;

18 (B) in subparagraph (9)(C), by striking
19 “80 percent” and inserting “78 percent”;

20 (C) by amending subparagraph (9)(E) to
21 read as follows:

22 “(E) After providing a guaranty agency
23 notice and opportunity for a hearing on the
24 record, the Secretary may terminate a guaranty

1 agency's agreement in accordance with subpara-
2 graph (F) if—

3 “(i) such guaranty agency is required
4 to submit a management plan under this
5 paragraph and fails to submit a plan that
6 is acceptable to the Secretary;

7 “(ii) the Secretary determines that
8 such guaranty agency has failed to improve
9 substantially its administrative and finan-
10 cial condition and that such guaranty
11 agency is in danger of financial collapse; or

12 “(iii) the Secretary determines that
13 such action is necessary to ensure the con-
14 tinued availability of loans to student or
15 parent borrowers.”; and

16 (D) in paragraph (9)(F)—

17 (i) in clause (i), by inserting “in ac-
18 cordance with any recommendation, sub-
19 mitted by a State, for a successor agency
20 if such successor agency is not subject to
21 an outstanding limitation, suspension, or
22 termination action” before the semicolon;

23 (ii) in clause (ii), by inserting “in ac-
24 cordance with any recommendation, sub-
25 mitted by a State, for a successor agency

1 if such successor agency is not subject to
2 an outstanding limitation, suspension, or
3 termination action” before the semicolon;

4 (iii) in clause (iii), by inserting “and
5 if no guaranty agency is willing to act as
6 a successor guaranty agency under clause
7 (i) or (ii)” before the semicolon; and

8 (iv) in clause (vi), by inserting “dedi-
9 cated to the functions of the guaranty
10 agency under the loan insurance program
11 under this part” after “assets of the guar-
12 anty agency”.

13 (2) STRENGTHENING GUARANTY AGENCY RE-
14 SERVES.—Section 422(g) (20 U.S.C. 1072(g)) is
15 amended—

16 (A) in paragraph (1)—

17 (i) in the sentence preceding subpara-
18 graph (A), by inserting “current and fu-
19 ture” before “program expenses”; and

20 (ii) in subparagraph (D)—

21 (I) by striking “(A) or” and in-
22 serting “(A),”; and

23 (II) by inserting “or (C)” before
24 “shall be based”; and

25 (B) in paragraph (2)—

1 (i) in subparagraph (A), by inserting
2 “, after notice and an opportunity for a
3 hearing,” after “Secretary determines”;
4 and

5 (ii) in subparagraph (B), by inserting
6 “, after notice and an opportunity for a
7 hearing,” after “direct a guaranty agen-
8 cy”.

9 (3) ADDITIONAL AMENDMENTS.—Section 422
10 (20 U.S.C. 1072) is further amended—

11 (A) in the last sentence of subsection
12 (a)(2), by striking “Except as provided in sec-
13 tion 428(c)(10) (E) or (F), such” and inserting
14 “Except as provided in subparagraph (E) or
15 (F) of section 428(c)(9), such”; and

16 (B) in subsection (g), by amending para-
17 graph (4) to read as follows:

18 “(4) DISPOSITION OF FUNDS RETURNED TO OR
19 RECOVERED BY THE SECRETARY.—Any funds that
20 are returned to or otherwise recovered by the Sec-
21 retary pursuant to this subsection shall be returned
22 to the Treasury of the United States for purposes of
23 reducing the Federal debt and shall be deposited
24 into the special account under section 3113(d) of
25 title 31, United States Code.”.

1 (f) ELIMINATION OF SUPPLEMENTAL PRECLAIMS
2 ASSISTANCE.—

3 (1) AMENDMENT.—Section 428(l) (20 U.S.C.
4 1078(l)) is amended—

5 (A) by striking paragraph (2); and

6 (B) by striking “(l) PRECLAIMS” and all
7 that follows through “Upon receipt” and insert-
8 ing “(l) PRECLAIMS ASSISTANCE AND SUPPLE-
9 MENTAL PRECLAIMS ASSISTANCE.—Upon re-
10 ceipt”.

11 (2) EFFECTIVE DATE.—The amendment made
12 by this subsection shall apply to loans for which the
13 first delinquency occurs on or after January 1,
14 1996.

15 (g) NATIONAL STUDENT LOAN CLEARINGHOUSE.—
16 Section 428(f)(1)(A)(iv) (20 U.S.C. 1078(f)(1)(A)(iv)) is
17 amended by inserting “whether such monitoring is con-
18 ducted through the National Student Loan Data System
19 established under section 485B or otherwise” before the
20 semicolon.

21 (h) PROHIBITION REGARDING MARKETING, ADVER-
22 TISING, AND PROMOTION.—Section 422 (20 U.S.C. 1072)
23 is amended by adding after subsection (h) (as added by
24 subsection (a)) the following new subsection:

1 “(i) PROHIBITION.—The reserve funds of a guaranty
2 agency may not be used for marketing, advertising, or pro-
3 motion of the Robert T. Stafford Federal Student Loan
4 Program, or for the hiring of advertising agencies or other
5 third parties to provide advertising services.”.

6 **SEC. 10006. REAUTHORIZATION.**

7 Notwithstanding any other provision of law, the au-
8 thorization of appropriations for each program under part
9 B of title IV (20 U.S.C. 1071 et seq.) and the duration
10 of such program, is extended through fiscal year 2002.

11 **SEC. 10007. CONNIE LEE PRIVATIZATION.**

12 (a) STATUS OF THE CORPORATION AND CORPORATE
13 POWERS; OBLIGATIONS NOT FEDERALLY GUARAN-
14 TEED.—

15 (1) STATUS OF THE CORPORATION.—The Col-
16 lege Construction Loan Insurance Association (here-
17 after in this section referred to as the “Corpora-
18 tion”) shall not be an agency, instrumentality, or es-
19 tablishment of the United States Government, nor a
20 Government corporation nor a Government con-
21 trolled corporation as such terms are defined in sec-
22 tion 103 of title 5, United States Code. No action
23 under section 1491 of title 28, United States Code
24 (commonly known as the Tucker Act) shall be allow-

1 able against the United States based on the actions
2 of the Corporation.

3 (2) CORPORATE POWERS.—The Corporation
4 shall be subject to the provisions of this section, and,
5 to the extent not inconsistent with this section, to
6 the District of Columbia Business Corporation Act
7 (or the comparable law of another State, if applica-
8 ble). The Corporation shall have the powers con-
9 ferred upon a corporation by the District of Colum-
10 bia Business Corporation Act (or such other applica-
11 ble State law) as from time to time in effect in order
12 to conduct its affairs as a private, for-profit corpora-
13 tion and to carry out its purposes and activities inci-
14 dental thereto. The Corporation shall have the power
15 to enter into contracts, to execute instruments, to
16 incur liabilities, to provide products and services,
17 and to do all things as are necessary or incidental
18 to the proper management of its affairs and the effi-
19 cient operation of a private, for-profit business.

20 (3) LIMITATION ON OWNERSHIP OF STOCK.—

21 (A) SECRETARY OF THE TREASURY.—The
22 Secretary of the Treasury, in completing the
23 sale of stock pursuant to subsection (c), may
24 not sell or issue the stock held by the Secretary
25 of Education to an agency, instrumentality, or

1 establishment of the United States Government,
2 or to a Government corporation or a Govern-
3 ment controlled corporation as such terms are
4 defined in section 103 of title 5, United States
5 Code, or to a government-sponsored enterprise
6 as such term is defined in section 622 of title
7 2, United States Code.

8 (B) STUDENT LOAN MARKETING ASSOCIA-
9 TION.—The Student Loan Marketing Associa-
10 tion shall not increase its share of the owner-
11 ship of the Corporation in excess of 42 percent
12 of the shares of stock of the Corporation out-
13 standing on the date of enactment of this Act.
14 The Student Loan Marketing Association shall
15 not control the operation of the Corporation,
16 except that the Student Loan Marketing Asso-
17 ciation may participate in the election of direc-
18 tors as a shareholder, and may continue to ex-
19 ercise its right to appoint directors under sec-
20 tion 754 of the Higher Education Act of 1965
21 (20 U.S.C. 1132f-3) as long as that section is
22 in effect.

23 (4) NO FEDERAL GUARANTEE.—

24 (A) OBLIGATIONS INSURED BY THE COR-
25 PORATION.—

1 (i) FULL FAITH AND CREDIT OF THE
2 UNITED STATES.—No obligation that is in-
3 sured, guaranteed, or otherwise backed by
4 the Corporation shall be deemed to be an
5 obligation that is guaranteed by the full
6 faith and credit of the United States.

7 (ii) STUDENT LOAN MARKETING ASSO-
8 CIATION.—No obligation that is insured,
9 guaranteed, or otherwise backed by the
10 Corporation shall be deemed to be an obli-
11 gation that is guaranteed by the Student
12 Loan Marketing Association.

13 (iii) SPECIAL RULE.—This paragraph
14 shall not affect the determination of
15 whether such obligation is guaranteed for
16 purposes of Federal income taxes.

17 (B) SECURITIES OFFERED BY THE COR-
18 PORATION.—No debt or equity securities of the
19 Corporation shall be deemed to be guaranteed
20 by the full faith and credit of the United
21 States.

22 (5) DEFINITION.—The term “Corporation” as
23 used in this section shall refer to the College Con-
24 struction Loan Insurance Association as in existence

1 as of the day before the date of enactment of this
2 Act, and to any successor corporation.

3 (b) RELATED PRIVATIZATION REQUIREMENTS.—

4 (1) NOTICE REQUIREMENTS.—

5 (A) IN GENERAL.—During the six-year pe-
6 riod following the date of enactment of this Act,
7 the Corporation shall include, in each of the
8 Corporation's contracts for the insurance, guar-
9 antee, or reinsurance of obligations, and in each
10 document offering debt or equity securities of
11 the Corporation a prominent statement provid-
12 ing notice that—

13 (i) such obligations or such securities,
14 as the case may be, are not obligations of
15 the United States, nor are such obligations
16 guaranteed in any way by the full faith
17 and credit of the United States; and

18 (ii) the Corporation is not an instru-
19 mentality of the United States.

20 (B) ADDITIONAL NOTICE.—During the
21 five-year period following the sale of stock pur-
22 suant to subsection (c)(1), in addition to the
23 notice requirements in subparagraph (A), the
24 Corporation shall include, in each of the con-
25 tracts and documents referred to in such sub-

1 paragraph, a prominent statement providing no-
2 tice that the United States is not an investor in
3 the Corporation.

4 (2) CORPORATE CHARTER.—The Corporation’s
5 charter shall be amended as necessary and without
6 delay to conform to the requirements of this section.

7 (3) CORPORATE NAME.—The name of the Cor-
8 poration, or of any direct or indirect subsidiary
9 thereof, may not contain the term “College Con-
10 struction Loan Insurance Association”, or any sub-
11 stantially similar variation thereof.

12 (4) TRANSITIONAL REQUIREMENTS.—

13 (A) REQUIREMENTS UNTIL STOCK SALE.—
14 Notwithstanding subsection (d), the require-
15 ments of sections 754 and 760 of the Higher
16 Education Act of 1965 (20 U.S.C. 1001 et
17 seq.), as such Act was in existence on the day
18 before the date of enactment of this Act, shall
19 continue to be effective until the day imme-
20 diately following the date of closing of the pur-
21 chase of the Secretary of Education’s stock (or
22 the date of closing of the final purchase, in the
23 case of multiple transactions) pursuant to sub-
24 section (c)(1) of this Act.

1 (B) REPORTS AFTER STOCK SALE.—The
2 Corporation shall, not later than March 30 of
3 the first full calendar year immediately follow-
4 ing the sale pursuant to subsection (c)(1), and
5 each of the two succeeding years, submit to the
6 Secretary of Education a report describing the
7 Corporation’s efforts to assist in the financing
8 of education facilities projects, including
9 projects for elementary, secondary, and post-
10 secondary educational institution infrastructure,
11 and detailing, on a project-by-project basis, the
12 Corporation’s business dealings with edu-
13 cational institutions that are rated by a nation-
14 ally recognized statistical rating organization at
15 or below the organization’s third highest rating.

16 (c) SALE OF FEDERALLY OWNED STOCK.—

17 (1) SALE OF STOCK REQUIRED.—The Secretary
18 of the Treasury shall sell, pursuant to section 324
19 of title 31, United States Code, the stock of the Cor-
20 poration owned by the Secretary of Education as
21 soon as possible after the date of enactment of this
22 Act, but not later than six months after such date.

23 (2) PURCHASE BY THE CORPORATION.—In the
24 event that the Secretary of the Treasury is unable
25 to sell the stock, or any portion thereof, at a price

1 acceptable to the Secretary of Education and the
2 Secretary of the Treasury, the Corporation shall
3 purchase, within 9 months after the date of enact-
4 ment of this Act, such stock at a price determined
5 by the Secretary of the Treasury and acceptable to
6 the Corporation based on the independent appraisal
7 of one or more nationally recognized financial firms,
8 except that such price shall not exceed the value of
9 the Secretary of Education's stock as determined by
10 the Congressional Budget Office in House Report
11 104–153, dated June 22, 1995.

12 (3) REIMBURSEMENT OF COSTS OF SALE.—The
13 Secretary of the Treasury shall be reimbursed from
14 the proceeds of the sale of the stock under this sub-
15 section for all reasonable costs related to such sale,
16 including all reasonable expenses relating to one or
17 more independent appraisals under this subsection.

18 (4) ASSISTANCE BY THE CORPORATION.—The
19 Corporation shall provide such assistance as the Sec-
20 retary of the Treasury and the Secretary of Edu-
21 cation may require to facilitate the sale of the stock
22 under this subsection.

23 (e) REPEAL OF STATUTORY RESTRICTIONS AND RE-
24 LATED PROVISIONS.—Part D of title VII of the Higher

1 Education Act of 1965 (20 U.S.C. 1001 et seq.) is re-
2 pealed.

3 **TITLE XI—COMMITTEE ON**
4 **VETERANS’ AFFAIRS**

5 **SEC. 11001. SHORT TITLE.**

6 This title may be cited as the “Veterans Reconcili-
7 ation Act of 1995”.

8 **Subtitle A—Extension of Certain**
9 **Authorities**

10 **SEC. 11011. EXTENSION OF AUTHORITY TO REQUIRE THAT**
11 **CERTAIN VETERANS MAKE COPAYMENTS IN**
12 **EXCHANGE FOR RECEIVING OUTPATIENT**
13 **MEDICATIONS.**

14 Section 1722A(c) of title 38, United States Code, is
15 amended by striking out “September 30, 1998” and in-
16 serting in lieu thereof “September 30, 2002”.

17 **SEC. 11012. EXTENSION OF AUTHORITY FOR MEDICAL CARE**
18 **COST RECOVERY.**

19 Section 1729(a)(2)(E) of title 38, United States
20 Code, is amended by striking out “before October 1,
21 1998,” and inserting in lieu thereof “before October 1,
22 2002,”.

23 **SEC. 11013. LOAN FEES.**

24 (a) INCREASE IN HOME LOAN FEES.—Paragraph (4)
25 of section 3729(a) of title 38, United States Code, is

1 amended by striking out “before October 1, 1998,” and
2 inserting in lieu thereof “before October 1, 2002,”

3 (b) FEE FOR MULTIPLE USE OF HOUSING ASSIST-
4 ANCE.—Paragraph (5)(C) of such section is amended by
5 striking out “before October 1, 1998” and inserting in lieu
6 thereof “before October 1, 2002”.

7 **SEC. 11014. EXTENSION OF CERTAIN INCOME VERIFICA-**
8 **TION AUTHORITY.**

9 (a) EXTENSION.—Section 5317(g) of title 38, United
10 States Code, is amended by striking out “September 30,
11 1998” and inserting in lieu thereof “September 30,
12 2002”.

13 (b) CONFORMING AMENDMENT.—Section
14 6103(l)(7)(D) of the Internal Revenue Code of 1986 (26
15 U.S.C. 6103(l)(7)(D)) is amended in the second sentence
16 of the flush matter after clause (ix) by striking out “Sep-
17 tember 30, 1998” and inserting in lieu thereof “Septem-
18 ber 30, 2002”.

19 **SEC. 11015. EXTENSION OF LIMITATION ON PENSION FOR**
20 **CERTAIN RECIPIENTS OF MEDICAID-COV-**
21 **ERED NURSING HOME CARE.**

22 Section 5503(f)(7) of title 38, United States Code,
23 is amended by striking out “September 30, 1998” and in-
24 serting in lieu thereof “September 30, 2002”.

1 **Subtitle B—Cost-of-Living Adjust-**
2 **ments in Compensation Rates**

3 **SEC. 11021. POLICY REGARDING COST-OF-LIVING ADJUST-**
4 **MENT IN COMPENSATION RATES.**

5 In each of fiscal years 1996 through 2002, the cost-
6 of-living adjustments in the rates and limitations for com-
7 pensation payable under chapter 11 of title 38, United
8 States Code, and of dependency and indemnity compensa-
9 tion payable under chapter 13 of such title will be no more
10 than a percentage equal to the percentage by which benefit
11 amounts payable under title II of the Social Security Act
12 (42 U.S.C. 401 et seq.) are increased as of December 1
13 of the fiscal year concerned as a result of a determination
14 under section 215(i) of such Act (42 U.S.C. 415(i)), with
15 all increased monthly rates and limitations (other than in-
16 creased rates or limitations equal to a whole dollar
17 amount) rounded down to the next lower dollar.

18 **Subtitle C—Educational Benefits**

19 **SEC. 11031. LIMITATION REGARDING COST-OF-LIVING AD-**
20 **JUSTMENTS FOR MONTGOMERY GI BILL BEN-**
21 **EFITS.**

22 With respect to each of fiscal years 1996 through
23 2002, the cost-of-living adjustments in the rates of edu-
24 cational assistance payable under chapter 30 of title 38,
25 United States Code, shall be the percentage equal to 50

1 percent of the percentage by which such assistance would
2 be increased under section 3015(g) of such title with re-
3 spect to such fiscal year but for this section.

4 **SEC. 11032. INCREASE IN AMOUNT OF CONTRIBUTION FOR**
5 **PARTICIPATION IN MONTGOMERY GI BILL**
6 **PROGRAM.**

7 (a) ACTIVE DUTY SERVICE.—Section 3011(b) of title
8 38, United States Code, is amended to read as follows:

9 “(b)(1) The basic pay of any individual described in
10 subsection (a)(1)(A) of this section who first becomes a
11 member of the Armed Forces or enters on active duty dur-
12 ing the period beginning on October 1, 1995, and ending
13 on September 30, 1996, and who does not make an elec-
14 tion under subsection (c)(1) of this section shall be re-
15 duced by \$134.96 for each of the first 12 months that
16 such individual is entitled to such pay.

17 “(2) The basic pay of any individual described in sub-
18 section (a)(1)(A) of this section who first becomes a mem-
19 ber of the Armed Forces or enters on active duty during
20 any fiscal year beginning on or after October 1, 1996, and
21 before September 30, 2002, and who does not make an
22 election under subsection (c)(1) of this section, shall be
23 reduced, for each of the first 12 months that such individ-
24 ual is entitled to such pay, by an amount equal to the
25 amount of the reduction required under this subsection

1 during the preceding fiscal year increased by the percent-
2 age, if any, by which rates payable for educational assist-
3 ance are increased under section 3015(g) of this title with
4 respect to the fiscal year during which the individual first
5 becomes a member of the Armed Forces or enters on ac-
6 tive duty.

7 “(3) Any amount by which the basic pay of an indi-
8 vidual is reduced under this chapter shall revert to the
9 Treasury and shall not, for purposes of any Federal law,
10 be considered to have been received by or to be within the
11 control of such individual.”

12 (b) SERVICE IN THE SELECTED RESERVE.—Section
13 3012(c) of such title is amended to read as follows:

14 “(c)(1) The basic pay of any individual described in
15 subsection (a)(1)(A) of this section who first becomes a
16 member of the Armed Forces or enters on active duty dur-
17 ing the period beginning on October 1, 1995, and ending
18 on September 30, 1996, and who does not make an elec-
19 tion under subsection (d)(1) of this section shall be re-
20 duced by \$134.96 for each of the first 12 months that
21 such individual is entitled to such pay.

22 “(2) The basic pay of any individual described in sub-
23 section (a)(1)(A) of this section who first becomes a mem-
24 ber of the Armed Forces or enters on active duty during
25 any fiscal year beginning on or after October 1, 1996, and

1 before September 30, 2002, and who does not make an
2 election under subsection (d)(1) of this section, shall be
3 reduced, for each of the first 12 months that such individ-
4 ual is entitled to such pay, by an amount equal to the
5 amount of the reduction required under this subsection
6 during the preceding fiscal year increased by the percent-
7 age, if any, by which rates payable for educational assist-
8 ance are increased under section 3015(g) of this title with
9 respect to the fiscal year during which the individual first
10 becomes a member of the Armed Forces or enters on ac-
11 tive duty.

12 “(3) Any amount by which the basic pay of an indi-
13 vidual is reduced under this chapter shall revert to the
14 Treasury and shall not, for purposes of any Federal law,
15 be considered to have been received by or to be within the
16 control of such individual.”.

17 **Subtitle D—Miscellaneous**

18 **SEC. 11041. CLARIFICATION OF ENTITLEMENT FOR BENE-** 19 **FITS FOR DISABILITY RESULTING FROM** 20 **TREATMENT OR VOCATIONAL SERVICES PRO-** 21 **VIDED BY DEPARTMENT OF VETERANS AF-** 22 **FAIRS.**

23 (a) CLARIFICATION.—The text of section 1151 of
24 title 38, United States Code, is amended to read as fol-
25 lows:

1 “(a)(1) Disability or death compensation shall be
2 awarded under this chapter, and dependency and indem-
3 nity compensation shall be awarded under chapter 13 of
4 this title, for additional disability or death of a veteran
5 in the same manner as if such additional disability or
6 death, as the case may be, were service-connected if such
7 additional disability or death—

8 “(A) is not the result of the veteran’s willful
9 misconduct; and

10 “(B) results from—

11 “(i) carelessness, negligence, lack of proper
12 skill, error in judgment, or similar instance of
13 fault in any hospital care, medical or surgical
14 treatment, or examination furnished either by a
15 Department employee or in a Department facil-
16 ity under any of the laws administered by the
17 Secretary;

18 “(ii) an event in such hospital care, medi-
19 cal or surgical treatment, or examination that is
20 not reasonably foreseeable; or

21 “(iii) the provision of training and rehabili-
22 tative services by the Secretary (or by a service-
23 provider used by the Secretary for such provi-
24 sion under section 3115 of this title) as part of

1 an approved rehabilitation program under chap-
2 ter 31 of this title.

3 “(2) For purposes of paragraph (1), the term ‘De-
4 partment facility’ means a facility over which the Sec-
5 retary has direct jurisdiction.

6 “(b) Where an individual is, on or after December
7 1, 1962, awarded a judgment against the United States
8 in a civil action brought pursuant to section 1346(b) of
9 title 28 or, on or after December 1, 1962, enters into a
10 settlement or compromise under section 2672 or 2677 of
11 title 28 by reason of a disability or death treated pursuant
12 to this section as if it were service-connected, then no ben-
13 efits shall be paid to such individual for any month begin-
14 ning after the date such judgment, settlement, or com-
15 promise on account of such disability or death becomes
16 final until the aggregate amount of benefits which would
17 be paid but for this subsection equals the total amount
18 included in such judgment, settlement, or compromise.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall take effect on the date of the enact-
21 ment of this Act and apply to claims filed (including origi-
22 nal claims and applications to reopen, revise, reconsider,
23 or otherwise readjudicate claims previously filed) for dis-
24 ability or death compensation, or dependency and indem-
25 nity compensation, on or after that date, regardless of the

1 date of the occurrence of the additional disability or death
 2 upon which the claims are based.

3 **TITLE XII—COMMITTEE ON FI-**
 4 **NANCE—REVENUE PROVI-**
 5 **SIONS**

6 **SEC. 12000. SHORT TITLE; REFERENCES; TABLE OF CON-**
 7 **TENTS.**

8 (a) **SHORT TITLE.**—This title may be cited as the
 9 “Revenue Reconciliation Act of 1995”.

10 (b) **AMENDMENTS TO INTERNAL REVENUE CODE OF**
 11 **1986.**—Except as otherwise specifically provided, wher-
 12 ever in this title an amendment is expressed in terms of
 13 an amendment to or repeal of a section or other provision,
 14 the reference shall be considered to be made to that sec-
 15 tion or other provision of the Internal Revenue Code of
 16 1986.

17 (c) **TABLE OF CONTENTS.**—The table of contents of
 18 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.
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- Sec. 12211. Policy requirements.
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- Sec. 12402. Employer-provided educational assistance programs.
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CHAPTER 4—DIESEL DYEING PROVISIONS

- Sec. 12431. Exemption from diesel fuel dyeing requirements with respect to certain States.
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- Sec. 12505. Offers-in-compromise.
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- Sec. 12601. Basis adjustment to property held by corporation where stock in corporation is replacement property under involuntary conversion rules.
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- Sec. 12801. Tax treatment of certain extraordinary dividends.
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- Sec. 12806. Depreciation under income forecast method.
- Sec. 12807. Transfers of excess pension assets.
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CHAPTER 2—LEGAL REFORMS

- Sec. 12811. Repeal of exclusion for punitive damages and for damages not attributable to physical injuries or sickness.
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- Sec. 12821. No rollover or exclusion of gain on sale of principal residence which is attributable to depreciation deductions.
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- Sec. 12831. Repeal of diesel fuel tax rebate to purchasers of diesel-powered automobiles and light trucks.
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- Sec. 12833. Modifications to excise tax on ozone-depleting chemicals.
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- Sec. 12841. Improved information reporting on foreign trusts.
- Sec. 12842. Modifications of rules relating to foreign trusts having one or more United States beneficiaries.
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- Sec. 12845. Modification of rules relating to foreign trusts which are not grantor trusts.
- Sec. 12846. Residence of estates and trusts, etc.

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- Sec. 12851. Financial asset securitization investment trusts.

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- Sec. 12861. Treatment of contributions in aid of construction.
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- Sec. 12871. Application of failure-to-pay penalty to substitute returns.
- Sec. 12872. Extension of withholding to certain gambling winnings.
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- 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.
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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.

1 **Subtitle A—Family Tax Relief**

2 **SEC. 12001. CHILD TAX CREDIT.**

3 (a) IN GENERAL.—Subpart A of part IV of sub-
 4 chapter A of chapter 1 (relating to nonrefundable personal
 5 credits) is amended by inserting after section 22 the fol-
 6 lowing new section:

7 **“SEC. 23. CHILD TAX CREDIT.**

8 “(a) ALLOWANCE OF CREDIT.—There shall be al-
 9 lowed as a credit against the tax imposed by this chapter
 10 for the taxable year an amount equal to \$500 multiplied
 11 by the number of qualifying children of the taxpayer.

12 “(b) LIMITATION.—

13 “(1) IN GENERAL.—The amount of the credit
 14 which would (but for this subsection) be allowed by

1 subsection (a) shall be reduced (but not below zero)
2 by \$25 for each \$1,000 (or fraction thereof) by
3 which the taxpayer's adjusted gross income exceeds
4 the threshold amount.

5 “(2) THRESHOLD AMOUNT.—For purposes of
6 paragraph (1), the term ‘threshold amount’ means—

7 “(A) \$110,000 in the case of a joint re-
8 turn,

9 “(B) \$75,000 in the case of an individual
10 who is not married, and

11 “(C) \$55,000 in the case of a married in-
12 dividual filing a separate return.

13 For purposes of this paragraph, marital status shall
14 be determined under section 7703.

15 “(c) QUALIFYING CHILD.—For purposes of this sec-
16 tion—

17 “(1) IN GENERAL.—The term ‘qualifying child’
18 means any individual if—

19 “(A) the taxpayer is allowed a deduction
20 under section 151 with respect to such individ-
21 ual for such taxable year,

22 “(B) such individual has not attained the
23 age of 18 as of the close of the calendar year
24 in which the taxable year of the taxpayer be-
25 gins, and

1 “(C) such individual bears a relationship to
2 the taxpayer described in section 32(c)(3)(B)
3 (determined without regard to clause (ii) there-
4 of).

5 “(2) EXCEPTION FOR CERTAIN NONCITIZENS.—
6 The term ‘qualifying child’ shall not include any in-
7 dividual who would not be a dependent if the first
8 sentence of section 152(b)(3) were applied without
9 regard to all that follows ‘resident of the United
10 States’.

11 “(d) CERTAIN OTHER RULES APPLY.—Rules similar
12 to the rules of subsections (d) and (e) of section 32 shall
13 apply for purposes of this section.”

14 (b) CLERICAL AMENDMENT.—The table of sections
15 for subpart A of part IV of subchapter A of chapter 1
16 is amended by inserting after the item relating to section
17 22 the following new item:

 “Sec. 23. Child tax credit.”

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning after
20 December 31, 1995.

21 **SEC. 12002. REDUCTION IN MARRIAGE PENALTY.**

22 (a) INCREASE IN BASIC STANDARD DEDUCTION FOR
23 MARRIED INDIVIDUALS.—Section 63(c) (relating to
24 standard deduction) is amended—

1 (1) by striking “\$5,000” in paragraph (2)(A)
 2 and inserting “the applicable dollar amount”,

3 (2) by striking “\$2,500” in paragraph (2)(D)
 4 and inserting “½ of the applicable dollar amount”,
 5 and

6 (3) by inserting after paragraph (6) the follow-
 7 ing new paragraph:

8 “(7) APPLICABLE DOLLAR AMOUNT.—For pur-
 9 poses of paragraph (2), the applicable dollar amount
 10 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.”

11 (b) COST-OF-LIVING ADJUSTMENTS.—Section
 12 63(c)(4) (relating to adjustments for inflation) is amended
 13 by adding at the end the following new flush sentence:

14 “This paragraph shall also apply to the \$10,800
 15 amount in paragraph (7) for taxable years beginning
 16 after 2005, except that subparagraph (B) shall be
 17 applied by substituting ‘2004’ for ‘1987.’”

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1995.

4 **SEC. 12003. CREDIT FOR ADOPTION EXPENSES.**

5 (a) IN GENERAL.—Subpart A of part IV of sub-
6 chapter A of chapter 1 (relating to nonrefundable personal
7 credits), as amended by section 12001, is amended by in-
8 serting after section 23 the following new section:

9 **“SEC. 24. ADOPTION EXPENSES.**

10 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
11 dividual, there shall be allowed as a credit against the tax
12 imposed by this subtitle for the taxable year the amount
13 of the qualified adoption expenses paid or incurred by the
14 taxpayer during such taxable year.

15 “(b) LIMITATIONS.—

16 “(1) DOLLAR LIMITATION.—The aggregate
17 amount of qualified adoption expenses which may be
18 taken into account under subsection (a) with respect
19 to the adoption of a child shall not exceed \$5,000.

20 “(2) INCOME LIMITATION.—The amount allow-
21 able as a credit under subsection (a) for any taxable
22 year shall be reduced (but not below zero) by an
23 amount which bears the same ratio to the amount
24 so allowable (determined without regard to this
25 paragraph but with regard to paragraph (1)) as—

1 “(A) the amount (if any) by which the tax-
2 payer’s taxable income exceeds \$60,000, bears
3 to

4 “(B) \$40,000.

5 “(3) DENIAL OF DOUBLE BENEFIT.—

6 “(A) IN GENERAL.—No credit shall be al-
7 lowed under subsection (a) for any expense for
8 which a deduction or credit is allowable under
9 any other provision of this chapter.

10 “(B) GRANTS.—No credit shall be allowed
11 under subsection (a) for any expense to the ex-
12 tent that funds for such expense are received
13 under any Federal, State, or local program.

14 “(C) REIMBURSEMENT.—No credit shall
15 be allowed under subsection (a) for any expense
16 to the extent that such expense is reimbursed
17 and the reimbursement is excluded from gross
18 income under section 137.

19 “(c) CARRYFORWARDS OF UNUSED CREDIT.—If the
20 credit allowable under subsection (a) for any taxable year
21 exceeds the limitation imposed by section 26(a) for such
22 taxable year reduced by the sum of the credits allowable
23 under this subpart (other than this section), such excess
24 shall be carried to the succeeding taxable year and added
25 to the credit allowable under subsection (a) for such tax-

1 able year. No credit may be carried forward under this
2 subsection to any taxable year following the fifth taxable
3 year after the taxable year in which the credit arose.

4 “(d) QUALIFIED ADOPTION EXPENSES.—

5 “(1) IN GENERAL.—The term ‘qualified adop-
6 tion expenses’ means reasonable and necessary adop-
7 tion fees, court costs, attorney fees, and other ex-
8 penses—

9 “(A) which are directly related to, and the
10 principal purpose of which is for, the legal and
11 final adoption of an eligible child by the tax-
12 payer, and

13 “(B) which are not incurred in violation of
14 State or Federal law or in carrying out any sur-
15rogate parenting arrangement.

16 “(2) EXPENSES FOR ADOPTION OF SPOUSE’S
17 CHILD NOT ELIGIBLE.—The term ‘qualified adoption
18 expenses’ shall not include any expenses in connec-
19 tion with the adoption by an individual of a child
20 who is the child of such individual’s spouse.

21 “(3) ELIGIBLE CHILD.—The term ‘eligible
22 child’ means any individual—

23 “(A) who has not attained age 18 as of the
24 time of the adoption, or

1 “(B) who is physically or mentally incapa-
2 ble of caring for himself.

3 “(e) MARRIED COUPLES MUST FILE JOINT RE-
4 TURNS.—Rules similar to the rules of paragraphs (2), (3),
5 and (4) of section 21(e) shall apply for purposes of this
6 section.”

7 (b) EXCLUSION OF AMOUNTS RECEIVED UNDER EM-
8 PLOYER’S ADOPTION ASSISTANCE PROGRAMS.—Part III
9 of subchapter B of chapter 1 (relating to items specifically
10 excluded from gross income) is amended by redesignating
11 section 137 as section 138 and by inserting after section
12 136 the following new section:

13 **“SEC. 137. ADOPTION ASSISTANCE PROGRAMS.**

14 “(a) IN GENERAL.—Gross income of an employee
15 does not include amounts paid or expenses incurred by the
16 employer for qualified adoption expenses in connection
17 with the adoption of a child by an employee if such
18 amounts are furnished pursuant to an adoption assistance
19 program.

20 “(b) LIMITATIONS.—

21 “(1) DOLLAR LIMITATION.—The aggregate
22 amount excludable from gross income under sub-
23 section (a) for all taxable years with respect to the
24 adoption of any single child by the taxpayer shall
25 not exceed \$5,000.

1 “(2) INCOME LIMITATION.—The amount ex-
2 cludable from gross income under subsection (a) for
3 any taxable year shall be reduced (but not below
4 zero) by an amount which bears the same ratio to
5 the amount so excludable (determined without re-
6 gard to this paragraph but with regard to paragraph
7 (1)) as—

8 “(A) the amount (if any) by which the tax-
9 payer’s taxable income (determined without re-
10 gard to this section) exceeds \$60,000, bears to

11 “(B) \$40,000.

12 “(c) ADOPTION ASSISTANCE PROGRAM.—For pur-
13 poses of this section, an adoption assistance program is
14 a plan of an employer—

15 “(1) under which the employer provides employ-
16 ees with adoption assistance, and

17 “(2) which meets requirements similar to the
18 requirements of paragraphs (2), (3), and (5) of sec-
19 tion 127(b).

20 An adoption reimbursement program operated under sec-
21 tion 1052 of title 10, United States Code (relating to
22 armed forces) or section 514 of title 14, United States
23 Code (relating to members of the Coast Guard) shall be
24 treated as an adoption assistance program for purposes
25 of this section.

1 “(d) QUALIFIED ADOPTION EXPENSES.—For pur-
2 poses of this section, the term ‘qualified adoption ex-
3 penses’ has the meaning given such term by section
4 24(d).”

5 (c) CONFORMING AMENDMENTS.—

6 (1) The table of sections for subpart A of part
7 IV of subchapter A of chapter 1, as amended by sec-
8 tion 12001, is amended by inserting after the item
9 relating to section 23 the following new item:

“Sec. 24. Adoption expenses.”

10 (2) The table of sections for part III of sub-
11 chapter B of chapter 1 is amended by striking the
12 item relating to section 137 and inserting the follow-
13 ing:

“Sec. 137. Adoption assistance programs.
“Sec. 138. Cross reference to other Acts.”

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 1995.

17 **SEC. 12004. CREDIT FOR INTEREST ON EDUCATION LOANS.**

18 (a) IN GENERAL.—Subpart A of part IV of sub-
19 chapter A of chapter 1 (relating to nonrefundable personal
20 credits), as amended by sections 12001 and 12003, is
21 amended by inserting after section 24 the following new
22 section:

1 **“SEC. 24A. INTEREST ON EDUCATION LOANS.**

2 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
3 dividual, there shall be allowed as a credit against the tax
4 imposed by this chapter for the taxable year an amount
5 equal to 20 percent of the interest paid by the taxpayer
6 during the taxable year on any qualified education loan.

7 “(b) MAXIMUM CREDIT.—

8 “(1) IN GENERAL.—Except as provided in para-
9 graph (2), the credit allowed by subsection (a) for
10 the taxable year shall not exceed \$500 (\$1,000 if the
11 taxpayer has 1 or more qualified education loans
12 covering the qualified higher education expenses of
13 more than 1 individual).

14 “(2) LIMITATION BASED ON MODIFIED AD-
15 JUSTED GROSS INCOME.—

16 “(A) IN GENERAL.—If the modified ad-
17 justed gross income of the taxpayer for the tax-
18 able year exceeds \$40,000 (\$60,000 in the case
19 of a joint return), the amount which would (but
20 for this paragraph) be allowable as a credit
21 under this section shall be reduced (but not
22 below zero) by the amount which bears the
23 same ratio to the amount which would be so al-
24 lowable as such excess bears to \$15,000.

25 “(B) MODIFIED ADJUSTED GROSS IN-
26 COME.—The term ‘modified adjusted gross in-

1 come’ means adjusted gross income deter-
2 mined—

3 “(i) without regard to sections 135,
4 911, 931, and 933, and

5 “(ii) after application of sections 86,
6 219, and 469.

7 “(C) INFLATION ADJUSTMENT.—In the
8 case of any taxable year beginning after 1996,
9 the \$40,000 and \$60,000 amounts referred to
10 in subparagraph (A) shall be increased by an
11 amount equal to—

12 “(i) such dollar amount, multiplied by

13 “(ii) the cost-of-living adjustment de-
14 termined under section (1)(f)(3) for the
15 calendar year in which the taxable year be-
16 gins, by substituting ‘1995’ for ‘1992’.

17 “(D) ROUNDING.—If any amount as ad-
18 justed under subparagraph (C) is not a multiple
19 of \$50, such amount shall be rounded to the
20 nearest multiple of \$50.

21 “(e) LIMITATION ON TAXPAYERS ELIGIBLE FOR
22 CREDIT.—No credit shall be allowed by this section to an
23 individual for the taxable year if a deduction under section
24 151 with respect to such individual is allowed to another

1 taxpayer for the taxable year beginning in the calendar
2 year in which such individual's taxable year begins.

3 “(d) LIMIT ON PERIOD CREDIT ALLOWED.—

4 “(1) IN GENERAL.—Except as provided in para-
5 graph (2), a credit shall be allowed under this sec-
6 tion only with respect to interest paid on any quali-
7 fied education loan during the first 60 months
8 (whether or not consecutive) in which interest pay-
9 ments are required. For purposes of this paragraph,
10 any loan and all refinancings of such loan shall be
11 treated as 1 loan.

12 “(2) DEPENDENT.—If the qualified education
13 loan was used to pay qualified higher education ex-
14 penses of an individual other than the taxpayer or
15 the taxpayer's spouse, a credit shall be allowed
16 under this section for any taxable year with respect
17 to such loan only if—

18 “(A) a deduction under section 151 with
19 respect to such individual is allowed to the tax-
20 payer for such taxable year, and

21 “(B) such individual is at least a half-time
22 student with respect to such taxable year.

23 “(e) DEFINITIONS.—For purposes of this section—

24 “(1) QUALIFIED EDUCATION LOAN.—The term
25 ‘qualified education loan’ means any indebtedness

1 incurred to pay qualified higher education ex-
2 penses—

3 “(A) which are incurred on behalf of the
4 taxpayer, the taxpayer’s spouse, or a dependent
5 of the taxpayer,

6 “(B) which are paid or incurred within a
7 reasonable period of time before or after the in-
8 debtedness is incurred, and

9 “(C) which are attributable to education
10 furnished during a period during which the re-
11 cipient was at least a half-time student.

12 Such term includes indebtedness used to refinance
13 indebtedness which qualifies as a qualified education
14 loan. The term ‘qualified education loan’ shall not
15 include any indebtedness owed to a person who is re-
16 lated (within the meaning of section 267(b) or
17 707(b)(1)) to the taxpayer.

18 “(2) QUALIFIED HIGHER EDUCATION EX-
19 PENSES.—The term ‘qualified higher education ex-
20 penses’ means the cost of attendance (as defined in
21 section 472 of the Higher Education Act of 1965,
22 20 U.S.C. 1087*ll*, as in effect on the day before the
23 date of the enactment of this Act) of the taxpayer,
24 the taxpayer’s spouse, or a dependent of the tax-

1 payer at an eligible educational institution, reduced
2 by the sum of—

3 “(A) the amount excluded from gross in-
4 come under section 135 by reason of such ex-
5 penses, and

6 “(B) the amount of the reduction de-
7 scribed in section 135(d)(1).

8 For purposes of the preceding sentence, the term ‘el-
9 igible educational institution’ has the same meaning
10 given such term by section 135(c)(3), except that
11 such term shall also include an institution conduct-
12 ing an internship or residency program leading to a
13 degree or certificate awarded by an institution of
14 higher education, a hospital, or a health care facility
15 which offers postgraduate training.

16 “(3) HALF-TIME STUDENT.—The term ‘half-
17 time student’ means any individual who would be a
18 student as defined in section 151(c)(4) if ‘half-time’
19 were substituted for ‘full-time’ each place it appears
20 in such section.

21 “(4) DEPENDENT.—The term ‘dependent’ has
22 the meaning given such term by section 152.

23 “(f) SPECIAL RULES.—

24 “(1) DENIAL OF DOUBLE BENEFIT.—No credit
25 shall be allowed under this section for any amount

1 for which a deduction is allowable under any other
2 provision of this chapter.

3 “(2) MARRIED COUPLES MUST FILE JOINT RE-
4 TURN.—If the taxpayer is married at the close of
5 the taxable year, the credit shall be allowed under
6 subsection (a) only if the taxpayer and the tax-
7 payer’s spouse file a joint return for the taxable
8 year.

9 “(3) MARITAL STATUS.—Marital status shall be
10 determined in accordance with section 7703.”

11 (b) REPORTING REQUIREMENT.—

12 (1) IN GENERAL.—Subpart B of part III of
13 subchapter A of chapter 61 (relating to information
14 concerning transactions with other persons) is
15 amended by inserting after section 6050P the follow-
16 ing new section:

17 **“SEC. 6050Q. RETURNS RELATING TO EDUCATION LOAN IN-**
18 **TEREST RECEIVED IN TRADE OR BUSINESS**
19 **FROM INDIVIDUALS.**

20 “(a) EDUCATION LOAN INTEREST OF \$600 OR
21 MORE.—Any person—

22 “(1) who is engaged in a trade or business, and

23 “(2) who, in the course of such trade or busi-
24 ness, receives from any individual interest aggregat-

1 ing \$600 or more for any calendar year on 1 or
2 more qualified education loans,
3 shall make the return described in subsection (b) with re-
4 spect to each individual from whom such interest was re-
5 ceived at such time as the Secretary may by regulations
6 prescribe.

7 “(b) FORM AND MANNER OF RETURNS.—A return
8 is described in this subsection if such return—

9 “(1) is in such form as the Secretary may pre-
10 scribe,

11 “(2) contains—

12 “(A) the name, address, and TIN of the
13 individual from whom the interest described in
14 subsection (a)(2) was received,

15 “(B) the amount of such interest received
16 for the calendar year, and

17 “(C) such other information as the Sec-
18 retary may prescribe.

19 “(c) APPLICATION TO GOVERNMENTAL UNITS.—For
20 purposes of subsection (a)—

21 “(1) TREATED AS PERSONS.—The term ‘per-
22 son’ includes any governmental unit (and any agency
23 or instrumentality thereof).

1 “(2) SPECIAL RULES.—In the case of a govern-
2 mental unit or any agency or instrumentality there-
3 of—

4 “(A) subsection (a) shall be applied with-
5 out regard to the trade or business requirement
6 contained therein, and

7 “(B) any return required under subsection
8 (a) shall be made by the officer or employee ap-
9 propriately designated for the purpose of mak-
10 ing such return.

11 “(d) STATEMENTS TO BE FURNISHED TO INDIVID-
12 UALS WITH RESPECT TO WHOM INFORMATION IS RE-
13 QUIRED.—Every person required to make a return under
14 subsection (a) shall furnish to each individual whose name
15 is required to be set forth in such return a written state-
16 ment showing—

17 “(1) the name and address of the person re-
18 quired to make such return, and

19 “(2) the aggregate amount of interest described
20 in subsection (a)(2) received by the person required
21 to make such return from the individual to whom
22 the statement is required to be furnished.

23 The written statement required under the preceding sen-
24 tence shall be furnished on or before January 31 of the

1 year following the calendar year for which the return
2 under subsection (a) was required to be made.

3 “(e) QUALIFIED EDUCATION LOAN DEFINED.—For
4 purposes of this section, except as provided in regulations
5 prescribed by the Secretary, the term ‘qualified education
6 loan’ has the meaning given such term by section
7 24A(e)(1).

8 “(f) RETURNS WHICH WOULD BE REQUIRED TO BE
9 MADE BY 2 OR MORE PERSONS.—Except to the extent
10 provided in regulations prescribed by the Secretary, in the
11 case of interest received by any person on behalf of an-
12 other person, only the person first receiving such interest
13 shall be required to make the return under subsection
14 (a).”

15 (2) ASSESSABLE PENALTIES.—Section 6724(d)
16 (relating to definitions) is amended—

17 (A) by redesignating clauses (ix) through
18 (xiv) as clauses (x) through (xv), respectively, in
19 paragraph (1)(B) and by inserting after clause
20 (viii) of such paragraph the following new
21 clause:

22 “(ix) section 6050Q (relating to re-
23 turns relating to education loan interest re-
24 ceived in trade or business from individ-
25 uals),”, and

1 (B) by redesignating subparagraphs (Q)
2 through (T) as subparagraphs (R) through (U),
3 respectively, in paragraph (2) and by inserting
4 after subparagraph (P) of such paragraph the
5 following new subparagraph:

6 “(Q) section 6050Q (relating to returns re-
7 lating to education loan interest received in
8 trade or business from individuals),”.

9 (c) CLERICAL AMENDMENTS.—

10 (1) The table of sections for subpart A of part
11 IV of subchapter A of chapter 1, as amended by sec-
12 tions 12001 and 12003, is amended by inserting
13 after the item relating to section 24 the following
14 new item:

“Sec. 24A. Interest on education loans.”

15 (2) The table of sections for subpart B of part
16 III of subchapter A of chapter 61 is amended by in-
17 serting after the item relating to section 6050P the
18 following new item:

“Sec. 6050Q. Returns relating to education loan interest received
in trade or business from individuals.”

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to any qualified education loan (as
21 defined in section 24A(e)(1) of the Internal Revenue Code
22 of 1986, as added by this section) incurred on, before, or
23 after the date of the enactment of this Act, but only with

1 respect to any loan interest payment due after December
2 31, 1995.

3 **Subtitle B—Savings and**
4 **Investment Incentives**

5 **CHAPTER 1—RETIREMENT SAVINGS**
6 **INCENTIVES**

7 **Subchapter A—Individual Retirement Plans**

8 **PART I—RESTORATION OF IRA DEDUCTION**

9 **SEC. 12101. RESTORATION OF IRA DEDUCTION.**

10 (a) INCREASE IN INCOME LIMITS FOR ACTIVE PAR-
11 TICIPANTS.—

12 (1) IN GENERAL.—Subparagraph (B) of section
13 219(g)(3) (relating to applicable dollar amount) is
14 amended to read as follows:

15 “(B) APPLICABLE DOLLAR AMOUNT.—The
16 term ‘applicable dollar amount’ means the fol-
17 lowing:

18 “(i) In the case of a taxpayer filing a
19 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.

1 “(ii) In the case of any other taxpayer
 2 (other than a married individual filing a
 3 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.

4 “(iii) In the case of a married individ-
 5 ual filing a separate return, zero.”

6 (2) INCREASE IN PHASE-OUT RANGE FOR JOINT
 7 RETURNS.—Clause (ii) of section 219(g)(2)(A) is
 8 amended by inserting “(\$20,000 in the case of a
 9 joint return)” after “\$10,000”.

10 (3) COST-OF-LIVING ADJUSTMENTS.—Section
 11 219(g)(3) is amended by adding at the end the fol-
 12 lowing new subparagraph:

13 “(C) COST-OF-LIVING ADJUSTMENTS.—In
 14 the case of any taxable year beginning in a cal-
 15 endar year after 2007, the \$100,000 and
 16 \$85,000 amounts in clauses (i) and (ii) of sub-
 17 paragraph (B) shall each be increased by an
 18 amount equal to the product of such dollar
 19 amount and the cost-of-living adjustment for

1 the calendar year determined under subsection
2 (h)(3), except that subsection (h)(3)(A)(ii) shall
3 be applied by substituting ‘2006’ for ‘1994’. If
4 any amount to which either such amount is in-
5 creased is not a multiple of \$5,000, such
6 amount shall be rounded to the next lower mul-
7 tiple of \$5,000.”

8 (b) INDIVIDUAL NOT DISQUALIFIED BY SPOUSE’S
9 PARTICIPATION.—Paragraph (1) of section 219(g) (relat-
10 ing to limitation on deduction for active participants in
11 certain pension plans) is amended by striking “or the indi-
12 vidual’s spouse”.

13 (c) REPEAL OF NONDEDUCTIBLE CONTRIBUTIONS.—

14 (1) Subsection (f) of section 219 is amended by
15 striking paragraph (7).

16 (2) Paragraph (5) of section 408(d) is amended
17 by striking the last sentence.

18 (3) Section 408(o) is amended by adding at the
19 end the following new paragraph.

20 “(5) TERMINATION.—This subsection shall not
21 apply to any designated nondeductible contribution
22 for any taxable year beginning after December 31,
23 1995.”

24 (4) Subsection (b) of section 4973 is amended
25 by striking the last sentence.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1995.

4 **SEC. 12102. INFLATION ADJUSTMENT FOR DEDUCTIBLE**
5 **AMOUNT.**

6 (a) IN GENERAL.—Section 219 is amended by redess-
7 ignating subsection (h) as subsection (i) and by inserting
8 after subsection (g) the following new subsection:

9 “(h) COST-OF-LIVING ADJUSTMENTS.—

10 “(1) DEDUCTION AMOUNT.—

11 “(A) IN GENERAL.—In the case of any
12 taxable year beginning in a calendar year after
13 1996, the \$2,000 amount under subsection
14 (b)(1)(A) shall be increased by an amount equal
15 to the product of \$2,000 and the cost-of-living
16 adjustment for the calendar year.

17 “(B) ROUNDING TO NEXT LOWER \$500.—

18 If the amount to which \$2,000 would be in-
19 creased under subparagraph (A) is not a mul-
20 tiple of \$500, such amount shall be rounded to
21 the next lower multiple of \$500.

22 “(2) COST-OF-LIVING ADJUSTMENT.—For pur-
23 poses of this subsection—

1 219 (relating to special rules for certain married individ-
2 uals) is amended to read as follows:

3 “(c) SPECIAL RULES FOR CERTAIN MARRIED INDI-
4 VIDUALS.—

5 “(1) IN GENERAL.—In the case of an individual
6 to whom this paragraph applies for the taxable year,
7 the limitation of paragraph (1) of subsection (b)
8 shall be equal to the lesser of—

9 “(A) the dollar amount in effect under
10 subsection (b)(1)(A) for the taxable year, or

11 “(B) the sum of—

12 “(i) the compensation includible in
13 such individual’s gross income for the tax-
14 able year, plus

15 “(ii) the compensation includible in
16 the gross income of such individual’s
17 spouse for the taxable year reduced by—

18 “(I) the amount allowable as a
19 deduction under subsection (a) to
20 such spouse for such taxable year, and

21 “(II) the amount of any contribu-
22 tion on behalf of such spouse to an
23 IRA Plus account under section 408A
24 for such taxable year.

1 “(2) INDIVIDUALS TO WHOM PARAGRAPH (1)
2 APPLIES.—Paragraph (1) shall apply to any individ-
3 ual if—

4 “(A) such individual files a joint return for
5 the taxable year, and

6 “(B) the amount of compensation (if any)
7 includible in such individual’s gross income for
8 the taxable year is less than the compensation
9 includible in the gross income of such individ-
10 ual’s spouse for the taxable year.”

11 (b) CONFORMING AMENDMENTS.—

12 (1) Paragraph (2) of section 219(f) (relating to
13 other definitions and special rules) is amended by
14 striking “subsections (b) and (c)” and inserting
15 “subsection (b)”.

16 (2) Section 408(d)(5) is amended by striking
17 “\$2,250” and inserting “the dollar amount in effect
18 under section 219(b)(1)(A)”.

19 (3) Section 219(g)(1) is amended by striking
20 “(c)(2)” and inserting “(c)(1)(A)”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 1995.

1 **SEC. 12104. CERTAIN COINS AND BULLION NOT TREATED**
2 **AS COLLECTIBLES.**

3 (a) IN GENERAL.—Paragraph (3) of section 408(m)
4 (relating to exception for certain coin) is amended to read
5 as follows:

6 “(3) EXCEPTION FOR CERTAIN COINS AND BULL-
7 LION.—For purposes of this subsection, the term
8 ‘collectible’ shall not include—

9 “(A) any coin certified by a recognized
10 grading service and traded on a nationally rec-
11 ognized electronic network, or listed by a recog-
12 nized wholesale reporting service, and—

13 “(i) which is or was at any time legal
14 tender in the country of issuance, or

15 “(ii) issued under the laws of any
16 State, and

17 “(B) any gold, silver, platinum, or palla-
18 dium bullion (whether fabricated in the form of
19 a coin or otherwise) of a fineness equal to or
20 exceeding the minimum fineness required for
21 metals which may be delivered in satisfaction of
22 a regulated futures contract subject to regula-
23 tion by the Commodity Futures Trading Com-
24 mission under the Commodity Exchange Act,

1 if such coin or bullion is in the physical possession
2 of a trustee described under subsection (a) of this
3 section.”

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to taxable years beginning after
6 December 31, 1995.

7 **PART II—NONDEDUCTIBLE TAX-FREE IRAS**

8 **SEC. 12111. ESTABLISHMENT OF NONDEDUCTIBLE TAX-**
9 **FREE INDIVIDUAL RETIREMENT ACCOUNTS.**

10 (a) IN GENERAL.—Subpart A of part I of subchapter
11 D of chapter 1 (relating to pension, profit-sharing, stock
12 bonus plans, etc.) is amended by inserting after section
13 408 the following new section:

14 **“SEC. 408A. IRA PLUS ACCOUNTS.**

15 “(a) GENERAL RULE.—Except as provided in this
16 section, an IRA Plus account shall be treated for purposes
17 of this title in the same manner as an individual retire-
18 ment plan.

19 “(b) IRA PLUS ACCOUNT.—For purposes of this
20 title, the term ‘IRA Plus account’ means an individual re-
21 tirement plan which is designated at the time of establish-
22 ment of the plan as an IRA Plus account.

23 “(c) TREATMENT OF CONTRIBUTIONS.—

1 “(1) NO DEDUCTION ALLOWED.—No deduction
2 shall be allowed under section 219 for a contribution
3 to an IRA Plus account.

4 “(2) CONTRIBUTION LIMIT.—The aggregate
5 amount of contributions for any taxable year to all
6 IRA Plus accounts maintained for the benefit of an
7 individual shall not exceed the excess (if any) of—

8 “(A) the maximum amount allowable as a
9 deduction under section 219 with respect to
10 such individual for such taxable year (computed
11 without regard to subsection (g) of such sec-
12 tion), over

13 “(B) the amount so allowed.

14 “(3) ROLLOVER CONTRIBUTIONS.—

15 “(A) IN GENERAL.—No rollover contribu-
16 tion may be made to an IRA Plus account un-
17 less it is a qualified rollover contribution.

18 “(B) COORDINATION WITH LIMIT.—A
19 qualified rollover contribution shall not be taken
20 into account for purposes of paragraph (2).

21 “(d) TAX TREATMENT OF DISTRIBUTIONS.—

22 “(1) IN GENERAL.—Except as provided in this
23 subsection, any amount paid or distributed out of an
24 IRA Plus account shall not be included in the gross
25 income of the distributee.

1 “(2) EXCEPTION FOR EARNINGS ON CONTRIBU-
2 TIONS.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), any amount distributed out
5 of an IRA Plus account which consists of earn-
6 ings shall be included in the gross income of the
7 distributee for the taxable year in which the
8 distribution occurs.

9 “(B) EXCEPTIONS FOR EARNINGS ON CON-
10 TRIBUTIONS HELD AT LEAST 5 YEARS.—Sub-
11 paragraph (A) shall not apply to earnings allo-
12 cable to contributions held in an IRA Plus ac-
13 count for at least 5 years as of the date of the
14 distribution but only if—

15 “(i) such distribution occurs on or
16 after the date on which the individual for
17 whom the account was established attains
18 age 59½, or

19 “(ii) in any case where such distribu-
20 tion occurs before such date, the distribu-
21 tion is described in any subparagraph of
22 section 72(t)(2) (other than subparagraph
23 (A)(i) thereof).

24 “(C) ORDERING RULE.—

1 “(i) FIRST-IN, FIRST-OUT RULE.—
2 Distributions from an IRA Plus account
3 shall be treated as having been made—

4 “(I) first from the earliest con-
5 tribution (and earnings allocable
6 thereto) remaining in the account at
7 the time of the distribution, and

8 “(II) then from other contribu-
9 tions (and earnings allocable thereto)
10 in the order in which made.

11 “(ii) ALLOCATIONS BETWEEN CON-
12 TRIBUTIONS AND EARNINGS.—Any portion
13 of a distribution allocated to a contribution
14 (and earnings allocable thereto) shall be
15 treated as allocated first to the earnings
16 and then to the contribution.

17 “(iii) ALLOCATION OF EARNINGS.—
18 Earnings shall be allocated to a contribu-
19 tion in such manner as the Secretary may
20 by regulations prescribe.

21 “(iv) CONTRIBUTIONS IN SAME
22 YEAR.—For purposes of this subparagraph
23 and section 72(t)(8), all contributions
24 made for the same taxable year shall be

1 treated as 1 contribution made on the first
2 day of the taxable year.

3 “(D) CROSS REFERENCE.—

“**For additional tax for early withdrawal, see section 72(t).**

4 “(3) ROLLOVERS.—

5 “(A) IN GENERAL.—Paragraph (2) shall
6 not apply to any distribution which is trans-
7 ferred in a qualified rollover contribution to an-
8 other IRA Plus account.

9 “(B) CONTRIBUTION PERIOD.—For pur-
10 poses of paragraph (2), the IRA Plus account
11 to which any contributions are transferred from
12 another IRA Plus account shall be treated as
13 having held such contributions during any pe-
14 riod such contributions were held (or are treat-
15 ed as held under this subparagraph) by the ac-
16 count from which transferred.

17 “(4) SPECIAL RULES RELATING TO QUALIFIED
18 ROLLOVERS.—

19 “(A) IN GENERAL.—Notwithstanding any
20 other provision of law, in the case of a qualified
21 rollover contribution to an IRA Plus account
22 from an individual retirement plan which is not
23 an IRA Plus account—

1 “(i) there shall be included in gross
2 income any amount which, but for the
3 qualified rollover contribution, would be in-
4 cludible in gross income, but

5 “(ii) section 72(t) shall not apply to
6 such amount.

7 “(B) TIME FOR INCLUSION.—In the case
8 of any qualified rollover contribution which oc-
9 curs before January 1, 1998, any amount in-
10 cludible in gross income under subparagraph
11 (A) with respect to such contribution shall be
12 includible ratably over the 4-taxable year period
13 beginning in the taxable year in which the
14 amount was paid or distributed out of the indi-
15 vidual retirement plan.

16 “(e) QUALIFIED ROLLOVER CONTRIBUTION.—For
17 purposes of this section, the term ‘qualified rollover con-
18 tribution’ means a rollover contribution to an IRA Plus
19 account from another such account, or from an individual
20 retirement plan but only if such rollover contribution
21 meets the requirements of section 408(d)(3). For purposes
22 of section 408(d)(3)(B), there shall be disregarded any
23 qualified rollover contribution from an individual retire-
24 ment plan to an IRA plus account.”

1 (b) EARLY WITHDRAWAL PENALTY.—Section 72(t),
2 as amended by section 12121(c), is amended by adding
3 at the end the following new paragraph:

4 “(8) SPECIAL RULES FOR DISTRIBUTIONS FROM
5 IRA PLUS ACCOUNTS.—Notwithstanding any other
6 provision of this subsection, paragraph (1) shall
7 apply to any amount received from an IRA Plus ac-
8 count to the extent such amount is required to be
9 included in gross income under section 408A(d)(2)
10 unless such amount is part of a distribution required
11 under section 401(a)(9).”

12 (c) EXCESS CONTRIBUTIONS.—Section 4973(b) is
13 amended by adding at the end the following new sentence:
14 “For purposes of paragraphs (1)(B) and (2)(C), the
15 amount allowable as a deduction under section 219 shall
16 be computed without regard to section 408A.”

17 (d) CONFORMING AMENDMENT.—The table of sec-
18 tions for subpart A of part I of subchapter D of chapter
19 1 is amended by inserting after the item relating to section
20 408 the following new item:

“Sec. 408A. IRA Plus accounts.”

21 (e) EFFECTIVE DATES.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 1995.

1 **Subchapter B—Penalty-Free Distributions**

2 **SEC. 12121. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE**
3 **USED WITHOUT PENALTY TO PURCHASE**
4 **FIRST HOMES OR TO PAY HIGHER EDU-**
5 **CATION OR FINANCIALLY DEVASTATING**
6 **MEDICAL EXPENSES.**

7 (a) IN GENERAL.—Paragraph (2) of section 72(t)
8 (relating to exceptions to 10-percent additional tax on
9 early distributions from qualified retirement plans) is
10 amended by adding at the end the following new subpara-
11 graph:

12 “(D) DISTRIBUTIONS FROM INDIVIDUAL RE-
13 TIREMENT PLANS FOR FIRST HOME PURCHASES OR
14 EDUCATIONAL EXPENSES.—Distributions to an indi-
15 vidual from an individual retirement plan—

16 “(i) which are qualified first-time home-
17 buyer distributions (as defined in paragraph
18 (6)), or

19 “(ii) to the extent such distributions do not
20 exceed the qualified higher education expenses
21 (as defined in paragraph (7)) of the taxpayer
22 for the taxable year.”

23 (b) FINANCIALLY DEVASTATING MEDICAL EX-
24 PENSES.—

1 (1) IN GENERAL.—Section 72(t)(3)(A) is
2 amended by striking “(B),”.

3 (2) CERTAIN LINEAL DESCENDANTS AND AN-
4 CESTORS TREATED AS DEPENDENTS.—Subpara-
5 graph (B) of section 72(t)(2) is amended by striking
6 “medical care” and all that follows and inserting
7 “medical care determined—

8 “(i) without regard to whether the
9 employee itemizes deductions for such tax-
10 able year, and

11 “(ii) in the case of an individual re-
12 tirement plan, by treating such employee’s
13 dependents as including—

14 “(I) all children and grand-
15 children of the employee or such em-
16 ployee’s spouse, and

17 “(II) all ancestors of the em-
18 ployee or such employee’s spouse.”

19 (3) CONFORMING AMENDMENT.—Subparagraph
20 (B) of section 72(t)(2) is amended by striking “or
21 (C)” and inserting “, (C), (D), or (E)”.

22 (c) DEFINITIONS.—Section 72(t) is amended by add-
23 ing at the end the following new paragraphs:

1 “(6) QUALIFIED FIRST-TIME HOMEBUYER DIS-
2 TRIBUTIONS.—For purposes of paragraph
3 (2)(D)(i)—

4 “(A) IN GENERAL.—The term ‘qualified
5 first-time homebuyer distribution’ means any
6 payment or distribution received by an individ-
7 ual to the extent such payment or distribution
8 is used by the individual before the close of the
9 60th day after the day on which such payment
10 or distribution is received to pay qualified ac-
11 quisition costs with respect to a principal resi-
12 dence of a first-time homebuyer who is such in-
13 dividual, the spouse of such individual, or any
14 child, grandchild, or ancestor of such individual
15 or the individual’s spouse.

16 “(B) LIFETIME DOLLAR LIMITATION.—
17 The aggregate amount of payments or distribu-
18 tions received by an individual which may be
19 treated as qualified first-time homebuyer dis-
20 tributions for any taxable year shall not exceed
21 the excess (if any) of—

22 “(i) \$10,000, over

23 “(ii) the aggregate amounts treated as
24 qualified first-time homebuyer distributions

1 with respect to such individual for all prior
2 taxable years.

3 “(C) QUALIFIED ACQUISITION COSTS.—
4 For purposes of this paragraph, the term
5 ‘qualified acquisition costs’ means the costs of
6 acquiring, constructing, or reconstructing a res-
7 idence. Such term includes any usual or reason-
8 able settlement, financing, or other closing
9 costs.

10 “(D) FIRST-TIME HOMEBUYER; OTHER
11 DEFINITIONS.—For purposes of this para-
12 graph—

13 “(i) FIRST-TIME HOMEBUYER.—The
14 term ‘first-time homebuyer’ means any in-
15 dividual if—

16 “(I) such individual (and if mar-
17 ried, such individual’s spouse) had no
18 present ownership interest in a prin-
19 cipal residence during the 2-year pe-
20 riod ending on the date of acquisition
21 of the principal residence to which
22 this paragraph applies, and

23 “(II) subsection (h) or (k) of sec-
24 tion 1034 did not suspend the run-
25 ning of any period of time specified in

1 section 1034 with respect to such in-
2 dividual on the day before the date
3 the distribution is applied pursuant to
4 subparagraph (A)(ii).

5 “(ii) PRINCIPAL RESIDENCE.—The
6 term ‘principal residence’ has the same
7 meaning as when used in section 1034.

8 “(iii) DATE OF ACQUISITION.—The
9 term ‘date of acquisition’ means the date—

10 “(I) on which a binding contract
11 to acquire the principal residence to
12 which subparagraph (A) applies is en-
13 tered into, or

14 “(II) on which construction or re-
15 construction of such a principal resi-
16 dence is commenced.

17 “(E) SPECIAL RULE WHERE DELAY IN AC-
18 QUISSION.—If any distribution from any indi-
19 vidual retirement plan fails to meet the require-
20 ments of subparagraph (A) solely by reason of
21 a delay or cancellation of the purchase or con-
22 struction of the residence, the amount of the
23 distribution may be contributed to an individual
24 retirement plan as provided in section
25 408(d)(3)(A)(i) (determined by substituting

1 ‘120 days’ for ‘60 days’ in such section), except
2 that—

3 “(i) section 408(d)(3)(B) shall not be
4 applied to such contribution, and

5 “(ii) such amount shall not be taken
6 into account in determining whether sec-
7 tion 408(d)(3)(A)(i) applies to any other
8 amount.

9 “(7) QUALIFIED HIGHER EDUCATION EX-
10 PENSES.—For purposes of paragraph (2)(D)(ii)—

11 “(A) IN GENERAL.—The term ‘qualified
12 higher education expenses’ means tuition, fees,
13 books, supplies, and equipment required for the
14 enrollment or attendance of—

15 “(i) the taxpayer,

16 “(ii) the taxpayer’s spouse, or

17 “(iii) any child (as defined in section
18 151(e)(3)), grandchild, or ancestor of the
19 taxpayer or the taxpayer’s spouse,

20 at an eligible educational institution (as defined
21 in section 135(c)(3)).

22 “(B) COORDINATION WITH SAVINGS BOND
23 PROVISIONS.—The amount of qualified higher
24 education expenses for any taxable year shall be

1 reduced by any amount excludable from gross
2 income under section 135.”

3 (d) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN
4 UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section
5 72(t) is amended by adding at the end the following new
6 subparagraph:

7 “(E) DISTRIBUTIONS TO UNEMPLOYED IN-
8 DIVIDUALS.—A distribution from an individual
9 retirement plan to an individual after separa-
10 tion from employment, if—

11 “(i) such individual has received un-
12 employment compensation for 12 consecu-
13 tive weeks under any Federal or State un-
14 employment compensation law by reason of
15 such separation, and

16 “(ii) such distributions are made dur-
17 ing any taxable year during which such un-
18 employment compensation is paid or the
19 succeeding taxable year.

20 To the extent provided in regulations, a self-em-
21 ployed individual shall be treated as meeting
22 the requirements of clause (i) if, under Federal
23 or State law, the individual would have received
24 unemployment compensation but for the fact
25 the individual was self-employed.”

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1995.

4 **Subchapter C—Simple Savings Plans**

5 **SEC. 12131. ESTABLISHMENT OF SAVINGS INCENTIVE** 6 **MATCH PLANS FOR EMPLOYEES OF SMALL** 7 **EMPLOYERS.**

8 (a) IN GENERAL.—Section 408 (relating to individual
9 retirement accounts) is amended by redesignating sub-
10 section (p) as subsection (q) and by inserting after sub-
11 section (o) the following new subsection:

12 “(p) SIMPLE RETIREMENT ACCOUNTS.—

13 “(1) IN GENERAL.—For purposes of this title,
14 the term ‘simple retirement account’ means an indi-
15 vidual retirement plan—

16 “(A) with respect to which the require-
17 ments of paragraphs (3), (4), and (5) are met;
18 and

19 “(B) with respect to which the only con-
20 tributions allowed are contributions under a
21 qualified salary reduction arrangement.

22 “(2) QUALIFIED SALARY REDUCTION ARRANGE-
23 MENT.—

24 “(A) IN GENERAL.—For purposes of this
25 subsection, the term ‘qualified salary reduction

1 arrangement' means a written arrangement of
2 an eligible employer under which—

3 “(i) an employee eligible to participate
4 in the arrangement may elect to have the
5 employer make payments—

6 “(I) as elective employer con-
7 tributions to a simple retirement ac-
8 count on behalf of the employee, or

9 “(II) to the employee directly in
10 cash,

11 “(ii) the amount which an employee
12 may elect under clause (i) for any year is
13 required to be expressed as a percentage of
14 compensation and may not exceed a total
15 of \$6,000 for any year,

16 “(iii) the employer is required to make
17 a matching contribution to the simple re-
18 tirement account for any year in an
19 amount equal to so much of the amount
20 the employee elects under clause (i)(I) as
21 does not exceed the applicable percentage
22 of compensation for the year, and

23 “(iv) no contributions may be made
24 other than contributions described in
25 clause (i) or (iii).

1 “(B) DEFINITIONS.—For purposes of this
2 subsection—

3 “(i) ELIGIBLE EMPLOYER.—The term
4 ‘eligible employer’ means an employer who
5 normally employs 100 or fewer employees
6 on any day during the year.

7 “(ii) APPLICABLE PERCENTAGE.—

8 “(I) IN GENERAL.—The term
9 ‘applicable percentage’ means 3 per-
10 cent.

11 “(II) ELECTION OF LOWER PER-
12 CENTAGE.—An employer may elect to
13 apply a lower percentage (not less
14 than 1 percent) for any year for all
15 employees eligible to participate in the
16 plan for such year if the employer no-
17 tifies the employees of such lower per-
18 centage within a reasonable period of
19 time before the 60-day election period
20 for such year under paragraph (5)(C).
21 An employer may not elect a lower
22 percentage under this subclause for
23 any year if that election would result
24 in the applicable percentage being
25 lower than 3 percent in more than 2

1 of the years in the 5-year period end-
2 ing with such year.

3 “(III) SPECIAL RULE FOR YEARS
4 ARRANGEMENT NOT IN EFFECT.—If
5 any year in the 5-year period de-
6 scribed in subclause (II) is a year
7 prior to the first year for which any
8 qualified salary reduction arrange-
9 ment is in effect with respect to the
10 employer (or any predecessor), the
11 employer shall be treated as if the
12 level of the employer matching con-
13 tribution was at 3 percent of com-
14 pensation for such year.

15 “(C) ARRANGEMENT MAY BE ONLY PLAN
16 OF EMPLOYER.—

17 “(i) IN GENERAL.—An arrangement
18 shall not be treated as a qualified salary
19 reduction arrangement for any year if the
20 employer (or any predecessor employer)
21 maintained a qualified plan with respect to
22 which contributions were made, or benefits
23 were accrued, for service in any year in the
24 period beginning with the year such ar-
25 rangement became effective and ending

1 with the year for which the determination
2 is being made.

3 “(ii) QUALIFIED PLAN.—For purposes
4 of this subparagraph, the term ‘qualified
5 plan’ means a plan, contract, pension, or
6 trust described in subparagraph (A) or (B)
7 of section 219(g)(5).

8 “(D) NO FEE OR PENALTY ON EMPLOY-
9 EE’S INITIAL INVESTMENT DETERMINATION.—
10 An arrangement shall not be treated as a quali-
11 fied salary reduction arrangement unless it pro-
12 vides that no fee or penalty will be imposed on
13 an employee’s initial determination with respect
14 to the investment of any contribution.

15 “(E) COST-OF-LIVING ADJUSTMENT.—The
16 Secretary shall adjust the \$6,000 amount under
17 subparagraph (A)(ii) at the same time and in
18 the same manner as under section 415(d), ex-
19 cept that the base period taken into account
20 shall be the calendar quarter ending September
21 30, 1995, and any increase under this subpara-
22 graph which is not a multiple of \$500 shall be
23 rounded to the next lower multiple of \$500.

24 “(3) VESTING REQUIREMENTS.—The require-
25 ments of this paragraph are met with respect to a

1 simple retirement account if the employee’s rights to
2 any contribution to the simple retirement account
3 are nonforfeitable. For purposes of this paragraph,
4 the rules similar to the rules of subsection (k)(4)
5 shall apply.

6 “(4) PARTICIPATION REQUIREMENTS.—

7 “(A) IN GENERAL.—The requirements of
8 this paragraph are met with respect to any sim-
9 ple retirement account for a year only if, under
10 the qualified salary reduction arrangement, all
11 employees of the employer who—

12 “(i) received at least \$5,000 in com-
13 pensation from the employer during each
14 of the 2 preceding years, and

15 “(ii) who are reasonably expected to
16 receive at least \$5,000 in compensation
17 during the year,

18 are eligible to make the election under para-
19 graph (2)(A)(i).

20 “(B) EXCLUDABLE EMPLOYEES.—An em-
21 ployer may elect to exclude from the require-
22 ment under subparagraph (A) employees de-
23 scribed in section 410(b)(3).

24 “(5) ADMINISTRATIVE REQUIREMENTS.—The
25 requirements of this paragraph are met with respect

1 to any simplified retirement account if, under the
2 qualified salary reduction arrangement—

3 “(A) an employer must—

4 “(i) make the elective employer con-
5 tributions under paragraph (2)(A)(i) not
6 later than the close of the 30-day period
7 following the last day of the month with
8 respect to which the contributions are to
9 be made, and

10 “(ii) make the matching contributions
11 under paragraph (2)(A)(iii) not later than
12 the date described in section
13 404(m)(2)(B),

14 “(B) an employee may elect to terminate
15 participation in such arrangement at any time
16 during the year, except that if an employee so
17 terminates, the arrangement may provide that
18 the employee may not elect to resume participa-
19 tion until the beginning of the next year, and

20 “(C) each employee eligible to participate
21 may elect, during the 60-day period before the
22 beginning of any year, to participate in the ar-
23 rangement, or to modify the amounts subject to
24 such arrangement, for such year.

1 “(6) DEFINITIONS.—For purposes of this sub-
2 section—

3 “(A) COMPENSATION.—

4 “(i) IN GENERAL.—The term ‘com-
5 pensation’ means amounts described in
6 paragraphs (3) and (8) of section 6051(a).

7 “(ii) SELF-EMPLOYED.—In the case
8 of an employee described in subparagraph
9 (B), compensation means net earnings
10 from self-employment determined under
11 section 1402(a) without regard to any con-
12 tribution under this subsection.

13 “(B) EMPLOYEE.—The term ‘employee’ in-
14 cludes an employee as defined in section
15 401(c)(1).

16 “(C) YEAR.—The term ‘year’ means the
17 calendar year.”

18 (b) SIMPLE RETIREMENT ACCOUNTS NOT TREATED
19 AS PENSION PLANS.—Notwithstanding any other provi-
20 sion of law, a simplified retirement account or qualified
21 salary reduction arrangement under section 408(p) of the
22 Internal Revenue Code of 1986 shall not be treated as an
23 employee benefit plan or pension plan for purposes of the
24 Employee Retirement Income Security Act of 1974.

1 (c) TAX TREATMENT OF SIMPLE RETIREMENT AC-
2 COUNTS.—

3 (1) DEDUCTIBILITY OF CONTRIBUTIONS BY EM-
4 PLOYEES.—

5 (A) Section 219(b) (relating to maximum
6 amount of deduction) is amended by adding at
7 the end the following new paragraph:

8 “(4) SPECIAL RULE FOR SIMPLE RETIREMENT
9 ACCOUNTS.—This section shall not apply with re-
10 spect to any amount contributed to a simple retire-
11 ment account established under section 408(p).”

12 (B) Section 219(g)(5)(A) (defining active
13 participant) is amended by striking “or” at the
14 end of clause (iv) and by adding at the end the
15 following new clause:

16 “(vi) any simple retirement account
17 (within the meaning of section 408(p)),
18 or”.

19 (2) DEDUCTIBILITY OF EMPLOYER CONTRIBU-
20 TIONS.—Section 404 (relating to deductions for con-
21 tributions of an employer to pension, etc. plans) is
22 amended by adding at the end the following new
23 subsection:

24 “(m) SPECIAL RULES FOR SIMPLE RETIREMENT AC-
25 COUNTS.—

1 “(1) IN GENERAL.—Employer contributions to
2 a simple retirement account shall be treated as if
3 they are made to a plan subject to the requirements
4 of this section.

5 “(2) TIMING.—

6 “(A) DEDUCTION.—Contributions de-
7 scribed in paragraph (1) shall be deductible in
8 the taxable year of the employer with or within
9 which the calendar year for which the contribu-
10 tions were made ends.

11 “(B) CONTRIBUTIONS AFTER END OF
12 YEAR.—For purposes of this subsection, con-
13 tributions shall be treated as made for a taxable
14 year if they are made on account of the taxable
15 year and are made not later than the time pre-
16 scribed by law for filing the return for the tax-
17 able year (including extensions thereof).”

18 “(3) CONTRIBUTIONS AND DISTRIBUTIONS.—

19 (A) Section 402 (relating to taxability of
20 beneficiary of employees’ trust) is amended by
21 adding at the end the following new subsection:

22 “(k) TREATMENT OF SIMPLE RETIREMENT AC-
23 COUNTS.—Rules similar to the rules of paragraphs (1)
24 and (3) of subsection (h) shall apply to contributions and

1 distributions with respect to a simple retirement account
2 under section 408(p).”

3 (B) Section 408(d)(3) is amended by add-
4 ing at the end the following new subparagraph:

5 “(G) SIMPLE RETIREMENT ACCOUNTS.—
6 This paragraph shall not apply to any amount
7 paid or distributed out of a simple retirement
8 account (as defined in section 408(p)) unless it
9 is paid into another simple retirement account.”

10 (C) Clause (i) of section 457(c)(2)(B) is
11 amended by striking “section 402(h)(1)(B)”
12 and inserting “section 402(h)(1)(B) or (k)”.

13 (4) PENALTIES.—

14 (A) EARLY WITHDRAWALS.—Section 72(t)
15 (relating to additional tax in early distribu-
16 tions), as amended by sections 12111(b) and
17 12121(c), is amended by adding at the end the
18 following new paragraph:

19 “(9) SPECIAL RULES FOR SIMPLE RETIREMENT
20 ACCOUNTS.—In the case of any amount received
21 from a simple retirement account (within the mean-
22 ing of section 408(p)) during the 2-year period be-
23 ginning on the date such individual first participated
24 in any qualified salary reduction arrangement main-
25 tained by the individual’s employer under section

1 408(p)(2), paragraph (1) shall be applied by sub-
2 stituting ‘25 percent’ for ‘10 percent.’”

3 (B) FAILURE TO REPORT.—Section 6693
4 is amended by redesignating subsection (c) as
5 subsection (d) and by inserting after subsection
6 (b) the following new subsection:

7 “(c) PENALTIES RELATING TO SIMPLE RETIREMENT
8 ACCOUNTS.—

9 “(1) EMPLOYER PENALTIES.—An employer who
10 fails to provide 1 or more notices required by section
11 408(l)(2)(C) shall pay a penalty of \$50 for each day
12 on which such failures continue.

13 “(2) TRUSTEE PENALTIES.—A trustee who
14 fails—

15 “(A) to provide 1 or more statements re-
16 quired by the last sentence of section 408(i)
17 shall pay a penalty of \$50 for each day on
18 which such failures continue, or

19 “(B) to provide 1 or more summary de-
20 scriptions required by section 408(l)(2)(B) shall
21 pay a penalty of \$50 for each day on which
22 such failures continue.

23 “(3) REASONABLE CAUSE EXCEPTION.—No
24 penalty shall be imposed under this subsection with

1 respect to any failure which the taxpayer shows was
2 due to reasonable cause.”

3 (5) REPORTING REQUIREMENTS.—

4 (A)(i) Section 408(l) is amended by adding
5 at the end the following new paragraph:

6 “(2) SIMPLE RETIREMENT ACCOUNTS.—

7 “(A) NO EMPLOYER REPORTS.—Except as
8 provided in this paragraph, no report shall be
9 required under this section by an employer
10 maintaining a qualified salary reduction ar-
11 rangement under subsection (p).

12 “(B) SUMMARY DESCRIPTION.—The trust-
13 ee of any simple retirement account established
14 pursuant to a qualified salary reduction ar-
15 rangement under subsection (p) shall provide to
16 the employer maintaining the arrangement,
17 each year a description containing the following
18 information:

19 “(i) The name and address of the em-
20 ployer and the trustee.

21 “(ii) The requirements for eligibility
22 for participation.

23 “(iii) The benefits provided with re-
24 spect to the arrangement.

1 “(iv) The time and method of making
2 elections with respect to the arrangement.

3 “(v) The procedures for, and effects
4 of, withdrawals from the arrangement.

5 “(C) EMPLOYEE NOTIFICATION.—The em-
6 ployer shall notify each employee immediately
7 before the period for which an election de-
8 scribed in subsection (p)(5)(C) may be made of
9 the employee’s opportunity to make such elec-
10 tion. Such notice shall include a copy of the de-
11 scription described in subparagraph (B).”

12 (ii) Section 408(l) is amended by striking
13 “An employer” and inserting—

14 “(1) IN GENERAL.—An employer”.

15 (B) Section 408(i) is amended by adding
16 at the end the following new flush sentence:

17 “In the case of a simple retirement account under sub-
18 section (p), only one report under this subsection shall be
19 required to be submitted each calendar year to the Sec-
20 retary (at the time provided under paragraph (2)) but, in
21 addition to the report under this subsection, there shall
22 be furnished, within 30 days after each calendar year, to
23 the individual on whose behalf the account is maintained
24 a statement with respect to the account balance as of the

1 close of, and the account activity during, such calendar
2 year.”

3 (6) EXEMPTION FROM TOP-HEAVY PLAN
4 RULES.—Section 416(g)(4) (relating to special rules
5 for top-heavy plans) is amended by adding at the
6 end the following new subparagraph:

7 “(G) SIMPLE RETIREMENT ACCOUNTS.—
8 The term ‘top-heavy plan’ shall not include a
9 simple retirement account under section
10 408(p).”

11 (7) CONFORMING AMENDMENTS.—

12 (A) Section 280G(b)(6) is amended by
13 striking “or” at the end of subparagraph (B),
14 by striking the period at the end of subpara-
15 graph (C) and inserting “, or” and by adding
16 after subparagraph (C) the following new sub-
17 paragraph:

18 “(D) a simple retirement account described
19 in section 408(p).”

20 (B) Section 402(g)(3) is amended by strik-
21 ing “and” at the end of subparagraph (B), by
22 striking the period at the end of subparagraph
23 (C) and inserting “, and”, and by adding after
24 subparagraph (C) the following new subpara-
25 graph:

1 “(D) any elective employer contribution
2 under section 408(p)(2)(A)(i).”

3 (C) Subsections (b), (c), (m)(4)(B), and
4 (n)(3)(B) of section 414 are each amended by
5 inserting “408(p),” after “408(k),”.

6 (D) Section 4972(d)(1)(A) is amended by
7 striking “and” at the end of clause (ii), by
8 striking the period at the end of clause (iii) and
9 inserting “, and”, and by adding after clause
10 (iii) the following new clause:

11 “(iv) any simple retirement account
12 (within the meaning of section 408(p)).”

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 1995.

16 **SEC. 12132. EXTENSION OF SIMPLE PLAN TO 401(k) AR-**
17 **RANGEMENTS.**

18 (a) ALTERNATIVE METHOD OF SATISFYING SECTION
19 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (re-
20 lating to cash or deferred arrangements) is amended by
21 adding at the end the following new paragraph:

22 “(11) ADOPTION OF SIMPLE PLAN TO MEET
23 NONDISCRIMINATION TESTS.—

24 “(A) IN GENERAL.—A cash or deferred ar-
25 rangement maintained by an eligible employer

1 shall be treated as meeting the requirements of
2 paragraph (3)(A)(ii) if such arrangement
3 meets—

4 “(i) the contribution requirements of
5 subparagraph (B),

6 “(ii) the exclusive benefit require-
7 ments of subparagraph (C), and

8 “(iii) the vesting requirements of sec-
9 tion 408(p)(3).

10 “(B) CONTRIBUTION REQUIREMENTS.—

11 The requirements of this subparagraph are met
12 if, under the arrangement—

13 “(i) an employee may elect to have
14 the employer make elective contributions
15 for the year on behalf of the employee to
16 a trust under the plan in an amount which
17 is expressed as a percentage of compensa-
18 tion of the employee but which in no event
19 exceeds \$6,000,

20 “(ii) the employer is required to make
21 a matching contribution to the trust for
22 the year in an amount equal to so much of
23 the amount the employee elects under
24 clause (i) as does not exceed 3 percent of
25 compensation for the year, and

1 “(iii) no other contributions may be
2 made other than contributions described in
3 clause (i) or (ii).

4 “(C) EXCLUSIVE BENEFIT.—The require-
5 ments of this subparagraph are met for any
6 year to which this paragraph applies if no con-
7 tributions were made, or benefits were accrued,
8 for services during such year under any quali-
9 fied plan of the employer on behalf of any em-
10 ployee eligible to participate in the cash or de-
11 ferred arrangement, other than contributions
12 described in subparagraph (B).

13 “(D) DEFINITIONS AND SPECIAL RULE.—

14 “(i) DEFINITIONS.—For purposes of
15 this paragraph, any term used in this
16 paragraph which is also used in section
17 408(p) shall have the meaning given such
18 term by such section.

19 “(ii) COORDINATION WITH TOP-HEAVY
20 RULES.—A plan meeting the requirements
21 of this paragraph for any year shall not be
22 treated as a top-heavy plan under section
23 416 for such year.”

24 (b) ALTERNATIVE METHODS OF SATISFYING SEC-
25 TION 401(m) NONDISCRIMINATION TESTS.—Section

1 401(m) (relating to nondiscrimination test for matching
2 contributions and employee contributions) is amended by
3 redesignating paragraph (10) as paragraph (11) and by
4 adding after paragraph (9) the following new paragraph:

5 “(10) ALTERNATIVE METHOD OF SATISFYING
6 TESTS.—A defined contribution plan shall be treated
7 as meeting the requirements of paragraph (2) with
8 respect to matching contributions if the plan—

9 “(A) meets the contribution requirements
10 of subparagraph (B) of subsection (k)(11),

11 “(B) meets the exclusive benefit require-
12 ments of subsection (k)(11)(C), and

13 “(C) meets the vesting requirements of
14 section 408(p)(3).”

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to plan years beginning after De-
17 cember 31, 1995.

18 **CHAPTER 2—CAPITAL GAINS REFORM**

19 **Subchapter A—Taxpayers Other Than** 20 **Corporations**

21 **SEC. 12141. CAPITAL GAINS DEDUCTION.**

22 (a) IN GENERAL.—Part I of subchapter P of chapter
23 1 (relating to treatment of capital gains) is amended by
24 redesignating section 1202 as section 1203 and by insert-
25 ing after section 1201 the following new section:

1 **“SEC. 1202. CAPITAL GAINS DEDUCTION.**

2 “(a) GENERAL RULE.—If for any taxable year a tax-
3 payer other than a corporation has a net capital gain, 50
4 percent of such gain shall be a deduction from gross in-
5 come.

6 “(b) ESTATES AND TRUSTS.—In the case of an es-
7 tate or trust, the deduction shall be computed by excluding
8 the portion (if any) of the gains for the taxable year from
9 sales or exchanges of capital assets which, under sections
10 652 and 662 (relating to inclusions of amounts in gross
11 income of beneficiaries of trusts), is includible by the in-
12 come beneficiaries as gain derived from the sale or ex-
13 change of capital assets.

14 “(c) COORDINATION WITH TREATMENT OF CAPITAL
15 GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—
16 For purposes of this section, the net capital gain for any
17 taxable year shall be reduced (but not below zero) by the
18 amount which the taxpayer takes into account as invest-
19 ment income under section 163(d)(4)(B)(iii).

20 “(d) SPECIAL RULE FOR COLLECTIBLES.—The rate
21 of tax imposed by section 1 on the excess of—

22 “(1) the net capital gain for the taxable year
23 determined as if section 1222(12) had not applied to
24 any collectible sold or exchanged during the taxable
25 year, over

26 “(2) the net capital gain for the taxable year,

1 shall not exceed 28 percent.

2 “(e) TRANSITIONAL RULE.—

3 “(1) IN GENERAL.—In the case of a taxable
4 year which includes October 14, 1995—

5 “(A) the amount taken into account as the
6 net capital gain under subsection (a) shall not
7 exceed the net capital gain determined by only
8 taking into account gains and losses properly
9 taken into account for the portion of the tax-
10 able year on or after October 14, 1995, and

11 “(B) the amount of the net capital gain
12 taken into account in applying section 1(h) for
13 such year shall be reduced by the amount taken
14 into account under subsection (a) for such year.

15 “(2) SPECIAL RULES FOR PASS-THRU ENTI-
16 TIES.—

17 “(A) IN GENERAL.—In applying paragraph
18 (1) with respect to any pass-thru entity, the de-
19 termination of when gains and losses are prop-
20 erly taken into account shall be made at the en-
21 tity level.

22 “(B) PASS-THRU ENTITY DEFINED.—For
23 purposes of subparagraph (A), the term ‘pass-
24 thru entity’ means—

25 “(i) a regulated investment company,

1 “(ii) a real estate investment trust,

2 “(iii) an S corporation,

3 “(iv) a partnership,

4 “(v) an estate or trust, and

5 “(vi) a common trust fund.”

6 (b) DEDUCTION ALLOWABLE IN COMPUTING AD-
7 JUSTED GROSS INCOME.—Subsection (a) of section 62 is
8 amended by inserting after paragraph (15) the following
9 new paragraph:

10 “(16) LONG-TERM CAPITAL GAINS.—The de-
11 duction allowed by section 1202.”

12 (c) ALTERNATIVE MINIMUM TAX.—

13 (1) HALF OF DEDUCTION DISALLOWED.—Sec-
14 tion 56(b)(1) (relating to limitations on deductions
15 of individuals) is amended by adding at the end the
16 following new subparagraph:

17 “(G) CAPITAL GAINS DEDUCTION RE-
18 DUCED.—In determining the deduction allow-
19 able under section 1202, section 1202(a) shall
20 be applied by substituting ‘25 percent’ for ‘50
21 percent’”.

22 (2) CONFORMING AMENDMENT.—Section
23 57(a)(7) is amended by striking “1202” and insert-
24 ing “1203”.

25 (d) TREATMENT OF COLLECTIBLES.—

1 (1) IN GENERAL.—Section 1222 is amended by
2 inserting after paragraph (11) the following new
3 paragraph:

4 “(12) SPECIAL RULE FOR COLLECTIBLES.—

5 “(A) IN GENERAL.—Any gain or loss from
6 the sale or exchange of a collectible shall be
7 treated as a short-term capital gain or loss (as
8 the case may be), without regard to the period
9 such asset was held. The preceding sentence
10 shall apply only to the extent the gain or loss
11 is taken into account in computing taxable in-
12 come.

13 “(B) TREATMENT OF CERTAIN SALES OF
14 INTEREST IN PARTNERSHIP, ETC.—For pur-
15 poses of subparagraph (A), any gain from the
16 sale or exchange of an interest in a partnership,
17 S corporation, or trust which is attributable to
18 unrealized appreciation in the value of collect-
19 ibles held by such entity shall be treated as gain
20 from the sale or exchange of a collectible. Rules
21 similar to the rules of section 751(f) shall apply
22 for purposes of the preceding sentence.

23 “(C) COLLECTIBLE.—For purposes of this
24 paragraph, the term ‘collectible’ means any cap-
25 ital asset which is a collectible (as defined in

1 section 408(m) without regard to paragraph (3)
2 thereof.”

3 (2) CHARITABLE DEDUCTION NOT AF-
4 FECTED.—

5 (A) Paragraph (1) of section 170(e) is
6 amended by adding at the end the following
7 new sentence: “For purposes of this paragraph,
8 section 1222 shall be applied without regard to
9 paragraph (12) thereof (relating to special rule
10 for collectibles).”

11 (B) Clause (iv) of section 170(b)(1)(C) is
12 amended by inserting before the period at the
13 end the following: “and section 1222 shall be
14 applied without regard to paragraph (12) there-
15 of (relating to special rule for collectibles)”.

16 (e) TECHNICAL AND CONFORMING CHANGES.—

17 (1) Section 1 is amended by striking subsection
18 (h).

19 (2) Paragraph (1) of section 170(e) is amended
20 by striking “the amount of gain” in the material fol-
21 lowing subparagraph (B)(ii) and inserting “50 per-
22 cent ($\frac{28}{35}$ in the case of a corporation) of the
23 amount of gain”.

24 (3) Subparagraph (B) of section 172(d)(2) is
25 amended to read as follows:

1 “(B) the deduction under section 1202 and
2 the exclusion under section 1203 shall not be
3 allowed.”

4 (4) The last sentence of section 453A(c)(3) is
5 amended by striking all that follows “long-term cap-
6 ital gain,” and inserting “the maximum rate on net
7 capital gain under section 1201 or the deduction
8 under section 1202 and the exclusion under section
9 1203 (whichever is appropriate) shall be taken into
10 account.”

11 (5) Paragraph (4) of section 642(c) is amended
12 to read as follows:

13 “(4) ADJUSTMENTS.—To the extent that the
14 amount otherwise allowable as a deduction under
15 this subsection consists of gain from the sale or ex-
16 change of capital assets held for more than 1 year
17 or gain described in section 1203(a), proper adjust-
18 ment shall be made for any deduction allowable to
19 the estate or trust under section 1202 (relating to
20 deduction for excess of capital gains over capital
21 losses) or for the exclusion allowable to the estate or
22 trust under section 1203 (relating to exclusion for
23 gain from certain small business stock). In the case
24 of a trust, the deduction allowed by this subsection

1 shall be subject to section 681 (relating to unrelated
2 business income).”

3 (6) The last sentence of section 643(a)(3) is
4 amended to read as follows: “The deduction under
5 section 1202 (relating to deduction of excess of cap-
6 ital gains over capital losses) and the exclusion
7 under section 1203 (relating to exclusion for gain
8 from certain small business stock) shall not be taken
9 into account.”

10 (7) Subparagraph (C) of section 643(a)(6) is
11 amended by inserting “(i)” before “there shall” and
12 by inserting before the period “, and (ii) the deduc-
13 tion under section 1202 (relating to capital gains de-
14 duction) and the exclusion under section 1203 (re-
15 lating to exclusion for gain from certain small busi-
16 ness stock) shall not be taken into account”.

17 (8) Paragraph (4) of section 691(c) is amended
18 by striking “sections 1(h), 1201, 1202, and 1211”
19 and inserting “sections 1201, 1202, 1203, and
20 1211”.

21 (9) The second sentence of section 871(a)(2) is
22 amended by inserting “or 1203” after “section
23 1202”.

24 (10)(A) Paragraph (2) of section 904(b) is
25 amended by striking subparagraph (A), by redesignig-

1 nating subparagraph (B) as subparagraph (A), and
2 by inserting after subparagraph (A) (as so redesign-
3 nated) the following new subparagraph:

4 “(B) OTHER TAXPAYERS.—In the case of
5 a taxpayer other than a corporation, taxable in-
6 come from sources outside the United States
7 shall include gain from the sale or exchange of
8 capital assets only to the extent of foreign
9 source capital gain net income.”

10 (B) Subparagraph (A) of section 904(b)(2), as
11 so redesignated, is amended—

12 (i) by striking all that precedes clause (i)
13 and inserting the following:

14 “(A) CORPORATIONS.—In the case of a
15 corporation—”, and

16 (ii) by striking in clause (i) “in lieu of ap-
17 plying subparagraph (A),”.

18 (C) Paragraph (3) of section 904(b) is amended
19 by striking subparagraphs (D) and (E) and inserting
20 the following new subparagraph:

21 “(D) RATE DIFFERENTIAL PORTION.—The
22 rate differential portion of foreign source net
23 capital gain, net capital gain, or the excess of
24 net capital gain from sources within the United
25 States over net capital gain, as the case may

1 be, is the same proportion of such amount as
2 the excess of the highest rate of tax specified
3 in section 11(b) over the alternative rate of tax
4 under section 1201(a) bears to the highest rate
5 of tax specified in section 11(b).”

6 (D) Clause (v) of section 593(b)(2)(D) is
7 amended—

8 (i) by striking “if there is a capital gain
9 rate differential (as defined in section
10 904(b)(3)(D)) for the taxable year,” and

11 (ii) by striking “section 904(b)(3)(E)” and
12 inserting “section 904(b)(3)(D)”.

13 (11) The last sentence of section 1044(d) is
14 amended by striking “1202” and inserting “1203”.

15 (12)(A) Paragraph (2) of section 1211(b) is
16 amended to read as follows:

17 “(2) the sum of—

18 “(A) the excess of the net short-term cap-
19 ital loss over the net long-term capital gain, and

20 “(B) one-half of the excess of the net long-
21 term capital loss over the net short-term capital
22 gain.”

23 (B) So much of paragraph (2) of section
24 1212(b) as precedes subparagraph (B) thereof is
25 amended to read as follows:

1 “(2) SPECIAL RULES.—

2 “(A) ADJUSTMENTS.—

3 “(i) For purposes of determining the
4 excess referred to in paragraph (1)(A),
5 there shall be treated as short-term capital
6 gain in the taxable year an amount equal
7 to the lesser of—

8 “(I) the amount allowed for the
9 taxable year under paragraph (1) or
10 (2) of section 1211(b), or

11 “(II) the adjusted taxable income
12 for such taxable year.

13 “(ii) For purposes of determining the
14 excess referred to in paragraph (1)(B),
15 there shall be treated as short-term capital
16 gain in the taxable year an amount equal
17 to the sum of—

18 “(I) the amount allowed for the
19 taxable year under paragraph (1) or
20 (2) of section 1211(b) or the adjusted
21 taxable income for such taxable year,
22 whichever is the least, plus

23 “(II) the excess of the amount
24 described in subclause (I) over the net
25 short-term capital loss (determined

1 without regard to this subsection) for
2 such year.”

3 (C) Subsection (b) of section 1212 is amended
4 by adding at the end the following new paragraph:

5 “(3) TRANSITIONAL RULE.—In the case of any
6 amount which, under this subsection and section
7 1211(b) (as in effect for taxable years beginning be-
8 fore January 1, 1996), is treated as a capital loss
9 in the first taxable year beginning after December
10 31, 1995, paragraph (2) and section 1211(b) (as so
11 in effect) shall apply (and paragraph (2) and section
12 1211(b) as in effect for taxable years beginning
13 after December 31, 1995, shall not apply) to the ex-
14 tent such amount exceeds the total of any capital
15 gain net income (determined without regard to this
16 subsection) for taxable years beginning after Decem-
17 ber 31, 1995.”

18 (13) Paragraph (1) of section 1402(i) is amend-
19 ed by inserting “, and the deduction provided by sec-
20 tion 1202 and the exclusion provided by section
21 1203 shall not apply” before the period at the end
22 thereof.

23 (14) Subsection (e) of section 1445 is amend-
24 ed—

1 (A) in paragraph (1) by striking “35 per-
2 cent (or, to the extent provided in regulations,
3 28 percent)” and inserting “28 percent (or, to
4 the extent provided in regulations, 19.8 per-
5 cent)”, and

6 (B) in paragraph (2) by striking “35 per-
7 cent” and inserting “28 percent”.

8 (15)(A) The second sentence of section
9 7518(g)(6)(A) is amended—

10 (i) by striking “during a taxable year to
11 which section 1(h) or 1201(a) applies”, and

12 (ii) by striking “28 percent (34 percent”
13 and inserting “19.8 percent (28 percent”.

14 (B) The second sentence of section
15 607(h)(6)(A) of the Merchant Marine Act, 1936 is
16 amended—

17 (i) by striking “during a taxable year to
18 which section 1(h) or 1201(a) of such Code ap-
19 plies”, and

20 (ii) by striking “28 percent (34 percent”
21 and inserting “19.8 percent (28 percent”.

22 (16) Section 1203, as redesignated by sub-
23 section (a), is amended by adding at the end the fol-
24 lowing new subsection:

1 “(l) CROSS REFERENCE.—

“**For treatment of eligible gain not excluded under
subsection (a), see section 1202.**”

2 (f) CLERICAL AMENDMENT.—The table of sections
3 for part I of subchapter P of chapter 1 is amended by
4 striking the item relating to section 1202 and by inserting
5 after the item relating to section 1201 the following new
6 items:

“Sec. 1202. Capital gains deduction.

“Sec. 1203. 50-percent exclusion for gain from certain small
business stock.”

7 (g) EFFECTIVE DATE.—

8 (1) IN GENERAL.—Except as otherwise pro-
9 vided in this subsection, the amendments made by
10 this section shall apply to taxable years ending after
11 October 13, 1995.

12 (2) COLLECTIBLES.—The amendments made by
13 subsection (d) shall apply to sales and exchanges
14 after October 13, 1995.

15 (3) REPEAL OF SECTION 1(h).—The amend-
16 ment made by subsection (e)(1) shall apply to tax-
17 able years beginning after October 13, 1995.

18 (4) CONTRIBUTIONS.—The amendment made
19 by subsection (e)(2) shall apply to contributions
20 after October 13, 1995.

1 (5) USE OF LONG-TERM LOSSES.—The amend-
2 ments made by subsection (e)(12) shall apply to tax-
3 able years beginning after December 31, 1995.

4 (6) WITHHOLDING.—The amendment made by
5 subsection (e)(14) shall apply only to amounts paid
6 after the date of the enactment of this Act.

7 **SEC. 12142. MODIFICATIONS TO EXCLUSION OF GAIN ON**
8 **CERTAIN SMALL BUSINESS STOCK.**

9 (a) STOCK OF LARGER BUSINESSES ELIGIBLE FOR
10 EXCLUSION.—Paragraph (1) of section 1203(d), as reded-
11 esignated by section 12141, is amended by striking
12 “\$50,000,000” each place it appears and inserting
13 “\$100,000,000”.

14 (b) REPEAL OF PER-ISSUER LIMITATION.—Section
15 1203, as so redesignated, is amended by striking sub-
16 section (b).

17 (c) OTHER MODIFICATIONS.—

18 (1) REPEAL OF WORKING CAPITAL LIMITA-
19 TION.—Paragraph (6) of section 1203(e), as so re-
20 designated, is amended—

21 (A) by striking “2 years” in subparagraph

22 (B) and inserting “5 years”, and

23 (B) by striking the last sentence.

24 (2) EXCEPTION FROM REDEMPTION RULES
25 WHERE BUSINESS PURPOSE.—Paragraph (3) of sec-

1 tion 1203(c), as so redesignated, is amended by add-
2 ing at the end the following new subparagraph:

3 “(D) WAIVER WHERE BUSINESS PUR-
4 POSE.—A purchase of stock by the issuing cor-
5 poration shall be disregarded for purposes of
6 subparagraph (B) if the issuing corporation es-
7 tablishes that there was a business purpose for
8 such purchase and one of the principal purposes
9 of the purchase was not to avoid the limitations
10 of this section.”

11 (d) EFFECTIVE DATES.—

12 (1) INCREASE IN SIZE.—The amendment made
13 by subsection (a) shall apply to stock issued after
14 the date of the enactment of this Act.

15 (2) OTHER RULES.—The amendments made by
16 subsections (b) and (c) shall apply to stock issued
17 after August 10, 1993.

18 **SEC. 12143. ROLLOVER OF GAIN FROM SALE OF QUALIFIED**
19 **STOCK.**

20 (a) IN GENERAL.—Part III of subchapter O of chap-
21 ter 1 is amended by adding at the end the following new
22 section:

1 **“SEC. 1045. ROLLOVER OF GAIN FROM QUALIFIED SMALL**
2 **BUSINESS STOCK TO ANOTHER QUALIFIED**
3 **SMALL BUSINESS STOCK.**

4 “(a) NONRECOGNITION OF GAIN.—If a taxpayer
5 other than a corporation elects the application of this sec-
6 tion to any sale of qualified small business stock, eligible
7 gain from such sale shall be recognized only to the extent
8 that the amount realized on such sale exceeds—

9 “(1) the cost of any qualified small business
10 stock purchased by the taxpayer during the 60-day
11 period beginning on the date of such sale, reduced
12 by

13 “(2) any portion of such cost previously taken
14 into account under this section.

15 This section shall not apply to any gain which is treated
16 as ordinary income for purposes of this title.

17 “(b) DEFINITIONS AND SPECIAL RULES.—For pur-
18 poses of this section—

19 “(1) QUALIFIED SMALL BUSINESS STOCK.—The
20 term ‘qualified small business stock’ has the mean-
21 ing given such term by section 1203(c).

22 “(2) ELIGIBLE GAIN.—The term ‘eligible gain’
23 means any gain from the sale or exchange of quali-
24 fied small business stock held for more than 5 years.

25 “(3) PURCHASE.—A taxpayer shall be treated
26 as having purchased any property if, but for para-

1 graph (4), the unadjusted basis of such property in
2 the hands of the taxpayer would be its cost (within
3 the meaning of section 1012).

4 “(4) BASIS ADJUSTMENTS.—If gain from any
5 sale is not recognized by reason of subsection (a),
6 such gain shall be applied to reduce (in the order ac-
7 quired) the basis for determining gain or loss of any
8 qualified small business stock which is purchased by
9 the taxpayer during the 60-day period described in
10 subsection (a).

11 “(c) SPECIAL RULES FOR TREATMENT OF REPLACE-
12 MENT STOCK.—

13 “(1) HOLDING PERIOD FOR ACCRUED GAIN.—
14 For purposes of this chapter, gain from the disposi-
15 tion of any replacement qualified small business
16 stock shall be treated as eligible gain to the extent
17 that the amount of such gain does not exceed the
18 amount of the reduction in the basis of such stock
19 by reason of subsection (b)(4).

20 “(2) TACKING OF HOLDING PERIOD FOR PUR-
21 POSES OF DEFERRAL.—Solely for purposes of apply-
22 ing this section, if any replacement qualified small
23 business stock is disposed of before the taxpayer has
24 held such stock for more than 5 years, gain from

1 such stock shall be treated as eligible gain for pur-
 2 poses of subsection (a).

3 “(3) REPLACEMENT QUALIFIED SMALL BUSI-
 4 NESS STOCK.—For purposes of this subsection, the
 5 term ‘replacement qualified small business stock’
 6 means any qualified small business stock the basis
 7 of which was reduced under subsection (b)(4).”

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 1016(a)(23) is amended—

10 (A) by striking “or 1044” and inserting “,
 11 1044, or 1045”, and

12 (B) by striking “or 1044(d)” and inserting
 13 “, 1044(d), or 1045(b)(4)”.

14 (2) The table of sections for part III of sub-
 15 chapter O of chapter 1 is amended by adding at the
 16 end the following new item:

“Sec. 1045. Rollover of gain from qualified small business stock
 to another qualified small business stock.”

17 (c) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to stock sold or exchanged after
 19 the date of the enactment of this Act.

20 **Subchapter B—Corporate Capital Gains**

21 **SEC. 12151. REDUCTION OF ALTERNATIVE CAPITAL GAIN**

22 **TAX FOR CORPORATIONS.**

23 (a) IN GENERAL.—Section 1201 is amended to read
 24 as follows:

1 **“SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.**

2 “(a) GENERAL RULE.—If for any taxable year a cor-
3 poration has a net capital gain, then, in lieu of the tax
4 imposed by sections 11, 511, and 831 (a) and (b) (which-
5 ever is applicable), there is hereby imposed a tax (if such
6 tax is less than the tax imposed by such sections) which
7 shall consist of the sum of—

8 “(1) a tax computed on the taxable income re-
9 duced by the amount of the net capital gain, at the
10 rates and in the manner as if this subsection had
11 not been enacted, plus

12 “(2) a tax of 28 percent of the net capital gain.

13 “(b) SPECIAL RULES FOR QUALIFIED SMALL BUSI-
14 NESS GAIN.—

15 “(1) IN GENERAL.—If for any taxable year a
16 corporation has gain from the sale or exchange of
17 any qualified small business stock held for more
18 than 5 years, the amount determined under sub-
19 section (a)(2) for such taxable year shall be equal to
20 the sum of—

21 “(A) 21 percent of the lesser of such gain
22 or the corporation’s net capital gain, plus

23 “(B) 28 percent of the net capital gain re-
24 duced by the gain taken into account under
25 subparagraph (A).

1 “(2) QUALIFIED SMALL BUSINESS STOCK.—For
2 purposes of paragraph (1), the term ‘qualified small
3 business stock’ has the meaning given such term by
4 section 1203(c), except that stock shall not be treat-
5 ed as qualified small business stock if such stock
6 was at any time held by a member of a parent-sub-
7 sidiary controlled group (as defined in section
8 1203(d)(3)).

9 “(c) TRANSITIONAL RULE.—

10 “(1) IN GENERAL.—In applying this section,
11 net capital gain for any taxable year shall not exceed
12 such net capital gain determined by taking into ac-
13 count only gain or loss properly taken into account
14 for the portion of the taxable year after October 13,
15 1995.

16 “(2) SPECIAL RULE FOR PASS-THRU ENTI-
17 TIES.—Section 1202(e)(2) shall apply for purposes
18 of paragraph (1).

19 “(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 compa-
 nies 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).”

1 (b) TECHNICAL AMENDMENT.—Clause (iii) of section
2 852(b)(3)(D) is amended by striking “65 percent” and in-
3 serting “72 percent”.

4 (c) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by
6 this section shall apply to taxable years ending after
7 October 13, 1995.

8 (2) QUALIFIED SMALL BUSINESS STOCK.—Sec-
9 tion 1201(b) of the Internal Revenue Code of 1986
10 (as added by subsection (a)) shall apply to gain from
11 qualified small business stock acquired on or after
12 the date of the enactment of this Act.

13 **CHAPTER 3—CORPORATE ALTERNATIVE**
14 **MINIMUM TAX REFORM**

15 **SEC. 12161. MODIFICATION OF DEPRECIATION RULES**
16 **UNDER MINIMUM TAX.**

17 (a) IN GENERAL.—Clause (i) of section 56(a)(1)(A)
18 is amended by striking “under the alternative system of
19 section 168(g)” and inserting “under section 168 except
20 that the recovery period used shall be the period deter-
21 mined under section 168(g)”.

22 (b) CONFORMING AMENDMENT.—Clause (ii) of sec-
23 tion 56(a)(1)(A) is amended by striking “The method”
24 and inserting “In the case of property placed in service
25 before January 1, 1996, the method”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years ending after De-
3 cember 31, 1995.

4 **SEC. 12162. LONG-TERM UNUSED CREDITS ALLOWED**
5 **AGAINST MINIMUM TAX.**

6 (a) IN GENERAL.—Section 53(c) (relating to limita-
7 tion) is amended by adding at the end the following new
8 paragraph:

9 “(2) SPECIAL RULE FOR TAXPAYERS WITH
10 LONG-TERM UNUSED CREDITS.—

11 “(A) IN GENERAL.—If—

12 “(i) a corporation to which section
13 56(g) applies has a long-term unused mini-
14 mum tax credit for a taxable year, and

15 “(ii) no credit would be allowable
16 under this section for the taxable year by
17 reason of paragraph (1),

18 then there shall be allowed a credit under sub-
19 section (a) for the taxable year in the amount
20 determined under subparagraph (B).

21 “(B) AMOUNT OF CREDIT.—For purposes
22 of subparagraph (A), the amount of the credit
23 shall be equal to the least of the following for
24 the taxable year:

1 “(i) The long-term unused minimum
2 tax credit.

3 “(ii) 50 percent of the taxpayer’s ten-
4 tative minimum tax.

5 “(iii) The excess (if any) of the
6 amount under paragraph (1)(B) over the
7 amount under paragraph (1)(A).

8 “(C) LONG-TERM UNUSED MINIMUM TAX
9 CREDIT.—For purposes of this paragraph—

10 “(i) IN GENERAL.—The long-term un-
11 used minimum tax credit for any taxable
12 year is the portion of the minimum tax
13 credit determined under subsection (b) at-
14 tributable to the adjusted net minimum tax
15 for taxable years beginning after 1986 and
16 ending before the 5th taxable year imme-
17 diately preceding the taxable year for
18 which the determination is being made.

19 “(ii) FIRST-IN, FIRST-OUT ORDERING
20 RULE.—For purposes of clause (i), credits
21 shall be treated as allowed under sub-
22 section (a) on a first-in, first-out basis.”

23 (b) CONFORMING AMENDMENTS.—(1) Section 53(c)
24 (as in effect before the amendment made by subsection
25 (a)) is amended—

1 (A) by striking “The” and inserting:

2 “(1) IN GENERAL.—The”, and

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

5 (2) Subparagraph (C) of section 108(b)(4) is amend-
6 ed by striking “and (G)” in the text and heading thereof
7 and inserting “, (C), and (G)”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 1995.

11 **Subtitle C—Health Related**
12 **Provisions**

13 **CHAPTER 1—LONG-TERM CARE**
14 **PROVISIONS**

15 **Subchapter A—Long-Term Care Services and**
16 **Contracts**

17 **PART I—GENERAL PROVISIONS**

18 **SEC. 12201. QUALIFIED LONG-TERM CARE SERVICES**
19 **TREATED AS MEDICAL CARE.**

20 (a) GENERAL RULE.—Paragraph (1) of section
21 213(d) (defining medical care) is amended by striking
22 “or” at the end of subparagraph (B), by redesignating
23 subparagraph (C) as subparagraph (D), and by inserting
24 after subparagraph (B) the following new subparagraph:

1 “(C) for qualified long-term care services
2 (as defined in section 7702B(e)), or”.

3 (b) TECHNICAL AMENDMENTS.—

4 (1) Subparagraph (D) of section 213(d)(1) (as
5 redesignated by subsection (a)) is amended to read
6 as follows:

7 “(D) for insurance (including amounts
8 paid as premiums under part B of title XVIII
9 of the Social Security Act, relating to supple-
10 mentary medical insurance for the aged)—

11 “(i) covering medical care referred to
12 in subparagraphs (A) and (B), or

13 “(ii) covering medical care referred to
14 in subparagraph (C), but only if such cov-
15 erage is provided under a qualified long-
16 term care insurance contract (as defined in
17 section 7702B(b)).”

18 (2) Paragraph (6) of section 213(d) is amend-
19 ed—

20 (A) by striking “subparagraphs (A) and
21 (B)” in the matter preceding subparagraph (A)
22 and inserting “subparagraphs (A), (B), and
23 (C)”, and

1 (B) by striking “paragraph (1)(C)” in sub-
2 paragraph (A) and inserting “paragraph
3 (1)(D)”.

4 (3) Paragraph (7) of section 213(d) is amended
5 by striking “subparagraphs (A) and (B)” and insert-
6 ing “subparagraphs (A), (B), and (C)”.

7 **SEC. 12202. TREATMENT OF LONG-TERM CARE INSURANCE**
8 **OR PLANS.**

9 (a) GENERAL RULE.—Chapter 79 (relating to defini-
10 tions) is amended by inserting after section 7702A the fol-
11 lowing new section:

12 **“SEC. 7702B. TREATMENT OF LONG-TERM CARE INSURANCE**
13 **OR PLANS.**

14 “(a) GENERAL RULE.—For purposes of this title—

15 “(1) a qualified long-term care insurance con-
16 tract shall be treated as an accident or health insur-
17 ance contract,

18 “(2) any plan of an employer providing cov-
19 erage of qualified long-term care services shall be
20 treated as an accident or health plan with respect to
21 such services,

22 “(3) amounts (other than policyholder divi-
23 dends, as defined in section 808, or premium re-
24 funds) received under such a contract or plan shall
25 be treated as amounts received for personal injuries

1 or sickness and shall be treated as reimbursement
2 for expenses actually incurred for medical care (as
3 defined in section 213(d)),

4 “(4) payments described in subsection (b)(5)
5 shall be treated as payments made with respect to
6 qualified long-term care services, and

7 “(5) a qualified long-term care insurance con-
8 tract shall be treated as a guaranteed renewable con-
9 tract subject to the rules of section 816(e).

10 “(b) QUALIFIED LONG-TERM CARE INSURANCE
11 CONTRACT.—

12 “(1) IN GENERAL.—For purposes of this title,
13 the term ‘qualified long-term care insurance con-
14 tract’ means any insurance contract if—

15 “(A) the only insurance protection pro-
16 vided under such contract is coverage of quali-
17 fied long-term care services, and

18 “(B) such contract meets the requirements
19 of paragraphs (2), (3), and (4).

20 “(2) PREMIUM REQUIREMENTS.—

21 “(A) IN GENERAL.—The requirements of
22 this paragraph are met with respect to a con-
23 tract if such contract provides that—

24 “(i) premium payments may not be
25 made earlier than the date such payments

1 would have been made if the contract pro-
2 vided for level annual payments over the
3 life of the contract (or, if shorter, 20
4 years), and

5 “(ii) all refunds of premiums, and all
6 policyholder dividends or similar amounts,
7 under such contract are to be applied as a
8 reduction in future premiums or to in-
9 crease future benefits.

10 A contract shall not be treated as failing to
11 meet the requirements of clause (i) solely by
12 reason of a provision providing for a waiver of
13 premiums if the insured becomes a functionally
14 impaired individual.

15 “(B) REFUNDS UPON DEATH OR COM-
16 PLETE SURRENDER OR CANCELLATION.—Sub-
17 paragraph (A)(ii) shall not apply to any refund
18 on the death of the insured, or on any complete
19 surrender or cancellation of the contract, if,
20 under the contract, the amount refunded may
21 not exceed the amount of the premiums paid
22 under the contract. For purposes of this title,
23 any refund described in the preceding sentence
24 shall be includible in gross income to the extent

1 that any deduction or exclusion was allowed
2 with respect to the refund.

3 “(3) BORROWING, PLEDGING, OR ASSIGNING
4 PROHIBITED.—The requirements of this paragraph
5 are met with respect to a contract if such contract
6 provides that no money may be borrowed under such
7 contract and that such contract (or any portion
8 thereof) may not be assigned or pledged as collateral
9 for a loan.

10 “(4) PROHIBITION OF DUPLICATE PAYMENT.—

11 “(A) IN GENERAL.—The requirements of
12 this paragraph are met with respect to a con-
13 tract if such contract does not pay or reimburse
14 expenses incurred to the extent that such ex-
15 penses are reimbursable under title XVIII of
16 the Social Security Act, or would be so reim-
17 bursable but for the application of a deductible
18 or coinsurance amount.

19 “(B) EXCEPTION.—Subparagraph (A)
20 shall not apply to expenses which are reimburs-
21 able under title XVIII of the Social Security
22 Act only as a secondary payor.

23 “(C) COORDINATION WITH OTHER
24 LAWS.—No provision of law shall be construed
25 or applied so as to prohibit the offering of a

1 qualified long-term care insurance contract on
2 the basis that it coordinates its benefits with
3 those provided under title XVIII of the Social
4 Security Act.

5 “(5) PER DIEM AND OTHER PERIODIC PAY-
6 MENTS PERMITTED.—For purposes of subsection
7 (a)(4), payments are described in this paragraph for
8 any calendar year if, under the contract, such pay-
9 ments are made to (or on behalf of) a functionally
10 impaired individual on a per diem or other periodic
11 basis without regard to the expenses incurred or
12 services rendered during the period to which the
13 payments relate.

14 “(c) SPECIAL RULES FOR TREATMENT OF
15 INSUREDS.—For purposes of this title, solely with respect
16 to the insured under any qualified long-term care insur-
17 ance contract—

18 “(1) AGGREGATE PAYMENTS IN EXCESS OF
19 LIMITS.—

20 “(A) IN GENERAL.—If the aggregate pay-
21 ments under all qualified long-term care insur-
22 ance contracts with respect to an insured for
23 any period (whether on a periodic basis or oth-
24 erwise) exceed the dollar amount in effect for
25 such period under subparagraph (B), such ex-

1 cess payments shall be treated as made for
2 qualified long-term care services only if made
3 with respect to such services provided during
4 such period.

5 “(B) DOLLAR AMOUNT.—The dollar
6 amount in effect under this paragraph shall be
7 \$150 per day (or the equivalent amount in the
8 case of payments on another periodic basis).

9 “(C) ADJUSTMENTS FOR INCREASED
10 COSTS.—

11 “(i) IN GENERAL.—In the case of any
12 calendar year after 1997, the dollar
13 amount in effect under subparagraph (B)
14 for any period occurring during such cal-
15 endar year shall be equal to the sum of—

16 “(I) the amount in effect under
17 subparagraph (B) for the preceding
18 calendar year (after application of this
19 subparagraph), plus

20 “(II) the applicable percentage of
21 the amount under subclause (I).

22 “(ii) APPLICABLE PERCENTAGE.—For
23 purposes of clause (i), the term ‘applicable
24 percentage’ means, with respect to any cal-
25 endar year, the lesser of—

1 “(I) 5 percent, or

2 “(II) the cost-of-living adjust-
3 ment for such calendar year.

4 “(iii) COST-OF-LIVING ADJUST-
5 MENT.—For purposes of clause (ii), the
6 cost-of-living adjustment for any calendar
7 year is the percentage (if any) by which
8 the cost index under clause (iv) for the
9 preceding calendar year exceeds such index
10 for the second preceding calendar year. In
11 the case of any calendar year beginning be-
12 fore 1999, this clause shall be applied by
13 substituting the Consumer Price Index (as
14 defined in section 1(f)(5)) for the cost
15 index under clause (iv).

16 “(iv) COST INDEX.—The Secretary, in
17 consultation with the Secretary of Health
18 and Human Services, shall before January
19 1, 1999, establish a cost index to measure
20 increases in costs of nursing home and
21 similar facilities. The Secretary may from
22 time to time revise such index to the extent
23 necessary to accurately measure increases
24 or decreases in such costs.

1 “(2) ASSIGNMENT OR PLEDGE.—Such contract
2 shall not be treated as a qualified long-term care in-
3 surance contract during any period on or after the
4 date on which the contract (or any portion thereof)
5 is assigned or pledged as collateral for a loan.

6 “(d) TREATMENT OF COVERAGE PROVIDED AS PART
7 OF A LIFE INSURANCE CONTRACT.—Except as otherwise
8 provided in regulations prescribed by the Secretary, in the
9 case of any long-term care insurance coverage provided
10 under a life insurance contract—

11 “(1) IN GENERAL.—This section shall apply as
12 if the portion of the contract providing such cov-
13 erage is a separate contract.

14 “(2) APPLICATION OF SECTION 7702.—Section
15 7702(c)(2) (relating to the guideline premium limi-
16 tation) shall be applied by increasing the guideline
17 premium limitation with respect to a life insurance
18 contract, as of any date—

19 “(A) by the sum of the charges against the
20 contract’s cash surrender value (within the
21 meaning of section 7702(f)(2)(A)) for such cov-
22 erage made to that date under the contract, less

23 “(B) any such charges the imposition of
24 which reduces the premiums paid for the con-

1 tract (within the meaning of section
2 7702(f)(1)).

3 “(3) APPLICATION OF SECTION 213.—No deduc-
4 tion shall be allowed under section 213(a) for
5 charges against the life insurance contract’s cash
6 surrender value described in paragraph (2), unless
7 such charges are includible in income as a result of
8 the application of section 72(e)(10) and the rider is
9 a qualified long-term care insurance contract under
10 subsection (b).

11 “(4) PORTION.—For purposes of this sub-
12 section, the term ‘portion’ means only the terms and
13 benefits under a life insurance contract that are in
14 addition to the terms and benefits under the con-
15 tract without regard to the coverage of qualified
16 long-term care services, except that the payment of
17 benefits shall not result in the benefits failing to be
18 treated as long-term care insurance by reason of a
19 reduction in the contract’s death benefit or cash sur-
20 render value resulting from any such payment.

21 “(e) QUALIFIED LONG-TERM CARE SERVICES.—For
22 purposes of this section—

23 “(1) IN GENERAL.—The term ‘qualified long-
24 term care services’ means necessary diagnostic, pre-
25 ventive, therapeutic, curing, treating, mitigating, or

1 rehabilitative services, and maintenance or personal
2 care services, which—

3 “(A) are required by an individual during
4 any period during which such individual is a
5 functionally impaired individual,

6 “(B) have as their primary purpose the
7 provision of—

8 “(i) needed assistance with 1 or more
9 activities of daily living which a function-
10 ally impaired individual is certified as
11 being unable to perform under paragraph
12 (2), or

13 “(ii) substantial supervision which the
14 individual is certified under paragraph (2)
15 as needing to protect the individual from
16 threats to health and safety due to sub-
17 stantial cognitive impairment, and

18 “(C) are provided pursuant to a continuing
19 plan of care prescribed by a licensed health care
20 practitioner.

21 “(2) FUNCTIONALLY IMPAIRED INDIVIDUAL.—

22 The term ‘functionally impaired individual’ means
23 any individual who is certified by a licensed health
24 care practitioner as—

1 “(A) being unable to perform, without sub-
 2 stantial assistance from another individual (in-
 3 cluding assistance involving verbal reminding or
 4 physical cuing), at least 2 activities of daily liv-
 5 ing described in paragraph (3), or

6 “(B) requiring substantial supervision to
 7 protect such individual from threats to health
 8 and safety due to substantial cognitive impair-
 9 ment.

10 Such term shall not include any individual otherwise
 11 meeting the requirements of the preceding sentence
 12 unless, within the preceding 12-month period, a li-
 13 censed health care practitioner has certified that
 14 such individual meets such requirements.

15 “(3) ACTIVITIES OF DAILY LIVING.—Each of
 16 the following is an activity of daily living:

17 “(A) Eating.

18 “(B) Transferring.

19 “(C) Toileting.

20 “(D) Dressing.

21 “(E) Bathing.

22 “(F) Continence.

23 “(4) LICENSED HEALTH CARE PRACTI-
 24 TIONER.—

1 “(A) IN GENERAL.—The term ‘licensed
2 health care practitioner’ means any individual—

3 “(i) who is—

4 “(I) a physician (as defined in
5 section 1861(r)(1) of the Social Secu-
6 rity Act) or registered professional
7 nurse,

8 “(II) a qualified community care
9 case manager (as defined in subpara-
10 graph (B)), or

11 “(III) any other individual who
12 meets such requirements as may be
13 prescribed by the Secretary after con-
14 sultation with the Secretary of Health
15 and Human Services, and

16 “(ii) who is not a relative of the indi-
17 vidual receiving care.

18 “(B) QUALIFIED COMMUNITY CARE CASE
19 MANAGER.—The term ‘qualified community
20 care case manager’ means an individual or en-
21 tity which—

22 “(i) has experience or has been
23 trained in providing case management
24 services and in preparing individual care
25 plans;

1 “(ii) has experience in assessing indi-
2 viduals to determine their functional and
3 cognitive impairment; and

4 “(iii) meets such requirements as may
5 be prescribed by the Secretary after con-
6 sultation with the Secretary of Health and
7 Human Services.

8 “(5) RELATIVE.—The term ‘relative’ means an
9 individual bearing a relationship to another individ-
10 ual which is described in paragraphs (1) through (8)
11 of section 152(a).

12 “(f) CONTINUATION COVERAGE TREATMENT NOT TO
13 APPLY.—Section 4980B shall not apply to—

14 “(1) qualified long-term care insurance con-
15 tracts, or

16 “(2) plans described in subsection (a)(2).

17 “(g) REGULATIONS.—The Secretary shall prescribe
18 such regulations as may be necessary to carry out the re-
19 quirements of this section, including regulations to prevent
20 the avoidance of this section by providing qualified long-
21 term care services under a life insurance contract.”

22 (b) LONG-TERM CARE INSURANCE NOT PERMITTED
23 UNDER CAFETERIA PLANS OR FLEXIBLE SPENDING AR-
24 RANGEMENTS.—

1 (1) CAFETERIA PLANS.—Section 125(f) is
2 amended by adding at the end the following new
3 sentence: “Such term shall not include any qualified
4 long-term care insurance contract (as defined in sec-
5 tion 7702B(b)).”

6 (2) FLEXIBLE SPENDING ARRANGEMENTS.—
7 The text of section 106 (relating to contributions by
8 employer to accident and health plans) is amended
9 to read as follows:

10 “(a) GENERAL RULE.—Except as provided in sub-
11 section (b), gross income of an employee does not include
12 employer-provided coverage under an accident or health
13 plan.

14 “(b) INCLUSION OF LONG-TERM CARE BENEFITS
15 PROVIDED THROUGH FLEXIBLE SPENDING ARRANGE-
16 MENTS.—

17 “(1) IN GENERAL.—Effective on and after Jan-
18 uary 1, 1996, gross income of an employee shall in-
19 clude employer-provided coverage for qualified long-
20 term care services (as defined in section 7702B(e))
21 to the extent that such coverage is provided through
22 a flexible spending or similar arrangement.

23 “(2) FLEXIBLE SPENDING ARRANGEMENT.—
24 For purposes of this subsection, a flexible spending

1 arrangement is a benefit program which provides
2 employees with coverage under which—

3 “(A) specified incurred expenses may be
4 reimbursed (subject to reimbursement maxi-
5 mums and other reasonable conditions), and

6 “(B) the maximum amount of reimburse-
7 ment which is reasonably available to a partici-
8 pant for such coverage is less than 500 percent
9 of the value of such coverage.

10 In the case of an insured plan, the maximum
11 amount reasonably available shall be determined on
12 the basis of the underlying coverage.”

13 (c) RESERVES.—Clause (iii) of section 807(d)(3)(A)
14 is amended by inserting “(other than a qualified long-term
15 care insurance contract within the meaning of section
16 7702B)” after “contract”.

17 (d) COORDINATION WITH INSURANCE DUPLICATION
18 RULES UNDER MEDICARE.—

19 (1) IN GENERAL.—Section 1882(d)(3)(A) of the
20 Social Security Act (42 U.S.C. 1395ss(d)(3)(A)) is
21 amended to read as follows:

22 “(3)(A)(i) It is unlawful for a person to sell or issue
23 a health insurance policy, other than a medicare supple-
24 mental policy, to an individual entitled to benefits under
25 part A or enrolled under part B of this title with the

1 knowledge that such policy duplicates health benefits to
2 which the individual is otherwise entitled under this title
3 or title XIX.

4 “(ii) Clause (i) shall not apply to—

5 “(I) a health insurance policy providing for ben-
6 efits which are payable to or on behalf of an individ-
7 ual without regard to other health benefit coverage
8 of such individual; or

9 “(II) a health insurance policy (or a rider to an
10 insurance contract which is not a health insurance
11 policy) providing benefits only for long-term care,
12 nursing home care, home health care, or community-
13 based care, or any combination thereof, that coordi-
14 nates against or excludes items and services avail-
15 able or paid for under this title, and such coordina-
16 tion or exclusion is disclosed in the policy’s outline
17 of coverage.

18 For purposes of this subparagraph, a health insurance pol-
19 icy meeting the requirements of subclause (I) or (II) shall
20 be deemed to be nonduplicative and a State may impose
21 additional requirements with respect to duplication under
22 clause (i) only for policies not meeting the requirements
23 of such subclauses.

24 “(iii)(I) It is unlawful for a person to sell or issue
25 a medicare supplemental policy to an individual entitled

1 to benefits under part A or enrolled under part B of this
2 title with the knowledge that such policy duplicates health
3 benefits to which the individual is entitled under another
4 medicare supplemental policy.

5 “(II) A seller (who is not the issuer) shall not be con-
6 sidered to have violated this subparagraph if the policy
7 is sold in compliance with subparagraph (B) and the state-
8 ment under subparagraph (B) indicates on its face that
9 the sale of the policy will not duplicate health benefits to
10 which the individual is otherwise entitled under another
11 medicare supplemental policy.

12 “(iv) Whoever violates clause (i) or (iii) shall be fined
13 under title 18, United States Code, or imprisoned not
14 more than 5 years, or both, and, in addition to or in lieu
15 of such a criminal penalty, is subject to a civil money pen-
16 alty of not to exceed \$25,000 (or \$15,000 in the case of
17 a person other than the issuer of the policy) for each such
18 prohibited act. With respect to clause (iii), this clause shall
19 not apply to a seller until such date as the Secretary pub-
20 lishes a list of the standardized benefit packages that may
21 be offered consistent with subsection (p).”

22 (2) MODIFICATION OF CERTAIN DISCLOSURE
23 REQUIREMENTS.—Section 1882(d)(3) of the Social
24 Security Act (42 U.S.C. 1395ss(d)(3)) is amended—

25 (A) in subparagraph (C)—

- 1 (i) by striking clauses (ii) and (iii);
2 (ii) by striking “(i)”; and
3 (iii) by striking the comma at the end
4 and inserting a period; and
5 (B) by striking subparagraph (D).

6 (3) EFFECTIVE DATE AND OTHER RULES.—

7 (A) IN GENERAL.—Except as provided in
8 subparagraph (B), the amendments made by
9 this subsection shall take effect as if included in
10 the enactment of section 4354 of the Omnibus
11 Budget Reconciliation Act of 1990 (Public Law
12 101–508) (hereafter referred to as “OBRA–
13 1990”) on November 5, 1990.

14 (B) DISCLOSURE REQUIREMENTS.—Any
15 amendment made by paragraph (1) relating to
16 disclosure requirements for certain health insur-
17 ance policies shall take effect on the date that
18 is 90 days after the date of the enactment of
19 this Act.

20 (C) NO PENALTIES.—No penalty shall be
21 imposed under section 1882(d)(3)(A)(i) of the
22 Social Security Act (42 U.S.C.
23 1395ss(d)(3)(A)(i)) for any act or omission oc-
24 ccurring after the effective date of the amend-
25 ments made by section 4354 of OBRA–90 and

1 before the date of the enactment of this Act re-
2 lating to any health insurance policy that—

3 (i) meets the requirements of section
4 1882(d)(3)(A)(ii) of the Social Security
5 Act (42 U.S.C. 1395ss(d)(3)(A)(ii)) (as
6 amended by this Act), except that the dis-
7 closure requirement in subclause (II) of
8 such section shall not apply; or

9 (ii) was sold or issued before the ef-
10 fective date of the amendments made by
11 section 4354 of OBRA-90.

12 (D) LIMITATION ON LEGAL ACTION.—No
13 legal action shall be brought or continued in
14 any Federal or State court if such legal ac-
15 tion—

16 (i) includes any cause of action which
17 arose, or any act or omission which oc-
18 curred, prior to the date of the enactment
19 of this Act;

20 (ii) relates to the application of clause
21 (i) or (ii) of section 1882(d)(3)(A) of the
22 Social Security Act (42 U.S.C.
23 1395ss(d)(3)(A)(i) or (ii)) to any act or
24 omission with respect to the sale, issuance,
25 or renewal of any health insurance policy;

1 (iii) was filed after the effective date
2 of the amendments made by section 4354
3 of OBRA–1990; and

4 (iv) relates to any health insurance
5 policy that—

6 (I) meets the requirements of
7 section 1882(d)(3)(A)(ii) of the Social
8 Security Act (42 U.S.C.
9 1395ss(d)(3)(A)(ii)) (as amended by
10 this Act), except that the disclosure
11 requirement in subclause (II) of such
12 section shall not apply; or

13 (II) was sold or issued before the
14 effective date of the amendments
15 made by section 4354 of OBRA–90.

16 (E) EXCLUSIVE REMEDIES.—Notwith-
17 standing any other provision of law, the rem-
18 edies provided for in section 1882(d)(3) of the
19 Social Security Act (42 U.S.C. 1395ss(d)(3)),
20 as amended by this subsection, are the exclusive
21 remedies available with respect to the non-
22 duplication requirements described in such sec-
23 tion.

1 (e) CLERICAL AMENDMENT.—The table of sections
 2 for chapter 79 is amended by inserting after the item re-
 3 lating to section 7702A the following new item:

“Sec. 7702B. Treatment of long-term care insurance or plans.”

4 **SEC. 12203. REPORTING REQUIREMENTS.**

5 (a) IN GENERAL.—Subpart B of part III of sub-
 6 chapter A of chapter 61, as amended by section 12004(b),
 7 is amended by adding at the end the following new section:

8 **“SEC. 6050R. CERTAIN LONG-TERM CARE BENEFITS.**

9 “(a) REQUIREMENT OF REPORTING.—Any person
 10 who pays long-term care benefits shall make a return, ac-
 11 cording to the forms or regulations prescribed by the Sec-
 12 retary, setting forth—

13 “(1) the aggregate amount of such benefits
 14 paid by such person to any individual during any
 15 calendar year, and

16 “(2) the name, address, and TIN of such indi-
 17 vidual.

18 “(b) STATEMENTS TO BE FURNISHED TO PERSONS
 19 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—

20 Every person required to make a return under subsection
 21 (a) shall furnish to each individual whose name is required
 22 to be set forth in such return a written statement show-
 23 ing—

24 “(1) the name of the person making the pay-
 25 ments, and

1 “(2) the aggregate amount of long-term care
2 benefits paid to the individual which are required to
3 be shown on such return.

4 The written statement required under the preceding sen-
5 tence shall be furnished to the individual on or before Jan-
6 uary 31 of the year following the calendar year for which
7 the return under subsection (a) was required to be made.

8 “(c) LONG-TERM CARE BENEFITS.—For purposes of
9 this section, the term ‘long-term care benefit’ means any
10 amount paid under a long-term care insurance policy
11 (within the meaning of section 4980C(e)).”

12 (b) PENALTIES.—

13 (1) Subparagraph (B) of section 6724(d)(1), as
14 amended by section 12004, is amended by redesignig-
15 nating clauses (x) through (xv) as clauses (xi)
16 through (xvi), respectively, and by inserting after
17 clause (ix) the following new clause:

18 “(x) section 6050R (relating to cer-
19 tain long-term care benefits),”.

20 (2) Paragraph (2) of section 6724(d), as so
21 amended, is amended by redesignating subpara-
22 graphs (R) through (U) as subparagraphs (S)
23 through (V), respectively, and by inserting after sub-
24 paragraph (Q) the following new subparagraph:

1 “(R) section 6050R(b) (relating to certain
2 long-term care benefits),”.

3 (c) CLERICAL AMENDMENT.—The table of sections
4 for subpart B of part III of subchapter A of chapter 61
5 is amended by adding at the end the following new item:

 “Sec. 6050R. Certain long-term care benefits.”

6 **SEC. 12204. EFFECTIVE DATES.**

7 (a) SECTION 12201.—The amendments made by sec-
8 tion 12201 shall apply to taxable years beginning after
9 December 31, 1995.

10 (b) SECTION 12202.—The amendments made by sec-
11 tion 12202 shall apply to contracts issued after December
12 31, 1995.

13 (c) SECTION 12203.—The amendments made by sec-
14 tion 12203 shall apply to benefits paid after December
15 31, 1995.

16 (d) TRANSITION RULE.—If, after the date of the en-
17 actment of this Act and before January 1, 1997, a con-
18 tract providing coverage for services which are similar to
19 qualified long-term care services (as defined in section
20 7702B(e) of the Internal Revenue Code of 1986) and is-
21 sued on or before such date of enactment, is exchanged
22 for a qualified long-term care insurance contract (as de-
23 fined in section 7702B(b) of such Code), such exchange
24 shall be treated as an exchange to which section 1035 of
25 such Code applies.

1 (e) ISSUANCE OF CERTAIN RIDERS PERMITTED.—
2 For purposes of section 101(f), 7702, or 7702A of the In-
3 ternal Revenue Code of 1986, the issuance of a rider on
4 a life insurance contract providing coverage of qualified
5 long-term care services, or the conformance of such a rider
6 to the requirements of this Act, shall not be treated as
7 a modification or material change of such contract.

8 (f) NO INFERENCE.—No inference shall be drawn
9 from the amendments made by this subpart as to how the
10 Internal Revenue Code of 1986 is to be applied before the
11 effective date of such amendments to qualified long-term
12 care services or contracts.

13 **PART II—CONSUMER PROTECTION PROVISIONS**

14 **SEC. 12211. POLICY REQUIREMENTS.**

15 (a) IN GENERAL.—Section 7702B (as added by sec-
16 tion 12202) is amended by redesignating subsection (g)
17 as subsection (h) and by inserting after subsection (f) the
18 following new subsection:

19 “(g) CONSUMER PROTECTION PROVISIONS.—

20 “(1) IN GENERAL.—The requirements of this
21 subsection are met with respect to any contract if
22 any long-term care insurance policy issued under the
23 contract meets—

24 “(A) the requirements of the model regula-
25 tion and model Act described in paragraph (2),

1 “(B) the disclosure requirement of para-
2 graph (3), and

3 “(C) the requirements relating to
4 nonforfeitability under paragraph (4).

5 “(2) REQUIREMENTS OF MODEL REGULATION
6 AND ACT.—

7 “(A) IN GENERAL.—The requirements of
8 this paragraph are met with respect to any pol-
9 icy if such policy meets—

10 “(i) MODEL REGULATION.—The fol-
11 lowing requirements of the model regula-
12 tion:

13 “(I) Section 7A (relating to guar-
14 anteed renewal or noncancellability),
15 and the requirements of section 6B of
16 the model Act relating to such section
17 7A.

18 “(II) Section 7B (relating to pro-
19 hibitions on limitations and exclu-
20 sions).

21 “(III) Section 7C (relating to ex-
22 tension of benefits).

23 “(IV) Section 7D (relating to
24 continuation or conversion of cov-
25 erage).

1 “(V) Section 7E (relating to dis-
2 continuance and replacement of poli-
3 cies).

4 “(VI) Section 8 (relating to unin-
5 tentional lapse).

6 “(VII) Section 9 (relating to dis-
7 closure), other than section 9F there-
8 of.

9 “(VIII) Section 10 (relating to
10 prohibitions against post-claims un-
11 derwriting).

12 “(IX) Section 11 (relating to
13 minimum standards).

14 “(X) Section 12 (relating to re-
15 quirement to offer inflation protec-
16 tion), except that any requirement for
17 a signature on a rejection of inflation
18 protection shall permit the signature
19 to be on an application or on a sepa-
20 rate form.

21 “(XI) Section 23 (relating to pro-
22 hibition against preexisting conditions
23 and probationary periods in replace-
24 ment policies or certificates).

1 “(ii) MODEL ACT.—The following re-
2 quirements of the model Act:

3 “(I) Section 6C (relating to pre-
4 existing conditions).

5 “(II) Section 6D (relating to
6 prior hospitalization).

7 “(B) DEFINITIONS.—For purposes of this
8 paragraph—

9 “(i) MODEL PROVISIONS.—The terms
10 ‘model regulation’ and ‘model Act’ mean
11 the long-term care insurance model regula-
12 tion, and the long-term care insurance
13 model Act, respectively, promulgated by
14 the National Association of Insurance
15 Commissioners (as adopted as of January
16 1993).

17 “(ii) COORDINATION.—Any provision
18 of the model regulation or model Act listed
19 under clause (i) or (ii) of subparagraph
20 (A) shall be treated as including any other
21 provision of such regulation or Act nec-
22 essary to implement the provision.

23 “(3) DISCLOSURE REQUIREMENT.—The re-
24 quirement of this paragraph is met with respect to

1 any policy if such policy meets the requirements of
2 section 4980C(d)(1).

3 “(4) NONFORFEITURE REQUIREMENTS.—

4 “(A) IN GENERAL.—The requirements of
5 this paragraph are met with respect to any level
6 premium long-term care insurance policy, if the
7 issuer of such policy offers to the policyholder,
8 including any group policyholder, a
9 nonforfeiture provision meeting the require-
10 ments of subparagraph (B).

11 “(B) REQUIREMENTS OF PROVISION.—The
12 nonforfeiture provision required under subpara-
13 graph (A) shall meet the following require-
14 ments:

15 “(i) The nonforfeiture provision shall
16 be appropriately captioned.

17 “(ii) The nonforfeiture provision shall
18 provide for a benefit available in the event
19 of a default in the payment of any pre-
20 miums and the amount of the benefit may
21 be adjusted subsequent to being initially
22 granted only as necessary to reflect
23 changes in claims, persistency, and interest
24 as reflected in changes in rates for pre-

1 mium paying policies approved by the Sec-
2 retary for the same policy form.

3 “(iii) The nonforfeiture provision shall
4 provide at least one of the following:

5 “(I) Reduced paid-up insurance.

6 “(II) Extended term insurance.

7 “(III) Shortened benefit period.

8 “(IV) Other similar offerings ap-
9 proved by the Secretary.

10 “(5) LONG-TERM CARE INSURANCE POLICY DE-
11 FINED.—For purposes of this subsection, the term
12 ‘long-term care insurance policy’ has the meaning
13 given such term by section 4980C(e).”

14 (b) CONFORMING AMENDMENT.—Section
15 7702B(b)(1)(B) (as added by section 12202) is amended
16 by inserting “and of subsection (g)” after “and (4)”.

17 **SEC. 12212. REQUIREMENTS FOR ISSUERS OF LONG-TERM**
18 **CARE INSURANCE POLICIES.**

19 (a) IN GENERAL.—Chapter 43 is amended by adding
20 at the end the following new section:

21 **“SEC. 4980C. REQUIREMENTS FOR ISSUERS OF LONG-TERM**
22 **CARE INSURANCE POLICIES.**

23 “(a) GENERAL RULE.—There is hereby imposed on
24 any person failing to meet the requirements of subsection

1 (c) or (d) a tax in the amount determined under sub-
2 section (b).

3 “(b) AMOUNT.—

4 “(1) IN GENERAL.—The amount of the tax im-
5 posed by subsection (a) shall be \$100 per policy for
6 each day any requirements of subsection (c) or (d)
7 are not met with respect to each long-term care in-
8 surance policy.

9 “(2) WAIVER.—In the case of a failure which is
10 due to reasonable cause and not to willful neglect,
11 the Secretary may waive part or all of the tax im-
12 posed by subsection (a) to the extent that payment
13 of the tax would be excessive relative to the failure
14 involved.

15 “(c) RESPONSIBILITIES.—The requirements of this
16 subsection are as follows:

17 “(1) REQUIREMENTS OF MODEL PROVISIONS.—

18 “(A) MODEL REGULATION.—The following
19 requirements of the model regulation must be
20 met:

21 “(i) Section 13 (relating to application
22 forms and replacement coverage).

23 “(ii) Section 14 (relating to reporting
24 requirements), except that the issuer shall
25 also report at least annually the number of

1 claims denied during the reporting period
2 for each class of business (expressed as a
3 percentage of claims denied), other than
4 claims denied for failure to meet the wait-
5 ing period or because of any applicable
6 preexisting condition.

7 “(iii) Section 20 (relating to filing re-
8 quirements for marketing).

9 “(iv) Section 21 (relating to standards
10 for marketing), including inaccurate com-
11 pletion of medical histories, other than sec-
12 tions 21C(1) and 21C(6) thereof, except
13 that—

14 “(I) in addition to such require-
15 ments, no person shall, in selling or
16 offering to sell a long-term care insur-
17 ance policy, misrepresent a material
18 fact; and

19 “(II) no such requirements shall
20 include a requirement to inquire or
21 identify whether a prospective appli-
22 cant or enrollee for long-term care in-
23 surance has accident and sickness in-
24 surance.

1 “(v) Section 22 (relating to appro-
2 priateness of recommended purchase).

3 “(vi) Section 24 (relating to standard
4 format outline of coverage).

5 “(vii) Section 25 (relating to require-
6 ment to deliver shopper’s guide).

7 “(B) MODEL ACT.—The following require-
8 ments of the model Act must be met:

9 “(i) Section 6F (relating to right to
10 return), except that such section shall also
11 apply to denials of applications and any re-
12 fund shall be made within 30 days of the
13 return or denial.

14 “(ii) Section 6G (relating to outline of
15 coverage).

16 “(iii) Section 6H (relating to require-
17 ments for certificates under group plans).

18 “(iv) Section 6I (relating to policy
19 summary).

20 “(v) Section 6J (relating to monthly
21 reports on accelerated death benefits).

22 “(vi) Section 7 (relating to incontest-
23 ability period).

24 “(C) DEFINITIONS.—For purposes of this
25 paragraph, the terms ‘model regulation’ and

1 ‘model Act’ have the meanings given such terms
2 by section 7702B(g)(2)(B).

3 “(2) DELIVERY OF POLICY.—If an application
4 for a long-term care insurance policy (or for a cer-
5 tificate under a group long-term care insurance pol-
6 icy) is approved, the issuer shall deliver to the appli-
7 cant (or policyholder or certificateholder) the policy
8 (or certificate) of insurance not later than 30 days
9 after the date of the approval.

10 “(3) INFORMATION ON DENIALS OF CLAIMS.—
11 If a claim under a long-term care insurance policy
12 is denied, the issuer shall, within 60 days of the date
13 of a written request by the policyholder or
14 certificateholder (or representative)—

15 “(A) provide a written explanation of the
16 reasons for the denial, and

17 “(B) make available all information di-
18 rectly relating to such denial.

19 “(d) DISCLOSURE.—The requirements of this sub-
20 section are met if the issuer of a long-term care insurance
21 policy discloses in such policy and in the outline of cov-
22 erage required under subsection (c)(1)(B)(ii) that the pol-
23 icy is intended to be a qualified long-term care insurance
24 contract under section 7702B(b) of the Internal Revenue
25 Code of 1986.

1 “(e) LONG-TERM CARE INSURANCE POLICY DE-
 2 FINED.—For purposes of this section, the term ‘long-term
 3 care insurance policy’ means any product which is adver-
 4 tised, marketed, or offered as long-term care insurance.”

5 (b) CONFORMING AMENDMENT.—The table of sec-
 6 tions for chapter 43 is amended by adding at the end the
 7 following new item:

“Sec. 4980C. Requirements for issuers of long-term care insur-
 ance policies.”

8 **SEC. 12213. COORDINATION WITH STATE REQUIREMENTS.**

9 Nothing in this part shall prevent a State from estab-
 10 lishing, implementing, or continuing in effect standards
 11 related to the protection of policyholders of long-term care
 12 insurance policies (as defined in section 4980C(e) of the
 13 Internal Revenue Code of 1986), if such standards are not
 14 in conflict with or inconsistent with the standards estab-
 15 lished under such Code.

16 **SEC. 12214. EFFECTIVE DATES.**

17 (a) IN GENERAL.—The provisions of, and amend-
 18 ments made by, this part shall apply to contracts issued
 19 after December 31, 1995. The provisions of section
 20 12204(d) of this Act (relating to transition rule) shall
 21 apply to such contracts.

22 (b) ISSUERS.—The amendments made by section
 23 12212 shall apply to actions taken after December 31,
 24 1995.

1 the percentage reduction in the death ben-
2 efit payable under the contract by reason
3 of such distribution.

4 “(B) PRESENT VALUE.—The present value
5 of the reduction in the death benefit shall be
6 determined by—

7 “(i) using a discount rate which is
8 based on an interest rate which does not
9 exceed the highest interest rate set forth in
10 subparagraph (C), and

11 “(ii) assuming that the death benefit
12 (or the portion thereof) would have been
13 paid on the date which is 12 months after
14 the date of the certification referred to in
15 paragraph (3).

16 “(C) RATES.—The interest rates set forth
17 in this subparagraph are the following:

18 “(i) The 90-day Treasury bill yield.

19 “(ii) The rate described as Moody’s
20 Corporate Bond Yield Average-Monthly
21 Average Corporates as published by
22 Moody’s Investors Service, Inc., or any
23 successor thereto, for the calendar month
24 ending 2 months before the date on which
25 the rate is determined.

1 “(iii) The rate used to compute the
2 cash surrender values under the contract
3 during the applicable period plus 1 percent
4 per annum.

5 “(D) SPECIAL RULES RELATING TO
6 LIENS.—If a lien is imposed against a life in-
7 surance contract with respect to any amount re-
8 ferred to in paragraph (1)—

9 “(i) for purposes of subparagraph (A),
10 the amount of such lien shall be treated as
11 a reduction (at the time of receipt) in the
12 death benefit or cash surrender value to
13 the extent that such benefit or value, as
14 the case may be, is (or may become) sub-
15 ject to the lien, and

16 “(ii) paragraph (1) shall not apply to
17 the amount received unless any rate of in-
18 terest with respect to any amount in con-
19 nection with which such lien is imposed
20 does not exceed the highest rate set forth
21 in subparagraph (C).

22 “(3) TREATMENT OF VIATICAL SETTLE-
23 MENTS.—

1 “(A) IN GENERAL.—In the case of a life
2 insurance contract on the life of an insured de-
3 scribed in paragraph (1), if—

4 “(i) any portion of such contract is
5 sold to any viatical settlement provider, or

6 “(ii) any portion of the death benefit
7 is assigned to such a provider,
8 the amount paid for such sale or assignment
9 shall be treated as an amount paid under the
10 life insurance contract by reason of the death of
11 such insured.

12 “(B) VIATICAL SETTLEMENT PROVIDER.—
13 The term ‘viatical settlement provider’ means
14 any person regularly engaged in the trade or
15 business of purchasing, or taking assignments
16 of, life insurance contracts on the lives of
17 insureds described in paragraph (1) if—

18 “(i) such person is licensed for such
19 purposes in the State in which the insured
20 resides, or

21 “(ii) in the case of an insured who re-
22 sides in a State not requiring the licensing
23 of such persons for such purposes, such
24 person—

1 “(I) meets the requirements of
2 sections 8 and 9 of the Viatical Settle-
3 ments Model Act of the National As-
4 sociation of Insurance Commissioners,
5 and

6 “(II) meets the requirements of
7 the Model Regulations of the National
8 Association of Insurance Commis-
9 sioners (relating to standards for eval-
10 uation of reasonable payments) in de-
11 termining amounts paid by such per-
12 son in connection with such purchases
13 or assignments.

14 “(4) TERMINALLY ILL INDIVIDUAL.—For pur-
15 poses of this subsection, the term ‘terminally ill indi-
16 vidual’ means an individual who the insurer has de-
17 termined, after receipt of an acceptable certification
18 by a licensed physician (as defined in section
19 1861(r)(1) of the Social Security Act), has an illness
20 or physical condition which is reasonably expected to
21 result in death within 12 months after the date of
22 certification.

23 “(5) EXCEPTION FOR BUSINESS-RELATED POLI-
24 CIES.—This subsection shall not apply in the case of
25 any amount paid to any taxpayer other than the in-

1 sured if such taxpayer has an insurable interest with
2 respect to the life of the insured by reason of the
3 insured being a director, officer, or employee of the
4 taxpayer or by reason of the insured having a finan-
5 cial interest in any trade or business carried on by
6 the taxpayer.”

7 (b) EFFECTIVE DATES.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the amendment made by this section shall
10 apply to amounts received after December 31, 1995.

11 (2) DELAY IN APPLICATION OF DISCOUNT
12 RULES.—Clause (i) of section 101(g)(2)(A) of the
13 Internal Revenue Code of 1986 shall not apply to
14 any amount received before July 1, 1996.

15 (3) ISSUANCE OF RIDER NOT TREATED AS MA-
16 TERIAL CHANGE.—For purposes of applying section
17 101(f), 7702, or 7702A of the Internal Revenue
18 Code of 1986 to any contract, the issuance of a
19 qualified accelerated death benefit rider (as defined
20 in section 818(g) of such Code (as added by this
21 Act)), or the conformance of such a rider to the re-
22 quirements of such section, shall not be treated as
23 a modification or material change of such contract.

1 **SEC. 12222. TREATMENT OF COMPANIES ISSUING QUALI-**
2 **FIED ACCELERATED DEATH BENEFIT RID-**
3 **ERS.**

4 (a) QUALIFIED ACCELERATED DEATH BENEFIT RID-
5 ERS TREATED AS LIFE INSURANCE.—Section 818 (relat-
6 ing to other definitions and special rules) is amended by
7 adding at the end the following new subsection:

8 “(g) QUALIFIED ACCELERATED DEATH BENEFIT
9 RIDERS TREATED AS LIFE INSURANCE.—For purposes of
10 this part—

11 “(1) IN GENERAL.—Any reference to a life in-
12 surance contract shall be treated as including a ref-
13 erence to a qualified accelerated death benefit rider
14 on such contract.

15 “(2) QUALIFIED ACCELERATED DEATH BENE-
16 FIT RIDERS.—For purposes of this subsection, the
17 term ‘qualified accelerated death benefit rider’
18 means any rider on a life insurance contract which
19 provides for a distribution to an individual upon the
20 insured becoming a terminally ill individual (as de-
21 fined in section 101(g)(3)).”

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on January 1, 1996.

1 **Subchapter C—Medical Savings Accounts**

2 **SEC. 12231. DEDUCTION FOR CONTRIBUTIONS TO MEDICAL**
3 **SAVINGS ACCOUNTS.**

4 (a) IN GENERAL.—Part VII of subchapter B of chap-
5 ter 1 (relating to additional itemized deductions for indi-
6 viduals) is amended by redesignating section 220 as sec-
7 tion 221 and by inserting after section 219 the following
8 new section:

9 **“SEC. 220. CONTRIBUTIONS TO MEDICAL SAVINGS AC-**
10 **COUNTS.**

11 “(a) DEDUCTION ALLOWED.—In the case of an eligi-
12 ble individual, the amounts paid in cash during the taxable
13 year by such individual to a medical savings account for
14 the benefit of such individual or for the benefit of such
15 individual and any spouse or dependent of such individual
16 who is an eligible individual shall be treated for purposes
17 of sections 162(l) and 213 as amounts paid for insurance
18 which constitutes medical care.

19 “(b) LIMITATIONS.—

20 “(1) ONLY 1 ACCOUNT PER FAMILY.—Except as
21 provided in regulations prescribed by the Secretary,
22 no amount shall be treated as paid for insurance by
23 reason of subsection (a) for amounts paid to any
24 medical savings account if the account beneficiary,

1 or such beneficiary's spouse or dependent, is a bene-
2 ficiary of any other medical savings account.

3 “(2) DOLLAR LIMITATION.—

4 “(A) IN GENERAL.—Except as otherwise
5 provided in this subsection, the aggregate
6 amount which may be treated as paid for insur-
7 ance under subsection (a) with respect to any
8 account beneficiary shall not exceed the lesser
9 of—

10 “(i) \$2,000, or

11 “(ii) the deductible under the high de-
12 ductible health plan covering such individ-
13 ual.

14 “(B) FAMILY ACCOUNT.—If the high de-
15 ductible health plan covering an eligible individ-
16 ual provides coverage for any other eligible indi-
17 vidual who is the spouse or any dependent (as
18 defined in section 152) of the taxpayer, the lim-
19 itation under subparagraph (A) shall be equal
20 to the lesser of—

21 “(i) \$4,000, or

22 “(ii) the annual limit under the high
23 deductible health plan on the aggregate
24 amount of deductibles required to be paid
25 by all individuals.

1 “(3) PRORATION OF LIMITATION.—

2 “(A) IN GENERAL.—The limitation under
3 paragraph (2) shall be the sum of the monthly
4 limitations for months during the taxable year
5 that the individual is an eligible individual if—

6 “(i) such individual is not an eligible
7 individual for all months of the taxable
8 year,

9 “(ii) the deductible under the high de-
10 ductible health plan covering such individ-
11 ual is not the same throughout such tax-
12 able year, or

13 “(iii) such limitation is determined
14 under paragraph (2)(B) for some but not
15 all months during such taxable year.

16 “(B) MONTHLY LIMITATION.—The month-
17 ly limitation for any month shall be an amount
18 equal to $\frac{1}{12}$ of the limitation which would (but
19 for this paragraph) be determined under para-
20 graph (2) if the facts and circumstances as of
21 the first day of such month that such individual
22 is covered under a high deductible health plan
23 were true for the entire taxable year.

24 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
25 poses of this section—

1 “(1) ELIGIBLE INDIVIDUAL.—The term ‘eligible
2 individual’ means, with respect to any month, any
3 individual—

4 “(A) who is covered under a high deduct-
5 ible health plan during such month, and

6 “(B) who is not eligible during such
7 month—

8 “(i) to participate in an employer-sub-
9 sidized health plan maintained by an em-
10 ployer of the individual, the individual’s
11 spouse, or any dependent of either, or

12 “(ii) to receive any employer contribu-
13 tion to a medical savings account.

14 For purposes of subparagraph (B), a self-employed
15 individual (within the meaning of section 401(c))
16 shall not be treated as his own employer.

17 “(2) HIGH DEDUCTIBLE HEALTH PLAN.—The
18 term ‘high deductible health plan’ means a health
19 plan which—

20 “(A) has an annual deductible limit for
21 each individual covered by the plan which is not
22 less than \$1,500, and

23 “(B) has an annual limit on the aggregate
24 amount of deductibles required to be paid with

1 respect to all individuals covered by the plan
2 which is not less than \$3,000.

3 “(3) COST-OF-LIVING ADJUSTMENTS.—In the
4 case of taxable years beginning after December 31,
5 1996, each dollar amount contained in paragraph
6 (2) and subsection (b)(2) shall be increased by an
7 amount equal to the product of—

8 “(A) such dollar amount, and

9 “(B) the cost-of-living adjustment deter-
10 mined under section 1(f)(3) for the calendar
11 year in which the taxable year begins, except
12 that such section shall be applied by substitut-
13 ing ‘the medical component of the CPI’ for ‘the
14 CPI’ each place it appears and by substituting
15 ‘1995’ for ‘1992’ in subparagraph (B).

16 If any amount under this paragraph is not a mul-
17 tiple of \$50, such amount shall be rounded to the
18 next lower multiple of \$50.

19 “(4) MEDICAL SAVINGS ACCOUNT.—The term
20 ‘medical savings account’ has the meaning given
21 such term by section 7705.

22 “(5) TIME WHEN CONTRIBUTIONS DEEMED
23 MADE.—A contribution shall be deemed to be made
24 on the last day of the preceding taxable year if the
25 contribution is made on account of such taxable year

1 and is made not later than the time prescribed by
2 law for filing the return for such taxable year (not
3 including extensions thereof).”

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for part VII of subchapter B of chapter 1 is amended by
6 striking the last item and inserting the following new item:

“Sec. 220. Contributions to medical savings accounts.”

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 1995.

10 **SEC. 12232. EXCLUSION FROM INCOME OF EMPLOYER CON-**
11 **TRIBUTIONS TO MEDICAL SAVINGS AC-**
12 **COUNTS.**

13 (a) IN GENERAL.—Section 106 (relating to contribu-
14 tions by employers to accident and health plans), as
15 amended by section 12202(b), is amended by adding at
16 the end the following new subsection:

17 “(c) CONTRIBUTIONS TO MEDICAL SAVINGS AC-
18 COUNTS.—

19 “(1) TREATMENT OF CONTRIBUTIONS.—

20 “(A) IN GENERAL.—Gross income of an
21 employee who is covered by a high deductible
22 health plan of an employer shall not include any
23 employer contribution to a medical savings ac-
24 count on behalf of the employee or the employ-
25 ee’s spouse or dependents.

1 “(B) NO CONSTRUCTIVE RECEIPT.—No
2 amount shall be included in the gross income of
3 any employee solely because the employee may
4 choose between the contributions described in
5 subparagraph (A) and employer contributions
6 to a health plan of the employer.

7 “(2) LIMITATIONS.—

8 “(A) ONLY 1 ACCOUNT PER FAMILY.—Ex-
9 cept as provided in regulations, no amount may
10 be excluded under subsection (a) for contribu-
11 tions to a medical savings account if the em-
12 ployee, or such employee’s spouse or dependent,
13 is a beneficiary of any other medical savings ac-
14 count.

15 “(B) DOLLAR LIMITATION.—The amount
16 which may be excluded under paragraph (1) for
17 any taxable year shall not exceed the limitation
18 under section 220(b)(2) (without regard to this
19 subsection) which is applicable to such employee
20 for such taxable year.

21 “(3) SPECIAL RULE FOR DEDUCTION OF EM-
22 PLOYER CONTRIBUTIONS.—Any employer contribu-
23 tion to a medical savings account, if otherwise allow-
24 able as a deduction under this chapter, shall be al-
25 lowed only for the taxable year in which paid.

1 “(4) DEFINITIONS.—For purposes of this sub-
2 section—

3 “(A) HIGH DEDUCTIBLE HEALTH PLAN.—
4 The term ‘high deductible health plan’ has the
5 meaning given such term by section 220(c)(2).

6 “(B) MEDICAL SAVINGS ACCOUNT.—The
7 term ‘medical savings account’ has the meaning
8 given such term by section 7705.”

9 (b) EXCLUSION OF EMPLOYER PAYMENTS.—

10 (1) IN GENERAL.—Notwithstanding any other
11 provision of law, any payment made to or for the
12 benefit of an employee with respect to which, at the
13 time of the payment, it is reasonable to believe that
14 the employee will be able to exclude such payment
15 from income under section 106(c) shall be treated in
16 the same manner as payments to or for the benefit
17 of an employee on account of sickness or accident.

18 (2) RAILROAD RETIREMENT TAX.—Subsection
19 (e) of section 3231 is amended by adding at the end
20 the following new paragraph:

21 “(10) MEDICAL SAVINGS ACCOUNT CONTRIBU-
22 TIONS.—The term ‘compensation’ shall not include
23 any payment made to or for the benefit of an em-
24 ployee if at the time of such payment it is reason-
25 able to believe that the employee will be able to ex-

1 clude such payment from income under section
2 106(c).”

3 (3) UNEMPLOYMENT TAX.—Subsection (b) of
4 section 3306 is amended by striking “or” at the end
5 of paragraph (15), by striking the period at the end
6 of paragraph (16) and inserting “; or”, and by in-
7 serting after paragraph (16) the following new para-
8 graph:

9 “(17) any payment made to or for the benefit
10 of an employee if at the time of such payment it is
11 reasonable to believe that the employee will be able
12 to exclude such payment from income under section
13 106(c).”

14 (4) WITHHOLDING TAX.—Subsection (a) of sec-
15 tion 3401 is amended by striking “or” at the end of
16 paragraph (19), by striking the period at the end of
17 paragraph (20) and inserting “; or”, and by insert-
18 ing after paragraph (20) the following new para-
19 graph:

20 “(21) any payment made to or for the benefit
21 of an employee if at the time of such payment it is
22 reasonable to believe that the employee will be able
23 to exclude such payment from income under section
24 106(c).”

1 (c) MEDICAL SAVINGS ACCOUNTS NOT PERMITTED
2 UNDER CAFETERIA PLANS.—Section 125(f) is amended
3 by adding at the end the following new sentence: “Such
4 term shall not include any contribution to a medical sav-
5 ings account under section 7705.”

6 (d) CONFORMING AMENDMENT.—Section 106(a), as
7 designated by section 12202(b), is amended by striking
8 “subsection (b)” and inserting “subsection (b) or (c)”.

9 (e) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 December 31, 1995.

12 **SEC. 12233. MEDICAL SAVINGS ACCOUNTS.**

13 (a) IN GENERAL.—Chapter 79 is amended by adding
14 at the end the following new section:

15 **“SEC. 7705. MEDICAL SAVINGS ACCOUNTS.**

16 “(a) GENERAL RULE.—The term ‘medical savings
17 account’ means a trust created or organized in the United
18 States for the exclusive benefit of the beneficiaries of the
19 trust, but only if the written governing instrument creat-
20 ing the trust meets the following requirements:

21 “(1) Except in the case of a rollover contribu-
22 tion described in subsection (c)(5)—

23 “(A) no contribution will be accepted un-
24 less—

25 “(i) it is in cash, and

1 “(ii) it is made for a period during
2 which the individual on whose behalf it is
3 made is covered under a high deductible
4 health plan, and

5 “(B) contributions will not be accepted for
6 any taxable year in excess of the amount deter-
7 mined under section 220(b)(2) for such taxable
8 year.

9 “(2) The trustee is a bank (as defined in sec-
10 tion 408(n)), insurance company (as defined in sec-
11 tion 816), or another person who demonstrates to
12 the satisfaction of the Secretary that the manner in
13 which such person will administer the trust will be
14 consistent with the requirements of this section.

15 “(3) The assets of the trust will not be commin-
16 gled with other property except in a common trust
17 fund or common investment fund.

18 “(4) No part of the trust assets will be invested
19 in life insurance contracts.

20 “(5) The interest of an individual in the bal-
21 ance in the individual’s account is nonforfeitable.

22 “(b) TAX TREATMENT OF ACCOUNTS.—

23 “(1) IN GENERAL.—A medical savings account
24 is exempt from taxation under this subtitle unless
25 such account has ceased to be a medical savings ac-

1 count by reason of paragraph (2) or (3). Notwith-
2 standing the preceding sentence, any such account is
3 subject to the taxes imposed by section 511 (relating
4 to imposition of tax on unrelated business income of
5 charitable, etc. organizations).

6 “(2) ACCOUNT TERMINATIONS.—Rules similar
7 to the rules of paragraphs (2) and (4) of section
8 408(e) shall apply to medical savings accounts, and
9 any amount treated as distributed under such rules
10 shall be treated as not used to pay qualified medical
11 expenses.

12 “(3) FAILURE TO REMAIN IN HEALTH PLAN.—

13 “(A) IN GENERAL.—If, at any time during
14 the 2-taxable year period beginning with the
15 first taxable year in which an individual was an
16 account beneficiary in a medical savings ac-
17 count, the account beneficiary becomes a partic-
18 ipant in a health plan which has a lower indi-
19 vidual (or aggregate) deductible limit than the
20 lowest individual (or aggregate) limit permitted
21 under a high deductible health plan, the ac-
22 count shall cease to be a medical savings ac-
23 count as of the first day of the taxable year in
24 which the individual ceases to be so covered.

1 “(B) EXCEPTION.—This paragraph shall
2 not apply to any account beneficiary who be-
3 comes a participant in a plan described in sub-
4 paragraph (A) by reason of separation from
5 employment.

6 “(C) ACCOUNT TREATED AS DISTRIBUTING
7 ALL ITS ASSETS.—In any case in which any ac-
8 count ceases to be a medical savings account by
9 reason of subparagraph (A) on the first day of
10 any taxable year, subsection (c) shall be applied
11 as if—

12 “(i) there were a distribution on such
13 first day in an amount equal to the fair
14 market value (on such first day) of all as-
15 sets in the account (on such first day), and

16 “(ii) no portion of such distribution
17 were used to pay qualified medical ex-
18 penses.

19 “(c) TAX TREATMENT OF DISTRIBUTIONS.—

20 “(1) AMOUNTS USED FOR QUALIFIED MEDICAL
21 EXPENSES.—

22 “(A) IN GENERAL.—Any amount paid or
23 distributed out of a medical savings account
24 which is used exclusively to pay qualified medi-
25 cal expenses of any account beneficiary (or any

1 spouse or dependent of the beneficiary) shall
2 not be includible in gross income.

3 “(B) TREATMENT AFTER DEATH OF AC-
4 COUNT BENEFICIARY.—

5 “(i) TREATMENT IF BENEFICIARY IS
6 SPOUSE.—If, after the death of the ac-
7 count beneficiary, the account beneficiary’s
8 interest is payable to (or for the benefit of)
9 the beneficiary’s spouse, the medical sav-
10 ings account shall be treated as if the
11 spouse were the account beneficiary.

12 “(ii) TREATMENT IF DESIGNATED
13 BENEFICIARY IS NOT SPOUSE.—In the case
14 of an account beneficiary’s interest in a
15 medical savings account which is payable
16 to (or for the benefit of) any person other
17 than such beneficiary’s spouse upon the
18 death of such beneficiary—

19 “(I) such account shall cease to
20 be a medical savings account as of the
21 date of death, and

22 “(II) an amount equal to the fair
23 market value of the assets in such ac-
24 count on such date shall be includible
25 if such person is not the estate of

1 such beneficiary, in such person's
2 gross income for the taxable year
3 which includes such date, or if such
4 person is the estate of such bene-
5 ficiary, in such beneficiary's gross in-
6 come for last taxable year of such
7 beneficiary.

8 “(2) INCLUSION OF AMOUNTS NOT USED FOR
9 QUALIFIED MEDICAL EXPENSES.—

10 “(A) IN GENERAL.—Any amount paid or
11 distributed out of a medical savings account
12 which is not used exclusively to pay the quali-
13 fied medical expenses of the account beneficiary
14 or of the spouse or dependents of such bene-
15 ficiary shall be included in the gross income of
16 such beneficiary to the extent such amount does
17 not exceed the excess of—

18 “(i) the aggregate contributions to
19 such account which were allowed as a de-
20 duction under section 162(l) or 213 or
21 which were excluded under section 106(e),
22 over

23 “(ii) the aggregate prior payments or
24 distributions from such account which were

1 includible in gross income under this para-
2 graph.

3 “(B) SPECIAL RULES.—For purposes of
4 subparagraph (A)—

5 “(i) all medical savings accounts of
6 the account beneficiary shall be treated as
7 1 account,

8 “(ii) all payments and distributions
9 during any taxable year shall be treated as
10 1 distribution, and

11 “(iii) any distribution of property
12 shall be taken into account at its fair mar-
13 ket value on the date of the distribution.

14 “(3) EXCESS CONTRIBUTIONS RETURNED BE-
15 FORE DUE DATE OF RETURN.—Paragraph (2) shall
16 not apply to the distribution of any contribution paid
17 during a taxable year to a medical savings account
18 to the extent that such contribution exceeds the
19 amount under subsection (a)(1)(B) if—

20 “(A) such distribution is received by the
21 individual on or before the last day prescribed
22 by law (including extensions of time) for filing
23 such individual’s return for such taxable year,
24 and

1 “(B) such distribution is accompanied by
2 the amount of net income attributable to such
3 excess contribution.

4 Any net income described in subparagraph (B) shall
5 be included in the gross income of the individual for
6 the taxable year in which it is received.

7 “(4) PENALTY FOR DISTRIBUTIONS NOT USED
8 FOR QUALIFIED MEDICAL EXPENSES.—

9 “(A) IN GENERAL.—The tax imposed by
10 chapter 1 on the account beneficiary for any
11 taxable year in which there is a payment or dis-
12 tribution from a medical savings account of
13 such beneficiary which is includible in gross in-
14 come under paragraph (2) shall be increased by
15 10 percent of the amount which is so includible.

16 “(B) EXCEPTION FOR DISABILITY OR
17 DEATH.—Subparagraph (A) shall not apply if
18 the payment or distribution is made after the
19 account beneficiary becomes disabled within the
20 meaning of section 72(m)(7) or dies.

21 “(C) EXCEPTION FOR DISTRIBUTIONS
22 AFTER AGE 59½.—Subparagraph (A) shall not
23 apply to any payment or distribution after the
24 date on which the account beneficiary attains
25 age 59½.

1 “(5) ROLLOVER CONTRIBUTION.—An amount is
2 described in this paragraph as a rollover contribu-
3 tion if it meets the requirements of subparagraphs
4 (A) and (B).

5 “(A) IN GENERAL.—Paragraph (2) shall
6 not apply to any amount paid or distributed
7 from a medical savings account to the account
8 beneficiary to the extent the amount received is
9 paid into a medical savings account for the ben-
10 efit of such beneficiary not later than the 60th
11 day after the day on which the beneficiary re-
12 ceives the payment or distribution.

13 “(B) LIMITATION.—This paragraph shall
14 not apply to any amount described in subpara-
15 graph (A) received by an individual from a
16 medical savings account if, at any time during
17 the 1-year period ending on the day of such re-
18 ceipt, such individual received any other amount
19 described in subparagraph (A) from a medical
20 savings account which was not includible in the
21 individual’s gross income because of the appli-
22 cation of this paragraph.

23 “(6) COORDINATION WITH MEDICAL EXPENSE
24 DEDUCTION.—For purposes of determining the
25 amount of the deduction under section 213, any pay-

1 ment or distribution out of a medical savings ac-
2 count for qualified medical expenses shall not be
3 treated as an expense paid for medical care.

4 “(7) TRANSFER OF ACCOUNT INCIDENT TO DI-
5 VORCE.—The transfer of an individual’s interest in
6 a medical savings account to an individual’s spouse
7 or former spouse under a divorce or separation in-
8 strument described in subparagraph (A) of section
9 71(b)(2) shall not be considered a taxable transfer
10 made by such individual notwithstanding any other
11 provision of this subtitle, and such interest shall,
12 after such transfer, be treated as a medical savings
13 account with respect to which the spouse is the ac-
14 count beneficiary.

15 “(d) DEFINITIONS.—For purposes of this section—

16 “(1) QUALIFIED MEDICAL EXPENSES.—

17 “(A) IN GENERAL.—The term ‘qualified
18 medical expenses’ means any expense for medi-
19 cal care (as defined in section 213(d)).

20 “(B) EXCEPTION FOR INSURANCE.—

21 “(i) IN GENERAL.—Such term shall
22 not include any expense for insurance.

23 “(ii) EXCEPTIONS.—Clause (i) shall
24 not apply to any expense for—

1 “(I) coverage under a health plan
2 during a period of continuation cov-
3 erage described in section
4 4980B(f)(2)(B),

5 “(II) coverage under a qualified
6 long-term care contract (as defined in
7 section 7702B(b)), or

8 “(III) coverage under a health
9 plan during a period in which the in-
10 dividual is receiving unemployment
11 compensation under any Federal or
12 State law.

13 “(2) ACCOUNT BENEFICIARY.—The term ‘ac-
14 count beneficiary’ means the individual for whose
15 benefit the medical savings account is maintained.

16 “(e) CUSTODIAL ACCOUNTS.—For purposes of this
17 section, a custodial account shall be treated as a trust if—

18 “(1) the assets of such account are held by a
19 bank (as defined in section 408(n)), insurance com-
20 pany (as defined in section 816), or another person
21 who demonstrates to the satisfaction of the Sec-
22 retary that the manner in which such person will ad-
23 minister the account will be consistent with the re-
24 quirements of this section, and

1 “(2) the custodial account would, except for the
2 fact that it is not a trust, constitute a medical sav-
3 ings account described in subsection (a).

4 For purposes of this title, in the case of a custodial ac-
5 count treated as a trust by reason of the preceding sen-
6 tence, the custodian of such account shall be treated as
7 the trustee thereof.

8 “(f) REPORTS.—The trustee of a medical savings ac-
9 count shall make such reports regarding such account to
10 the Secretary and to the individual for whose benefit the
11 account is maintained with respect to contributions, dis-
12 tributions, and such other matters as the Secretary may
13 require under regulations. The reports required by this
14 subsection shall be filed at such time and in such manner
15 and furnished to such individuals at such time and in such
16 manner as may be required by those regulations.”

17 (b) EXCLUSION OF ACCOUNTS FROM ESTATE TAX.—

18 (1) IN GENERAL.—Section 2057, as added by
19 section 7006, is amended—

20 (A) by inserting “or medical savings ac-
21 count (as defined in section 7705)” before “in-
22 cluded”, and

23 (B) by inserting “**OR MEDICAL SAV-**
24 **INGS**” after “**CHOICE**” in the heading.

1 (2) CONFORMING AMENDMENT.—The table of
2 sections for part IV of subchapter A of chapter 11
3 is amended by inserting “or medical savings” after
4 “choice”.

5 (c) TAX ON EXCESS CONTRIBUTIONS.—Section 4973
6 (relating to tax on excess contributions to individual re-
7 tirement accounts, certain section 403(b) contracts, and
8 certain individual retirement annuities) is amended—

9 (1) by inserting “**MEDICAL SAVINGS AC-**
10 **COUNTS,**” after “**ACCOUNTS,**” in the heading of
11 such section,

12 (2) by striking “or” at the end of paragraph
13 (1) of subsection (a),

14 (3) by redesignating paragraph (2) of sub-
15 section (a) as paragraph (3) and by inserting after
16 paragraph (1) the following:

17 “(2) a medical savings account (within the
18 meaning of section 7705(a)), or”, and

19 (4) by adding at the end the following new sub-
20 section:

21 “(d) EXCESS CONTRIBUTIONS TO MEDICAL SAVINGS
22 ACCOUNTS.—For purposes of this section, in the case of
23 a medical savings account (within the meaning of section
24 7705(a)), the term ‘excess contributions’ means the
25 amount by which the amount contributed for the taxable

1 year to the account exceeds the amount which may be con-
2 tributed to the account under section 7705(a)(1)(B) for
3 such taxable year. For purposes of this subsection, any
4 contribution which is distributed out of the medical sav-
5 ings account in a distribution to which section 7705(e)(3)
6 applies shall be treated as an amount not contributed.”

7 (d) TAX ON PROHIBITED TRANSACTIONS.—Section
8 4975 (relating to prohibited transactions), as amended by
9 section 7006(c), is amended—

10 (1) by adding at the end of subsection (c) the
11 following new paragraph:

12 “(5) SPECIAL RULE FOR MEDICAL SAVINGS AC-
13 COUNTS.—An individual for whose benefit a medical
14 savings account (within the meaning of section
15 7705(a)) is established shall be exempt from the tax
16 imposed by this section with respect to any trans-
17 action concerning such account (which would other-
18 wise be taxable under this section) if, with respect
19 to such transaction, the account ceases to be a medi-
20 cal savings account by reason of the application of
21 section 7705(b)(2)(A)(i) to such account.”, and

22 (2) by striking “or” at the end of subparagraph
23 (D), by redesignating subparagraph (E) as subpara-
24 graph (F), and by inserting after subparagraph (D)
25 the following new subparagraph:

1 “(E) a medical savings account described
2 in section 7705(a), or”.

3 (e) FAILURE TO PROVIDE REPORTS ON MEDICAL
4 SAVINGS ACCOUNTS.—Section 6693(a)(2) (relating to
5 failure to provide reports on individual retirement ac-
6 counts or annuities), as amended by section 7006, is
7 amended by striking “and” at the end of subparagraph
8 (A), by striking the period at the end of subparagraph
9 (B) and inserting “, and”, and by adding at the end the
10 following subparagraph:

11 “(C) section 7705(f) (relating to medical
12 savings accounts).”

13 (f) EXCEPTION FROM CAPITALIZATION OF POLICY
14 ACQUISITION EXPENSES.—Subparagraph (B) of section
15 848(e)(1) (defining specified insurance contract), as
16 amended by 7006, is amended by striking “and” at the
17 end of clause (iii), by striking the period at the end of
18 clause (iv) and inserting “, and”, and by adding at the
19 end the following new clause:

20 “(v) any contract which is a medical
21 savings account (as defined in section
22 7705).”

23 (g) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect on January 1, 1996.

1 **Subchapter D—Other Provisions**

2 **SEC. 12241. ADJUSTMENT OF DEATH BENEFIT LIMITS FOR**
 3 **CERTAIN POLICIES.**

4 (a) IN GENERAL.—Subparagraph (C)(i) of section
 5 7702(e)(2) (relating to limited increases in death benefit
 6 permitted) is amended by striking “\$5,000” and inserting
 7 “\$7,000” and by striking “\$25,000” and inserting
 8 “\$30,000”.

9 (b) INFLATION ADJUSTMENTS.—Section 7702(e) (re-
 10 lating to computational rules) is amended by adding at
 11 the end the following new paragraph:

12 “(3) INFLATION ADJUSTMENT TO DEATH BEN-
 13 EFIT LIMITS FOR YEARS AFTER 1996.—In the case of
 14 any taxable year beginning in a calendar year after
 15 1996, each dollar amount contained in paragraph
 16 (2)(C)(i) shall be increased by an amount equal to—

17 “(A) such dollar amount, multiplied by

18 “(B) the cost-of-living adjustment deter-
 19 mined under section 1(f)(3), for the calendar
 20 year in which the taxable year begins, by sub-
 21 stituting ‘calendar year 1995’ for ‘calendar year
 22 1992’ in subparagraph (B) thereof.”

23 (c) CONFORMING AMENDMENT.—Section
 24 72(e)(10)(B) is amended by striking “\$25,000” and in-

1 setting “\$30,000 (adjusted at the same time and in the
2 same manner as under section 7702(e)(3))”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to contracts entered into after De-
5 cember 31, 1995.

6 **SEC. 12242. ORGANIZATIONS SUBJECT TO SECTION 833.**

7 (a) IN GENERAL.—Section 833(e) (relating to orga-
8 nization to which section applies) is amended by adding
9 at the end the following new paragraph:

10 “(4) TREATMENT AS EXISTING BLUE CROSS OR
11 BLUE SHIELD ORGANIZATION.—

12 “(A) IN GENERAL.—Paragraph (2) shall
13 be applied to an organization described in sub-
14 paragraph (B) as if it were a Blue Cross or
15 Blue Shield organization.

16 “(B) APPLICABLE ORGANIZATION.—An or-
17 ganization is described in this subparagraph if
18 it—

19 “(i) is organized under, and governed
20 by, State laws which are specifically and
21 exclusively applicable to not-for-profit
22 health insurance or health service type or-
23 ganizations, and

1 “(ii) is not a Blue Cross or Blue
2 Shield organization or health maintenance
3 organization.”

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to taxable years ending after Octo-
6 ber 13, 1995.

7 **Subtitle D—Estate Tax Reform**

8 **SEC. 12301. FAMILY-OWNED BUSINESS EXCLUSION.**

9 (a) IN GENERAL.—Part III of subchapter A of chap-
10 ter 11 (relating to gross estate) is amended by inserting
11 after section 2033 the following new section:

12 **“SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.**

13 “(a) IN GENERAL.—In the case of an estate of a de-
14 cedent to which this section applies, the value of the gross
15 estate shall not include the lesser of—

16 “(1) the adjusted value of the qualified family-
17 owned business interests of the decedent otherwise
18 includible in the estate, or

19 “(2) the sum of—

20 “(A) \$1,500,000, plus

21 “(B) 50 percent of the excess (if any) of
22 the adjusted value of such interests over
23 \$1,500,000, but not over \$5,000,000.

24 “(b) ESTATES TO WHICH SECTION APPLIES.—

1 “(1) IN GENERAL.—This section shall apply to
2 an estate if—

3 “(A) the decedent was (at the date of the
4 decedent’s death) a citizen or resident of the
5 United States,

6 “(B) the sum of—

7 “(i) the adjusted value of the qualified
8 family-owned business interests described
9 in paragraph (2), plus

10 “(ii) the amount of the gifts of such
11 interests determined under paragraph (3),
12 exceeds 50 percent of the adjusted gross estate,
13 and

14 “(C) during the 8-year period ending on
15 the date of the decedent’s death there have
16 been periods aggregating 5 years or more dur-
17 ing which—

18 “(i) such interests were owned by the
19 decedent or a member of the decedent’s
20 family, and

21 “(ii) there was material participation
22 (within the meaning of section
23 2032A(e)(6)) by the decedent or a member
24 of the decedent’s family in the operation of
25 the business to which such interests relate.

1 “(2) INCLUDIBLE QUALIFIED FAMILY-OWNED
2 BUSINESS INTERESTS.—The qualified family-owned
3 business interests described in this paragraph are
4 the interests which—

5 “(A) are included in determining the value
6 of the gross estate (without regard to this sec-
7 tion), and

8 “(B) are acquired by any qualified heir
9 from, or passed to any qualified heir from, the
10 decedent (within the meaning of section
11 2032A(e)(9)).

12 “(3) INCLUDIBLE GIFTS OF INTERESTS.—The
13 amount of the gifts of qualified family-owned busi-
14 ness interests determined under this paragraph is
15 the excess of—

16 “(A) the sum of—

17 “(i) the amount of such gifts from the
18 decedent to members of the decedent’s
19 family taken into account under subsection
20 2001(b)(1)(B), plus

21 “(ii) the amount of such gifts other-
22 wise excluded under section 2503(b),
23 to the extent such interests are continuously
24 held by members of such family (other than the

1 decedent's spouse) between the date of the gift
2 and the date of the decedent's death, over

3 “(B) the amount of gifts from the dece-
4 dent to members of the decedent's family other-
5 wise included in the gross estate.

6 “(c) ADJUSTED GROSS ESTATE.—For purposes of
7 this section, the term ‘adjusted gross estate’ means the
8 value of the gross estate (determined without regard to
9 this section)—

10 “(1) reduced by any amount deductible under
11 paragraph (3) or (4) of section 2053(a), and

12 “(2) increased by the excess of—

13 “(A) the sum of—

14 “(i) the amount of gifts determined
15 under subsection (b)(3), plus

16 “(ii) the amount of other transfers
17 from the decedent to the decedent's spouse
18 (at the time of the transfer) within 10
19 years of the date of the decedent's death,
20 plus

21 “(iii) the amount of other gifts (not
22 included under clause (i) or (ii)) from the
23 decedent within 3 years of such date, other
24 than gifts to members of the decedent's

1 family otherwise excluded under section
2 2503(b), over

3 “(B) the sum of the amounts described in
4 clauses (i), (ii), and (iii) of subparagraph (A)
5 which are otherwise includible in the gross es-
6 tate.

7 For purposes of the preceding sentence, the Secretary may
8 provide that de minimis gifts to persons other than mem-
9 bers of the decedent’s family shall not be taken into ac-
10 count.

11 “(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-
12 OWNED BUSINESS INTERESTS.—For purposes of this sec-
13 tion, the adjusted value of any qualified family-owned
14 business interest is the value of such interest for purposes
15 of this chapter (determined without regard to this sec-
16 tion), reduced by the excess of—

17 “(1) any amount deductible under paragraph
18 (3) or (4) of section 2053(a), over

19 “(2) the sum of—

20 “(A) any indebtedness on any qualified
21 residence of the decedent the interest on which
22 is deductible under section 163(h)(3), plus

23 “(B) any indebtedness to the extent the
24 taxpayer establishes that the proceeds of such
25 indebtedness were used for the payment of edu-

1 cational and medical expenses of the decedent,
2 the decedent's spouse, or the decedent's depend-
3 ents (within the meaning of section 152), plus

4 “(C) any indebtedness not described in
5 clause (i) or (ii), to the extent such indebted-
6 ness does not exceed \$10,000.

7 “(e) QUALIFIED FAMILY-OWNED BUSINESS INTER-
8 EST.—

9 “(1) IN GENERAL.—For purposes of this sec-
10 tion, the term ‘qualified family-owned business inter-
11 est’ means—

12 “(A) an interest as a proprietor in a trade
13 or business carried on as a proprietorship, or

14 “(B) an interest in an entity carrying on
15 a trade or business, if—

16 “(i) at least—

17 “(I) 50 percent of such entity is
18 owned (directly or indirectly) by the
19 decedent and members of the dece-
20 dent's family,

21 “(II) 70 percent of such entity is
22 so owned by members of 2 families, or

23 “(III) 90 percent of such entity
24 is so owned by members of 3 families,
25 and

1 “(ii) for purposes of subclause (II) or
2 (III) of clause (i), at least 30 percent of
3 such entity is so owned by the decedent
4 and members of the decedent’s family.

5 “(2) LIMITATION.—Such term shall not in-
6 clude—

7 “(A) any interest in a trade or business
8 the principal place of business of which is not
9 located in the United States,

10 “(B) any interest in an entity, if the stock
11 or debt of such entity or a controlled group (as
12 defined in section 267(f)(1)) of which such en-
13 tity was a member was readily tradable on an
14 established securities market or secondary mar-
15 ket (as defined by the Secretary) at any time
16 within 3 years of the date of the decedent’s
17 death,

18 “(C) any interest in a trade or business
19 not described in section 542(c)(2), if more than
20 35 percent of the adjusted ordinary gross in-
21 come of such trade or business for the taxable
22 year which includes the date of the decedent’s
23 death would qualify as personal holding com-
24 pany income (as defined in section 543(a)),

1 “(D) that portion of an interest in a trade
2 or business that is attributable to—

3 “(i) cash or marketable securities, or
4 both, in excess of the reasonably expected
5 day-to-day working capital needs of such
6 trade or business, and

7 “(ii) any other assets of the trade or
8 business (other than assets used in the ac-
9 tive conduct of a trade or business de-
10 scribed in section 542(c)(2)), the income of
11 which is described in section 543(a) or in
12 subparagraph (B), (C), (D), or (E) of sec-
13 tion 954(c)(1) (determined by substituting
14 ‘trade or business’ for ‘controlled foreign
15 corporation)’.

16 “(3) RULES REGARDING OWNERSHIP.—

17 “(A) OWNERSHIP OF ENTITIES.—For pur-
18 poses of paragraph (1)(B)—

19 “(i) CORPORATIONS.—Ownership of a
20 corporation shall be determined by the
21 holding of stock possessing the appropriate
22 percentage of the total combined voting
23 power of all classes of stock entitled to vote
24 and the appropriate percentage of the total
25 value of shares of all classes of stock.

1 “(ii) PARTNERSHIPS.—Ownership of a
2 partnership shall be determined by the
3 owning of the appropriate percentage of
4 the capital interest or the profits interest
5 in such partnership.

6 “(B) OWNERSHIP OF TIERED ENTITIES.—
7 For purposes of this section, if by reason of
8 holding an interest in a trade or business, a de-
9 cedent or any member of the decedent’s family
10 is treated as holding an interest in any other
11 trade or business—

12 “(i) such ownership interest in the
13 other trade or business shall be dis-
14 regarded in determining if the ownership
15 interest in the first trade or business is a
16 qualified family-owned business interest,
17 and

18 “(ii) this section shall be applied sepa-
19 rately in determining if such interest in
20 any other trade or business is a qualified
21 family-owned business interest.

22 “(C) INDIVIDUAL OWNERSHIP RULES.—
23 For purposes of this section, an interest owned,
24 directly or indirectly, by or for an entity de-
25 scribed in paragraph (1)(B) shall be considered

1 as being owned proportionately by or for the en-
2 tity's shareholders, partners, or beneficiaries. A
3 person shall be treated as a beneficiary of any
4 trust only if such person has a present interest
5 in such trust.

6 “(f) TAX TREATMENT OF FAILURE TO MATERIALLY
7 PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTER-
8 ESTS.—

9 “(1) IN GENERAL.—There is imposed an addi-
10 tional estate tax if, within 10 years after the date
11 of the decedent's death and before the date of the
12 qualified heir's death—

13 “(A) the material participation require-
14 ments described in section 2032A(c)(6)(B) are
15 not met with respect to the qualified family-
16 owned business interest which was acquired (or
17 passed) from the decedent,

18 “(B) the qualified heir disposes of any por-
19 tion of a qualified family-owned business inter-
20 est (other than by a disposition to a member of
21 the qualified heir's family or through a qualified
22 conservation contribution under section
23 170(h)),

24 “(C) the qualified heir loses United States
25 citizenship (within the meaning of section

1 877A) or with respect to whom an event de-
2 scribed in subparagraph (A) or (B) of section
3 877A(e)(1) occurs, and such heir does not com-
4 ply with the requirements of subsection (g), or

5 “(D) the principal place of business of a
6 trade or business of the qualified family-owned
7 business interest ceases to be located in the
8 United States.

9 “(2) ADDITIONAL ESTATE TAX.—

10 “(A) IN GENERAL.—The amount of the
11 additional estate tax imposed by paragraph (1)
12 shall be equal to—

13 “(i) the applicable percentage of the
14 adjusted tax difference attributable to the
15 qualified family-owned business interest
16 (as determined under rules similar to the
17 rules of section 2032A(c)(2)(B)), plus

18 “(ii) interest on the amount deter-
19 mined under clause (i) at the
20 underpayment rate established under sec-
21 tion 6621 for the period beginning on the
22 date the estate tax liability was due under
23 this chapter and ending on the date such
24 additional estate tax is due.

1 “(B) APPLICABLE PERCENTAGE.—For
 2 purposes of this paragraph, the applicable per-
 3 centage shall be determined under the following
 4 table:

“If the event described in para- graph (1) occurs in the follow- ing year of material participa- tion:	The applicable percentage is:
1 through 6	100
7	80
8	60
9	40
10	20.

5 “(g) SECURITY REQUIREMENTS FOR NONCITIZEN
 6 QUALIFIED HEIRS.—

7 “(1) IN GENERAL.—Except upon the applica-
 8 tion of subparagraph (F) or (M) of subsection
 9 (h)(3), if a qualified heir is not a citizen of the Unit-
 10 ed States, any interest under this section passing to
 11 or acquired by such heir (including any interest held
 12 by such heir at a time described in subsection
 13 (f)(1)(C)) shall be treated as a qualified family-
 14 owned business interest only if the interest passes or
 15 is acquired (or is held) in a qualified trust.

16 “(2) QUALIFIED TRUST.—The term ‘qualified
 17 trust’ means a trust—

18 “(A) which is organized under, and gov-
 19 erned by, the laws of the United States or a
 20 State, and

1 “(B) with respect to which the trust in-
2 strument requires that at least 1 trustee of the
3 trust be an individual citizen of the United
4 States or a domestic corporation.

5 “(h) OTHER DEFINITIONS AND APPLICABLE
6 RULES.—For purposes of this section—

7 “(1) QUALIFIED HEIR.—The term ‘qualified
8 heir’—

9 “(A) has the meaning given to such term
10 by section 2032A(e)(1), and

11 “(B) includes any active employee of the
12 trade or business to which the qualified family-
13 owned business interest relates if such employee
14 has been employed by such trade or business
15 for a period of at least 10 years before the date
16 of the decedent’s death.

17 “(2) MEMBER OF THE FAMILY.—The term
18 ‘member of the family’ has the meaning given to
19 such term by section 2032A(e)(2).

20 “(3) APPLICABLE RULES.—Rules similar to the
21 following rules shall apply:

22 “(A) Section 2032A(b)(4) (relating to de-
23 cedents who are retired or disabled).

24 “(B) Section 2032A(b)(5) (relating to spe-
25 cial rules for surviving spouses).

1 “(C) Section 2032A(c)(2)(D) (relating to
2 partial dispositions).

3 “(D) Section 2032A(c)(3) (relating to only
4 1 additional tax imposed with respect to any 1
5 portion).

6 “(E) Section 2032A(c)(4) (relating to due
7 date).

8 “(F) Section 2032A(c)(5) (relating to li-
9 ability for tax; furnishing of bond).

10 “(G) Section 2032A(c)(7) (relating to no
11 tax if use begins within 2 years; active manage-
12 ment by eligible qualified heir treated as mate-
13 rial participation).

14 “(H) Section 2032A(e)(10) (relating to
15 community property).

16 “(I) Section 2032A(e)(14) (relating to
17 treatment of replacement property acquired in
18 section 1031 or 1033 transactions).

19 “(J) Section 2032A(f) (relating to statute
20 of limitations).

21 “(K) Section 6166(b)(3) (relating to farm-
22 houses and certain other structures taken into
23 account).

“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.”

1 (2) CONFORMING AMENDMENTS.—

2 (A) Subsection (a) of section 6018 is
3 amended—

4 (i) by striking “\$600,000” in para-
5 graph (1) and inserting “\$750,000”, and

6 (ii) by adding at the end the following
7 new paragraph:

8 “(5) PHASE-IN OF FILING REQUIREMENT
9 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.”

10 (B) Section 2001(c)(2) is amended to read
11 as follows:

12 “(2) PHASEOUT OF GRADUATED RATES AND
13 UNIFIED CREDIT.—

14 “(A) IN GENERAL.—The tentative tax de-
15 termined under paragraph (1) shall be in-
16 creased by an amount equal to 5 percent of so

1 much of the amount (with respect to which the
 2 tentative is to be computed) as exceeds
 3 \$10,000,000 but does not exceed \$22,150,000.

4 “(B) PHASE-IN OF END POINT OF PHASE-
 5 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.”

6 (C) Paragraph (3) of section 2102(c) is
 7 amended—

8 (i) by striking “\$192,800” in sub-
 9 paragraph (A) and inserting “\$248,300”,
 10 and

11 (ii) by adding at the end the following
 12 new subparagraph:

13 “(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.”

14 (b) UNIFIED GIFT TAX CREDIT.—Section 2505 (re-
 15 lating to unified credit against gift tax) is amended—

1 (1) by striking “\$192,800” in subsection (a)(1)
2 and inserting “\$248,300”, and

3 (2) by redesignating subsection (b) as sub-
4 section (c) and by inserting after subsection (a) the
5 following new subsection:

6 “(b) PHASE-IN OF CREDIT.—

**“In the case of gifts made in: Subsection (a)(1) shall be ap-
plied by substituting for
‘\$248,300’ the following
amount:**

1996	\$202,050
1997	211,300
1998	220,550
1999	229,800
2000	239,050.”

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to the estates of decedents dying,
9 and gifts made, after December 31, 1995.

10 **SEC. 12303. TREATMENT OF LAND SUBJECT TO A QUALI-
11 FIED CONSERVATION EASEMENT.**

12 (a) ESTATE TAX WITH RESPECT TO LAND SUBJECT
13 TO A QUALIFIED CONSERVATION EASEMENT.—Section
14 2031 (relating to the definition of gross estate) is amend-
15 ed by redesignating subsection (c) as subsection (d) and
16 by inserting after subsection (b) the following new sub-
17 section:

18 “(c) ESTATE TAX WITH RESPECT TO LAND SUB-
19 JECT TO A QUALIFIED CONSERVATION EASEMENT.—

20 “(1) IN GENERAL.—If the executor makes the
21 election described in paragraph (5), then, except as

1 otherwise provided in this subsection, there shall be
2 excluded from the gross estate the applicable per-
3 centage of the lesser of—

4 “(A) the value of land subject to a quali-
5 fied conservation easement, reduced by the
6 amount of any deduction under section 2055(f)
7 with respect to such land, or

8 “(B) the excess (if any) of—

9 “(i) \$5,000,000, over

10 “(ii) the adjusted value of the quali-
11 fied family-owned business interests of the
12 decedent determined under section 2033A.

13 “(2) APPLICABLE PERCENTAGE.—For purposes
14 of paragraph (1), the term ‘applicable percentage’
15 means 50 percent reduced (but not below zero) by
16 2 percentage points for each percentage point (or
17 fraction thereof) by which the value of the qualified
18 conservation easement is less than 30 percent of the
19 value of the land (determined without regard to the
20 value of such easement and reduced by the value of
21 any retained development right (as defined in para-
22 graph (4)).

23 “(3) TREATMENT OF CERTAIN INDEBTED-
24 NESS.—

1 “(A) IN GENERAL.—The exclusion pro-
2 vided in paragraph (1) shall not apply to the
3 extent that the land is debt-financed property.

4 “(B) DEFINITIONS.—For purposes of this
5 paragraph—

6 “(i) DEBT-FINANCED PROPERTY.—
7 The term ‘debt-financed property’ means
8 any property with respect to which there is
9 an acquisition indebtedness (as defined in
10 clause (ii)) on the date of the decedent’s
11 death.

12 “(ii) ACQUISITION INDEBTEDNESS.—
13 The term ‘acquisition indebtedness’ means,
14 with respect to debt-financed property, the
15 unpaid amount of—

16 “(I) the indebtedness incurred by
17 the donor in acquiring such property,

18 “(II) the indebtedness incurred
19 before the acquisition of such property
20 if such indebtedness would not have
21 been incurred but for such acquisition,

22 “(III) the indebtedness incurred
23 after the acquisition of such property
24 if such indebtedness would not have
25 been incurred but for such acquisition

1 and the incurrence of such indebted-
2 ness was reasonably foreseeable at the
3 time of such acquisition, and

4 “(IV) the extension, renewal, or
5 refinancing of an acquisition indebted-
6 ness.

7 “(4) TREATMENT OF RETAINED DEVELOPMENT
8 RIGHT.—

9 “(A) IN GENERAL.—Paragraph (1) shall
10 not apply to the value of any development right
11 retained by the donor in the conveyance of a
12 qualified conservation easement.

13 “(B) TERMINATION OF RETAINED DEVEL-
14 OPMENT RIGHT.—If every person in being who
15 has an interest (whether or not in possession)
16 in the land executes an agreement to extinguish
17 permanently some or all of any development
18 rights (as defined in subparagraph (D)) re-
19 tained by the donor on or before the date for
20 filing the return of the tax imposed by section
21 2001, then any tax imposed by section 2001
22 shall be reduced accordingly. Such agreement
23 shall be filed with the return of the tax imposed
24 by section 2001. The agreement shall be in
25 such form as the Secretary shall prescribe.

1 “(C) ADDITIONAL TAX.—Any failure to
2 implement the agreement described in subpara-
3 graph (B) not later than the earlier of—

4 “(i) the date which is 2 years after
5 the date of the decedent’s death, or

6 “(ii) the date of the sale of such land
7 subject to the qualified conservation ease-
8 ment),

9 shall result in the imposition of an additional
10 tax in the amount of the tax which would have
11 been due on the retained development rights
12 subject to such agreement. Such additional tax
13 shall be due and payable on the last day of the
14 6th month following such date.

15 “(D) DEVELOPMENT RIGHT DEFINED.—
16 For purposes of this paragraph, the term ‘de-
17 velopment right’ means any right to use the
18 land subject to the qualified conservation ease-
19 ment in which such right is retained for any
20 commercial purpose which is not subordinate to
21 and directly supportive of the use of such land
22 as a farm for farming purposes (within the
23 meaning of section 6420(c).

24 “(5) ELECTION.—The election under this sub-
25 section shall be made on the return of the tax im-

1 posed by section 2001. Such an election, once made,
2 shall be irrevocable.

3 “(6) CALCULATION OF ESTATE TAX DUE.—An
4 executor making the election described in paragraph
5 (5) shall, for purposes of calculating the amount of
6 tax imposed by section 2001, include the value of
7 any development right (as defined in paragraph (4))
8 retained by the donor in the conveyance of such
9 qualified conservation easement. The computation of
10 tax on any retained development right prescribed in
11 this paragraph shall be done in such manner and on
12 such forms as the Secretary shall prescribe.

13 “(7) DEFINITIONS.—For purposes of this sub-
14 section—

15 “(A) LAND SUBJECT TO A QUALIFIED
16 CONSERVATION EASEMENT.—The term ‘land
17 subject to a qualified conservation easement’
18 means land—

19 “(i) which is located in or within 25
20 miles of an area which, on the date of the
21 decedent’s death, is—

22 “(I) a metropolitan area (as de-
23 fined by the Office of Management
24 and Budget), or

1 “(II) a national park or wilder-
2 ness area designated as part of the
3 National Wilderness Preservation Sys-
4 tem (unless it is determined by the
5 Secretary that land in or within 25
6 miles of such a park or wilderness
7 area is not under significant develop-
8 ment pressure),

9 “(ii) which was owned by the decedent
10 or a member of the decedent’s family at all
11 times during the 3-year period ending on
12 the date of the decedent’s death, and

13 “(iii) with respect to which a qualified
14 conservation easement is or has been made
15 by the decedent or a member of the dece-
16 dent’s family.

17 “(B) QUALIFIED CONSERVATION EASE-
18 MENT.—The term ‘qualified conservation ease-
19 ment’ means a qualified conservation contribu-
20 tion (as defined in section 170(h)(1)) of a quali-
21 fied real property interest (as defined in section
22 170(h)(2)(C)), except that clause (iv) of section
23 170(h)(4)(A) shall not apply, and the restric-
24 tion on the use of such interest described in

1 section 170(h)(2)(C) shall include a prohibition
2 on commercial recreational activity.

3 “(C) MEMBER OF FAMILY.—The term
4 ‘member of the decedent’s family’ means any
5 member of the family (as defined in section
6 2032A(e)(2)) of the decedent.

7 “(8) APPLICATION OF THIS SECTION TO INTER-
8 ESTS IN PARTNERSHIPS, CORPORATIONS, AND
9 TRUSTS.—This section shall apply to an interest in
10 a partnership, corporation, or trust if at least 30
11 percent of the entity is owned (directly or indirectly)
12 by the decedent, as determined under the rules de-
13 scribed in section 2033A(e)(3).”

14 (b) CARRYOVER BASIS.—Section 1014(a) (relating to
15 basis of property acquired from a decedent) is amended
16 by striking the period at the end of paragraph (3) and
17 inserting “, or” and by adding after paragraph (3) the
18 following new paragraph:

19 “(4) to the extent of the applicability of the ex-
20 clusion described in section 2031(c), the basis in the
21 hands of the decedent.”

22 (c) QUALIFIED CONSERVATION CONTRIBUTION IS
23 NOT A DISPOSITION.—Subsection (c) of section 2032A
24 (relating to alternative valuation method) is amended by
25 adding at the end the following new paragraph:

1 “(8) QUALIFIED CONSERVATION CONTRIBUTION
2 IS NOT A DISPOSITION.—A qualified conservation
3 contribution (as defined in section 170(h)) by gift or
4 otherwise shall not be deemed a disposition under
5 subsection (c)(1)(A).”

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to estates of decedents dying after
8 December 31, 1995.

9 **SEC. 12304. EXPANSION OF EXCEPTION FROM GENERA-**
10 **TION-SKIPPING TRANSFER TAX FOR TRANS-**
11 **FERS TO INDIVIDUALS WITH DECEASED PAR-**
12 **ENTS.**

13 (a) IN GENERAL.—Section 2651 (relating to genera-
14 tion assignment) is amended by redesignating subsection
15 (e) as subsection (f), and by inserting after subsection (d)
16 the following new subsection:

17 “(e) SPECIAL RULE FOR PERSONS WITH A DE-
18 CEASED PARENT.—

19 “(1) IN GENERAL.—For purposes of determin-
20 ing whether any transfer is a generation-skipping
21 transfer, if—

22 “(A) an individual is a descendant of a
23 parent of the transferor (or the transferor’s
24 spouse or former spouse), and

1 “(B) such individual’s parent who is a lin-
2 eal descendant of the parent of the transferor
3 (or the transferor’s spouse or former spouse) is
4 dead at the time the transfer from which such
5 interest is established or derived is subject to a
6 tax imposed by chapter 11 or 12 upon the
7 transferor (and if there shall be more than 1
8 such time, then at the earliest such time),
9 such individual shall be treated as if such individual
10 were a member of the generation which is 1 genera-
11 tion below the lower of the transferor’s generation or
12 the generation assignment of the youngest living an-
13 cestor of such individual who is also a descendant of
14 the parent of the transferor (or the transferor’s
15 spouse or former spouse), and the generation assign-
16 ment of any descendant of such individual shall be
17 adjusted accordingly.

18 “(2) LIMITED APPLICATION OF SUBSECTION TO
19 COLLATERAL HEIRS.—This subsection shall not
20 apply with respect to a transfer to any individual
21 who is not a lineal descendant of the transferor (or
22 the transferor’s spouse or former spouse) if, at the
23 time of the transfer, such transferor has any living
24 lineal descendant.”

25 (b) CONFORMING AMENDMENTS.—

1 (1) Section 2612(c) (defining direct skip) is
2 amended by striking paragraph (2) and by redesignig-
3 nating paragraph (3) as paragraph (2).

4 (2) Section 2612(c)(2) (as so redesignated) is
5 amended by striking “section 2651(e)(2)” and in-
6 serting “section 2651(f)(2)”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to terminations, distributions, and
9 transfers occurring after December 31, 1994.

10 **SEC. 12305. EXTENSION OF TREATMENT OF CERTAIN RENTS**

11 **UNDER SECTION 2032A TO LINEAL DESCEND-**
12 **ANTS.**

13 (a) GENERAL RULE.—Paragraph (7) of section
14 2032A(c) (relating to special rules for tax treatment of
15 dispositions and failures to use for qualified use) is
16 amended by adding at the end the following new subpara-
17 graph:

18 “(E) CERTAIN RENTS TREATED AS QUALI-
19 FIED USE.—For purposes of this subsection, a
20 surviving spouse or lineal descendant of the de-
21 cedent shall not be treated as failing to use
22 qualified real property in a qualified use solely
23 because such spouse or descendant rents such
24 property to a member of the family of such
25 spouse or descendant on a net cash basis. For

1 purposes of the preceding sentence, a legally
 2 adopted child of an individual shall be treated
 3 as the child of such individual by blood.”

4 (b) CONFORMING AMENDMENT.—Section
 5 2032A(b)(5)(A) is amended by striking out the last sen-
 6 tence.

7 (c) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply with respect to leases entered into
 9 after December 31, 1995.

10 **Subtitle E—Extension of Expiring** 11 **Provisions**

12 **CHAPTER 1—EXTENSIONS THROUGH** 13 **FEBRUARY 28, 1997**

14 **SEC. 12401. WORK OPPORTUNITY TAX CREDIT.**

15 (a) AMOUNT OF CREDIT.—Subsection (a) of section
 16 51 (relating to amount of credit) is amended by striking
 17 “40 percent” and inserting “35 percent”.

18 (b) MEMBERS OF TARGETED GROUPS.—Subsection
 19 (d) of section 51 is amended to read as follows:

20 “(d) MEMBERS OF TARGETED GROUPS.—For pur-
 21 poses of this subpart—

22 “(1) IN GENERAL.—An individual is a member
 23 of a targeted group if such individual is—

24 “(A) a qualified IV–A recipient,

25 “(B) a qualified veteran,

1 “(C) a qualified ex-felon,

2 “(D) a high-risk youth,

3 “(E) a vocational rehabilitation referral, or

4 “(F) a qualified summer youth employee.

5 “(2) QUALIFIED IV–A RECIPIENT.—

6 “(A) IN GENERAL.—The term ‘qualified
7 IV–A recipient’ means any individual who is
8 certified by the designated local agency as being
9 a member of a family receiving assistance under
10 a IV–A program for at least a 9-month period
11 ending during the 9-month period ending on the
12 hiring date.

13 “(B) IV–A PROGRAM.—For purposes of
14 this paragraph, the term ‘IV–A program’ means
15 any program providing assistance under a State
16 plan approved under part A of title IV of the
17 Social Security Act (relating to assistance for
18 needy families with minor children) and any
19 successor of such program.

20 “(3) QUALIFIED VETERAN.—

21 “(A) IN GENERAL.—The term ‘qualified
22 veteran’ means any veteran who is certified by
23 the designated local agency as being—

24 “(i) a member of a family receiving
25 assistance under a IV–A program (as de-

1 fined in paragraph (2)(B)) for at least a 9-
2 month period ending during the 12-month
3 period ending on the hiring date, or

4 “(ii) a member of a family receiving
5 assistance under a food stamp program
6 under the Food Stamp Act of 1977 for at
7 least a 3-month period ending during the
8 12-month period ending on the hiring date.

9 “(B) VETERAN.—For purposes of subpara-
10 graph (A), the term ‘veteran’ means any indi-
11 vidual who is certified by the designated local
12 agency as—

13 “(i)(I) having served on active duty
14 (other than active duty for training) in the
15 Armed Forces of the United States for a
16 period of more than 180 days, or

17 “(II) having been discharged or re-
18 leased from active duty in the Armed
19 Forces of the United States for a service-
20 connected disability, and

21 “(ii) not having any day during the
22 60-day period ending on the hiring date
23 which was a day of extended active duty in
24 the Armed Forces of the United States.

1 For purposes of clause (ii), the term ‘extended
2 active duty’ means a period of more than 90
3 days during which the individual was on active
4 duty (other than active duty for training).

5 “(4) QUALIFIED EX-FELON.—The term ‘quali-
6 fied ex-felon’ means any individual who is certified
7 by the designated local agency—

8 “(A) as having been convicted of a felony
9 under any statute of the United States or any
10 State,

11 “(B) as having a hiring date which is not
12 more than 1 year after the last date on which
13 such individual was so convicted or was released
14 from prison, and

15 “(C) as being a member of a family which
16 had an income during the 6 months imme-
17 diately preceding the earlier of the month in
18 which such income determination occurs or the
19 month in which the hiring date occurs, which,
20 on an annual basis, would be 70 percent or less
21 of the Bureau of Labor Statistics lower living
22 standard.

23 Any determination under subparagraph (C) shall be
24 valid for the 45-day period beginning on the date
25 such determination is made.

1 “(5) HIGH-RISK YOUTH.—

2 “(A) IN GENERAL.—The term ‘high-risk
3 youth’ means any individual who is certified by
4 the designated local agency—

5 “(i) as having attained age 18 but not
6 age 25 on the hiring date, and

7 “(ii) as having his principal place of
8 abode within an empowerment zone or en-
9 terprise community.

10 “(B) YOUTH MUST CONTINUE TO RESIDE
11 IN ZONE.—In the case of a high-risk youth, the
12 term ‘qualified wages’ shall not include wages
13 paid or incurred for services performed while
14 such youth’s principal place of abode is outside
15 an empowerment zone or enterprise community.

16 “(6) VOCATIONAL REHABILITATION REFER-
17 RAL.—The term ‘vocational rehabilitation referral’
18 means any individual who is certified by the des-
19 ignated local agency as—

20 “(A) having a physical or mental disability
21 which, for such individual, constitutes or results
22 in a substantial handicap to employment, and

23 “(B) having been referred to the employer
24 upon completion of (or while receiving) rehabili-
25 tative services pursuant to—

1 “(i) an individualized written rehabili-
2 tation plan under a State plan for voca-
3 tional rehabilitation services approved
4 under the Rehabilitation Act of 1973, or

5 “(ii) a program of vocational rehabili-
6 tation carried out under chapter 31 of title
7 38, United States Code.

8 “(7) QUALIFIED SUMMER YOUTH EMPLOYEE.—

9 “(A) IN GENERAL.—The term ‘qualified
10 summer youth employee’ means any individ-
11 ual—

12 “(i) who performs services for the em-
13 ployer between May 1 and September 15,

14 “(ii) who is certified by the designated
15 local agency as having attained age 16 but
16 not 18 on the hiring date (or if later, on
17 May 1 of the calendar year involved),

18 “(iii) who has not been an employee
19 of the employer during any period prior to
20 the 90-day period described in subpara-
21 graph (B)(i), and

22 “(iv) who is certified by the des-
23 ignated local agency as having his principal
24 place of abode within an empowerment
25 zone or enterprise community.

1 “(B) SPECIAL RULES FOR DETERMINING
2 AMOUNT OF CREDIT.—For purposes of applying
3 this subpart to wages paid or incurred to any
4 qualified summer youth employee—

5 “(i) subsection (b)(2) shall be applied
6 by substituting ‘any 90-day period between
7 May 1 and September 15’ for ‘the 1-year
8 period beginning with the day the individ-
9 ual begins work for the employer’, and

10 “(ii) subsection (b)(3) shall be applied
11 by substituting ‘\$3,000’ for ‘\$6,000’.

12 The preceding sentence shall not apply to an in-
13 dividual who, with respect to the same em-
14 ployer, is certified as a member of another tar-
15 geted group after such individual has been a
16 qualified summer youth employee.

17 “(C) YOUTH MUST CONTINUE TO RESIDE
18 IN ZONE.—Paragraph (4)(B) shall apply for
19 purposes of this paragraph.

20 “(8) HIRING DATE.—The term ‘hiring date’
21 means the day the individual is hired by the em-
22 ployer.

23 “(9) DESIGNATED LOCAL AGENCY.—The term
24 ‘designated local agency’ means a State employment
25 security agency established in accordance with the

1 Act of June 6, 1933, as amended (29 U.S.C. 49–
2 49n).

3 “(10) SPECIAL RULES FOR CERTIFICATIONS.—

4 “(A) IN GENERAL.—An individual shall
5 not be treated as a member of a targeted group
6 unless—

7 “(i) on or before the day on which
8 such individual begins work for the em-
9 ployer, the employer has received a certifi-
10 cation from a designated local agency that
11 such individual is a member of a targeted
12 group, or

13 “(ii)(I) on or before the day the indi-
14 vidual is offered employment with the em-
15 ployer, a pre-screening notice is completed
16 by the employer with respect to such indi-
17 vidual, and

18 “(II) not later than the 14th day after
19 the individual begins work for the em-
20 ployer, the employer submits such notice,
21 signed by the employer and the individual
22 under penalties of perjury, to the des-
23 ignated local agency as part of a written
24 request for such a certification from such
25 agency.

1 For purposes of this paragraph, the term ‘pre-
2 screening notice’ means a document (in such
3 form as the Secretary shall prescribe) which
4 contains information provided by the individual
5 on the basis of which the employer believes that
6 the individual is a member of a targeted group.

7 “(B) INCORRECT CERTIFICATIONS.—If—

8 “(i) an individual has been certified
9 by a designated local agency as a member
10 of a targeted group, and

11 “(ii) such certification is incorrect be-
12 cause it was based on false information
13 provided by such individual,

14 the certification shall be revoked and wages
15 paid by the employer after the date on which
16 notice of revocation is received by the employer
17 shall not be treated as qualified wages.

18 “(C) EXPLANATION OF DENIAL OF RE-
19 QUEST.—If a designated local agency denies a
20 request for certification of membership in a tar-
21 geted group, such agency shall provide to the
22 person making such request a written expla-
23 nation of the reasons for such denial.”

1 (c) MINIMUM EMPLOYMENT PERIOD.—Paragraph
2 (3) of section 51(i) (relating to certain individuals ineli-
3 gible) is amended to read as follows:

4 “(3) INDIVIDUALS NOT MEETING MINIMUM EM-
5 PLOYMENT PERIOD.—No wages shall be taken into
6 account under subsection (a) with respect to any in-
7 dividual unless such individual either—

8 “(A) is employed by the employer at least
9 180 days (20 days in the case of a qualified
10 summer youth employee), or

11 “(B) has completed at least 400 hours
12 (120 hours in the case of a qualified summer
13 youth employee) of services performed for the
14 employer.”

15 (d) TERMINATION.—Paragraph (4) of section 51(c)
16 (relating to wages defined) is amended to read as follows:

17 “(4) TERMINATION.—The term ‘wages’ shall
18 not include any amount paid or incurred to an indi-
19 vidual who begins work for the employer—

20 “(A) after December 31, 1994, and before
21 January 1, 1996, or

22 “(B) after February 28, 1997.”

23 (e) REDESIGNATION OF CREDIT.—

1 (1) Sections 38(b)(2) and 51(a) are each
2 amended by striking “targeted jobs credit” and in-
3 sserting “work opportunity credit”.

4 (2) The subpart heading for subpart F of part
5 IV of subchapter A of chapter 1 is amended by
6 striking “**Targeted Jobs Credit**” and inserting
7 “**Work Opportunity Credit**”.

8 (3) The table of subparts for such part IV is
9 amended by striking “targeted jobs credit” and in-
10 sserting “work opportunity credit”.

11 (f) BUSINESS AWARENESS PROGRAM.—The Sec-
12 retary of Labor shall implement a program to encourage
13 small businesses to use the services of local agencies to
14 identify individuals who qualify to be certified as members
15 of targeted groups (as defined in section 51 of the Internal
16 Revenue Code of 1986, as amended by this section). Such
17 Secretary, and the heads of other Federal agencies, shall
18 make every effort to encourage small businesses to benefit
19 from the credit allowable under such section by simplifying
20 procedures to the extent possible.

21 (g) TECHNICAL AMENDMENTS.—

22 (1) Paragraph (1) of section 51(c) is amended
23 by striking “, subsection (d)(8)(D),”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 subsections (a) and (b) shall apply to taxable years begin-
3 ning after December 31, 1994.

4 **SEC. 12403. RESEARCH CREDIT.**

5 (a) IN GENERAL.—Subsection (h) of section 41 (re-
6 lating to credit for research activities) is amended—

7 (1) by striking “June 30, 1995” each place it
8 appears and inserting “February 28, 1997”, and

9 (2) by striking “July 1, 1995” each place it ap-
10 pears and inserting “March 1, 1997”.

11 (b) BASE AMOUNT FOR START-UP COMPANIES.—
12 Clause (i) of section 41(c)(3)(B) (relating to start-up com-
13 panies) is amended to read as follows:

14 “(i) TAXPAYERS TO WHICH SUBPARA-
15 GRAPH APPLIES.—The fixed-base percent-
16 age shall be determined under this sub-
17 paragraph if—

18 “(I) the first taxable year in
19 which a taxpayer had both gross re-
20 cepts and qualified research expenses
21 begins after December 31, 1983, or

22 “(II) there are fewer than 3 tax-
23 able years beginning after December
24 31, 1983, and before January 1,
25 1989, in which the taxpayer had both

1 gross receipts and qualified research
2 expenses.”

3 (c) CONFORMING AMENDMENT.—Subparagraph (D)
4 of section 28(b)(1) is amended by striking “June 30,
5 1995” and inserting “February 28, 1997”.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years ending after June
8 30, 1995.

9 **SEC. 12404. EMPLOYER-PROVIDED GROUP LEGAL SERV-**
10 **ICES.**

11 (a) IN GENERAL.—Subsection (e) of section 120 (re-
12 lating to amounts received under qualified group legal
13 services plans) is amended to read as follows:

14 “(e) APPLICATION OF SECTIONS.—This section and
15 section 501(c)(20) shall not apply to any taxable year be-
16 ginning before January 1, 1996, or after February 28,
17 1997.”

18 (b) CONFORMING AMENDMENTS.—Subsection (a) of
19 section 120 is amended by inserting “(\$12 in taxable years
20 beginning in 1997)” after “\$70”.

21 (c) SPECIAL RULE.—In the case of any taxable year
22 beginning in 1997, only amounts paid before March 1,
23 1997, by the employer for coverage for the employee, the
24 employee’s spouse, or the employee’s dependents, under a
25 qualified group legal services plan for periods before

1 March 1, 1997, shall be taken into account in determining
2 the amount excluded under section 120 of the Internal
3 Revenue Code of 1986 with respect to such employee for
4 such taxable year.

5 (d) EFFECTIVE DATE.—The amendments made by
6 subsections (a) and (b) shall apply to taxable years begin-
7 ning after December 31, 1995.

8 **SEC. 12405. ORPHAN DRUG TAX CREDIT.**

9 (a) RECATEGORIZED AS A BUSINESS CREDIT.—

10 (1) IN GENERAL.—Section 28 (relating to clinical
11 testing expenses for certain drugs for rare dis-
12 eases or conditions) is transferred to subpart D of
13 part IV of subchapter A of chapter 1, inserted after
14 section 45B, and redesignated as section 45C.

15 (2) CONFORMING AMENDMENT.—Subsection (b)
16 of section 38 (relating to general business credit) is
17 amended by striking “plus” at the end of paragraph
18 (10), by striking the period at the end of paragraph
19 (11) and inserting “, plus”, and by adding at the
20 end the following new paragraph:

21 “(12) the orphan drug credit determined under
22 section 45C(a).”

23 (3) CLERICAL AMENDMENTS.—

1 (A) The table of sections for subpart B of
2 such part IV is amended by striking the item
3 relating to section 28.

4 (B) The table of sections for subpart D of
5 such part IV is amended by adding at the end
6 the following new item:

“Sec. 45C. Clinical testing expenses for certain drugs for rare diseases or conditions.”

7 (b) CREDIT TERMINATION.—Subsection (e) of sec-
8 tion 45C, as redesignated by subsection (a)(1), is amended
9 by striking “December 31, 1994” and inserting “February
10 28, 1997”.

11 (c) NO PRE-1995 CARRYBACKS.—Subsection (d) of
12 section 39 (relating to carryback and carryforward of un-
13 used credits) is amended by adding at the end the follow-
14 ing new paragraph:

15 “(7) NO CARRYBACK OF SECTION 45C CREDIT
16 BEFORE 1995.—No portion of the unused business
17 credit for any taxable year which is attributable to
18 the orphan drug credit determined under section
19 45C may be carried back to a taxable year beginning
20 before January 1, 1995.”

21 (d) ADDITIONAL CONFORMING AMENDMENTS.—

22 (1) Section 45C(a), as redesignated by sub-
23 section (a)(1), is amended by striking “There shall
24 be allowed as a credit against the tax imposed by

1 this chapter for the taxable year” and inserting
2 “For purposes of section 38, the credit determined
3 under this section for the taxable year is”.

4 (2) Section 45C(d), as so redesignated, is
5 amended by striking paragraph (2) and by redesignig-
6 nating paragraphs (3), (4), and (5) as paragraphs
7 (2), (3), and (4).

8 (3) Section 29(b)(6)(A) is amended by striking
9 “sections 27 and 28” and inserting “section 27”.

10 (4) Section 30(b)(3)(A) is amended by striking
11 “sections 27, 28, and 29” and inserting “sections 27
12 and 29”.

13 (5) Section 53(d)(1)(B) is amended—

14 (A) by striking “or not allowed under sec-
15 tion 28 solely by reason of the application of
16 section 28(d)(2)(B),” in clause (iii), and

17 (B) by striking “or not allowed under sec-
18 tion 28 solely by reason of the application of
19 section 28(d)(2)(B)” in clause (iv)(II).

20 (6) Section 55(c)(2) is amended by striking
21 “28(d)(2),”.

22 (7) Section 280C(b) is amended—

23 (A) by striking “section 28(b)” in para-
24 graph (1) and inserting “section 45C(b),”

1 (B) by striking “section 28” in paragraphs
2 (1) and (2)(A) and inserting “section 45C(b)”,
3 and

4 (C) by striking “subsection (d)(2) thereof”
5 in paragraphs (1) and (2)(A) and inserting
6 “section 38(c)”.

7 (e) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years ending after De-
9 cember 31, 1994.

10 **SEC. 12406. CONTRIBUTIONS OF STOCK TO PRIVATE FOUN-**
11 **DATIONS.**

12 (a) IN GENERAL.—Subparagraph (D) of section
13 170(e)(5) (relating to special rule for contributions of
14 stock for which market quotations are readily available)
15 is amended by striking “December 31, 1994” and insert-
16 ing “February 28, 1997”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to contributions made after De-
19 cember 31, 1994.

20 **SEC. 12407. DELAY OF SCHEDULED INCREASE IN TAX ON**
21 **FUEL USED IN COMMERCIAL AVIATION.**

22 (a) IN GENERAL.—Sections 4092(b)(2),
23 6421(f)(2)(B), and 6427(l)(4)(B) are each amended by
24 striking “September 30, 1995” and inserting “February
25 28, 1997”.

1 (b) CONFORMING AMENDMENT.—Section 13245 of
2 the Omnibus Budget Reconciliation Act of 1993 is hereby
3 repealed.

4 (c) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by
6 this section shall take effect after September 30,
7 1995.

8 (2) CROSS REFERENCE.—

**For refund of tax paid on commercial aviation
fuel before the date of the enactment of this Act, see
section 6427(I) of the Internal Revenue Code of 1986.**

9 (d) FLOOR STOCKS TAX.—

10 (1) IMPOSITION OF TAX.—In the case of com-
11 mercial aviation fuel which is held by any person on
12 March 1, 1997, there is hereby imposed a floor
13 stocks tax equal to 4.3 cents per gallon.

14 (2) LIABILITY FOR TAX AND METHOD OF PAY-
15 MENT.—

16 (A) LIABILITY FOR TAX.—A person hold-
17 ing aviation fuel on March 1, 1997, to which
18 the tax imposed by paragraph (1) applies shall
19 be liable for such tax.

20 (B) METHOD OF PAYMENT.—The tax im-
21 posed by paragraph (1) shall be paid in such
22 manner as the Secretary shall prescribe.

1 (C) TIME FOR PAYMENT.—The tax im-
2 posed by paragraph (1) shall be paid on or be-
3 fore September 30, 1997.

4 (3) DEFINITIONS.—For purposes of this sub-
5 section—

6 (A) HELD BY A PERSON.—Aviation fuel
7 shall be considered as “held by a person” if
8 title thereto has passed to such person (whether
9 or not delivery to the person has been made).

10 (B) COMMERCIAL AVIATION FUEL.—The
11 term “commercial aviation fuel” means aviation
12 fuel (as defined in section 4093 of such Code)
13 which is held on March 1, 1997, for sale or use
14 in commercial aviation (as defined in section
15 4092(b) of such Code).

16 (C) SECRETARY.—The term “Secretary”
17 means the Secretary of the Treasury or the
18 Secretary’s delegate.

19 (4) EXCEPTION FOR EXEMPT USES.—The tax
20 imposed by paragraph (1) shall not apply to aviation
21 fuel held by any person exclusively for any use for
22 which a credit or refund of the entire tax imposed
23 by section 4091 of such Code (other than the rate
24 imposed by section 4091(b)(2) of such Code) is al-
25 lowable for aviation fuel so used.

1 (5) EXCEPTION FOR CERTAIN AMOUNTS OF
2 FUEL.—

3 (A) IN GENERAL.—No tax shall be im-
4 posed by paragraph (1) on aviation fuel held on
5 March 1, 1997, by any person if the aggregate
6 amount of commercial aviation fuel held by
7 such person on such date does not exceed 2,000
8 gallons. The preceding sentence shall apply only
9 if such person submits to the Secretary (at the
10 time and in the manner required by the Sec-
11 retary) such information as the Secretary shall
12 require for purposes of this paragraph.

13 (B) EXEMPT FUEL.—For purposes of sub-
14 paragraph (A), there shall not be taken into ac-
15 count fuel held by any person which is exempt
16 from the tax imposed by paragraph (1) by rea-
17 son of paragraph (4).

18 (C) CONTROLLED GROUPS.—For purposes
19 of this paragraph—

20 (i) CORPORATIONS.—

21 (I) IN GENERAL.—All persons
22 treated as a controlled group shall be
23 treated as 1 person.

24 (II) CONTROLLED GROUP.—The
25 term “controlled group” has the

1 meaning given to such term by sub-
2 section (a) of section 1563 of such
3 Code; except that for such purposes
4 the phrase “more than 50 percent”
5 shall be substituted for the phrase “at
6 least 80 percent” each place it ap-
7 pears in such subsection.

8 (ii) NONINCORPORATED PERSONS
9 UNDER COMMON CONTROL.—Under regula-
10 tions prescribed by the Secretary, prin-
11 ciples similar to the principles of clause (i)
12 shall apply to a group of persons under
13 common control where 1 or more of such
14 persons is not a corporation.

15 (6) OTHER LAWS APPLICABLE.—All provisions
16 of law, including penalties, applicable with respect to
17 the taxes imposed by section 4091 of such Code
18 shall, insofar as applicable and not inconsistent with
19 the provisions of this subsection, apply with respect
20 to the floor stock taxes imposed by paragraph (1) to
21 the same extent as if such taxes were imposed by
22 such section 4091.

1 **CHAPTER 2—EXTENSIONS OF SUPERFUND**
2 **AND OIL SPILL LIABILITY TAXES**

3 **SEC. 12411. EXTENSION OF HAZARDOUS SUBSTANCE**
4 **SUPERFUND.**

5 (a) EXTENSION OF TAXES.—

6 (1) ENVIRONMENTAL TAX.—Section 59A(e) is
7 amended to read as follows:

8 “(e) APPLICATION OF TAX.—The tax imposed by this
9 section shall apply to taxable years beginning after De-
10 cember 31, 1986, and before January 1, 1998.”

11 (2) EXCISE TAXES.—Section 4611(e) is amend-
12 ed to read as follows:

13 “(e) APPLICATION OF HAZARDOUS SUBSTANCE
14 SUPERFUND FINANCING RATE.—The Hazardous Sub-
15 stance Superfund financing rate under this section shall
16 apply after December 31, 1986, and before October 1,
17 2002.”

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect on the date of the enactment
20 of this Act.

21 **SEC. 12412. EXTENSION OF OIL SPILL LIABILITY TAX.**

22 (a) IN GENERAL.—Section 4611(f)(1) (relating to
23 application of oil spill liability trust fund financing rate)
24 is amended by striking “after December 31, 1989, and

1 before January 1, 1995” and inserting “after December
2 31, 1995, and before October 1, 2002”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall take effect on January 1, 1996.

5 **CHAPTER 3—EXTENSIONS RELATING TO**
6 **FUEL TAXES**

7 **SEC. 12421. ETHANOL BLENDER REFUNDS.**

8 (a) IN GENERAL.—Paragraph (4) of section 6427(f)
9 (relating to gasoline, diesel fuel, and aviation fuel used to
10 produce certain alcohol fuels) is amended by striking
11 “1995” and inserting “1999”.

12 (b) SPECIAL RULE.—With respect to refund claims
13 which could have been filed under section 6427(f) of the
14 Internal Revenue Code of 1986 during the period begin-
15 ning on October 8, 1995, and ending on the date of the
16 enactment of this Act, but for the expiration of such sec-
17 tion after September 30, 1995, interest shall accrue on
18 such claims from the date which is the later of—

19 (1) November 1, 1995, or

20 (2) 20 days after the claim could have been
21 filed under such section as in effect on September
22 30, 1995.

23 (c) EFFECTIVE DATE.—The amendment made by
24 subsection (a) shall take effect on the date of the enact-
25 ment of this Act.

1 **SEC. 12422. EXTENSION OF BINDING CONTRACT DATE FOR**
2 **BIOMASS AND COAL FACILITIES.**

3 (a) IN GENERAL.—Subparagraph (A) of section
4 29(g)(1) (relating to extension of certain facilities) is
5 amended by striking “January 1, 1997” and inserting
6 “January 1, 1998” and by striking “January 1, 1996”
7 and inserting “January 1, 1997”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall take effect on the date of the enactment
10 of this Act.

11 **CHAPTER 4—DIESEL DYEING PROVISIONS**

12 **SEC. 12431. EXEMPTION FROM DIESEL FUEL DYEING RE-**
13 **QUIREMENTS WITH RESPECT TO CERTAIN**
14 **STATES.**

15 (a) IN GENERAL.—Section 4082 (relating to exemp-
16 tions for diesel fuel) is amended by redesignating sub-
17 sections (c) and (d) as subsections (d) and (e), respec-
18 tively, and by inserting after subsection (b) the following
19 new subsection:

20 “(c) EXCEPTION TO DYEING REQUIREMENTS.—
21 Paragraph (2) of subsection (a) shall not apply with re-
22 spect to any diesel fuel—

23 “(1) removed, entered, or sold before March 1,
24 1997, in a State for ultimate sale or use in an area
25 of such State which is exempted from the fuel dye-
26 ing requirements under subsection (i) of section 211

1 of the Clean Air Act (as in effect on the date of the
2 enactment of this subsection) by the Administrator
3 of the Environmental Protection Agency under para-
4 graph (4) of such subsection, and

5 “(2) the use of which is certified pursuant to
6 regulations issued by the Secretary.”

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect as if included in the amend-
9 ments made by section 13242(b) of the Omnibus Budget
10 Reconciliation Act of 1993.

11 **SEC. 12432. MORATORIUM FOR EXCISE TAX ON DIESEL**
12 **FUEL SOLD FOR USE OR USED IN DIESEL-**
13 **POWERED MOTORBOATS.**

14 (a) IN GENERAL.—Subparagraph (D) of section
15 4041(a)(1) (relating to the imposition of tax on diesel fuel
16 and special motor fuels) is amended to read as follows:

17 “(D) DIESEL FUEL USED IN MOTOR-
18 BOATS.—

19 “(i) MORATORIUM.—No tax shall be
20 imposed by subsection (a) or (d)(1) on die-
21 sel fuel sold for use or used in a diesel-
22 powered motorboat during the period after
23 December 31, 1995, and before March 1,
24 1997.

1 “(ii) SPECIAL TERMINATION DATE.—

2 In the case of any sale for use, or use, of
3 fuel in a diesel-powered motorboat—

4 “(I) effective during the period
5 after September 30, 1999, and before
6 January 1, 2000, the rate of tax im-
7 posed by this paragraph is 24.3 cents
8 per gallon, and

9 “(II) the termination of the tax
10 under subsection (d) shall not occur
11 before January 1, 2000.”

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect after December 31, 1995.

14 **CHAPTER 5—Treatment of Individuals Who**
15 **Expatriate**

16 **SEC. 12441. REVISION OF TAX RULES ON EXPATRIATION.**

17 (a) IN GENERAL.—Subpart A of part II of sub-
18 chapter N of chapter 1 is amended by inserting after sec-
19 tion 877 the following new section:

20 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

21 “(a) GENERAL RULES.—For purposes of this sub-
22 title—

23 “(1) MARK TO MARKET.—Except as provided in
24 subsection (f), all property of a covered expatriate to

1 which this section applies shall be treated as sold
2 on the expatriation date for its fair market value.

3 “(2) RECOGNITION OF GAIN OR LOSS.—In the
4 case of any sale under paragraph (1)—

5 “(A) notwithstanding any other provision
6 of this title, any gain arising from such sale
7 shall be taken into account for the taxable year
8 of the sale unless such gain is excluded from
9 gross income under part III of subchapter B,
10 and

11 “(B) any loss arising from such sale shall
12 be taken into account for the taxable year of
13 the sale to the extent otherwise provided by this
14 title, except that section 1091 shall not apply
15 (and section 1092 shall apply) to any such loss.

16 “(3) EXCLUSION FOR CERTAIN GAIN.—The
17 amount which would (but for this paragraph) be in-
18 cludible in the gross income of any individual by rea-
19 son of this section shall be reduced (but not below
20 zero) by \$600,000. For purposes of this paragraph,
21 allocable expatriation gain taken into account under
22 subsection (f)(2) shall be treated in the same man-
23 ner as an amount required to be includible in gross
24 income.

1 “(4) ELECTION TO CONTINUE TO BE TAXED AS
2 UNITED STATES CITIZEN.—

3 “(A) IN GENERAL.—If an expatriate elects
4 the application of this paragraph—

5 “(i) this section (other than this para-
6 graph) shall not apply to the expatriate,
7 but

8 “(ii) the expatriate shall be subject to
9 tax under this title, with respect to prop-
10 erty to which this section would apply but
11 for such election, in the same manner as if
12 the individual were a United States citizen.

13 “(B) LIMITATION ON AMOUNT OF ESTATE,
14 GIFT, AND GENERATION-SKIPPING TRANSFER
15 TAXES.—The aggregate amount of taxes im-
16 posed under subtitle B with respect to any
17 transfer of property by reason of an election
18 under subparagraph (A) shall not exceed the
19 amount of income tax which would be due if the
20 property were sold for its fair market value im-
21 mediately before the time of the transfer or
22 death (taking into account the rules of para-
23 graph (2)).

1 “(C) REQUIREMENTS.—Subparagraph (A)
2 shall not apply to an individual unless the indi-
3 vidual—

4 “(i) provides security for payment of
5 tax in such form and manner, and in such
6 amount, as the Secretary may require,

7 “(ii) consents to the waiver of any
8 right of the individual under any treaty of
9 the United States which would preclude as-
10 sessment or collection of any tax which
11 may be imposed by reason of this para-
12 graph, and

13 “(iii) complies with such other re-
14 quirements as the Secretary may prescribe.

15 “(D) ELECTION.—An election under sub-
16 paragraph (A) shall apply to all property to
17 which this section would apply but for the elec-
18 tion and, once made, shall be irrevocable. Such
19 election shall also apply to property the basis of
20 which is determined in whole or in part by ref-
21 erence to the property with respect to which the
22 election was made.

23 “(b) ELECTION TO DEFER TAX.—

1 “(1) IN GENERAL.—If the taxpayer elects the
2 application of this subsection with respect to any
3 property—

4 “(A) no amount shall be required to be in-
5 cluded in gross income under subsection (a)(1)
6 with respect to the gain from such property for
7 the taxable year of the sale, but

8 “(B) the taxpayer’s tax for the taxable
9 year in which such property is disposed of shall
10 be increased by the deferred tax amount with
11 respect to the property.

12 Except to the extent provided in regulations, sub-
13 paragraph (B) shall apply to a disposition whether
14 or not gain or loss is recognized in whole or in part
15 on the disposition.

16 “(2) DEFERRED TAX AMOUNT.—

17 “(A) IN GENERAL.—For purposes of para-
18 graph (1), the term ‘deferred tax amount’
19 means, with respect to any property, an amount
20 equal to the sum of—

21 “(i) the difference between the
22 amount of tax paid for the taxable year de-
23 scribed in paragraph (1)(A) and the
24 amount which would have been paid for
25 such taxable year if the election under

1 paragraph (1) had not applied to such
2 property, plus

3 “(ii) an amount of interest on the
4 amount described in clause (i) determined
5 for the period—

6 “(I) beginning on the 91st day
7 after the expatriation date, and

8 “(II) ending on the due date for
9 the taxable year described in para-
10 graph (1)(B),

11 by using the rates and method applicable
12 under section 6621 for underpayments of
13 tax for such period.

14 For purposes of clause (ii), the due date is the
15 date prescribed by law (determined without re-
16 gard to extension) for filing the return of the
17 tax imposed by this chapter for the taxable
18 year.

19 “(B) ALLOCATION OF LOSSES.—For pur-
20 poses of subparagraph (A), any losses described
21 in subsection (a)(2)(B) shall be allocated rat-
22 ably among the gains described in subsection
23 (a)(2)(A).

24 “(3) SECURITY.—

1 “(A) IN GENERAL.—No election may be
2 made under paragraph (1) with respect to any
3 property unless adequate security is provided
4 with respect to such property.

5 “(B) ADEQUATE SECURITY.—For purposes
6 of subparagraph (A), security with respect to
7 any property shall be treated as adequate secu-
8 rity if—

9 “(i) it is a bond in an amount equal
10 to the deferred tax amount under para-
11 graph (2)(A) for the property, or

12 “(ii) the taxpayer otherwise estab-
13 lishes to the satisfaction of the Secretary
14 that the security is adequate.

15 “(4) WAIVER OF CERTAIN RIGHTS.—No elec-
16 tion may be made under paragraph (1) unless the
17 taxpayer consents to the waiver of any right under
18 any treaty of the United States which would pre-
19 clude assessment or collection of any tax imposed by
20 reason of this section.

21 “(5) DISPOSITIONS.—For purposes of this sub-
22 section, a taxpayer making an election under this
23 subsection with respect to any property shall be
24 treated as having disposed of such property—

1 “(A) immediately before death if such
2 property is held at such time, and

3 “(B) at any time the security provided
4 with respect to the property fails to meet the
5 requirements of paragraph (3) and the taxpayer
6 does not correct such failure within the time
7 specified by the Secretary.

8 “(6) ELECTIONS.—An election under paragraph
9 (1) shall only apply to property described in the elec-
10 tion and, once made, is irrevocable. An election may
11 be under paragraph (1) with respect to an interest
12 in a trust with respect to which gain is required to
13 be recognized under subsection (f)(1).

14 “(c) COVERED EXPATRIATE.—For purposes of this
15 section—

16 “(1) IN GENERAL.—The term ‘covered expatri-
17 ate’ means an expatriate—

18 “(A) whose average annual net income tax
19 (as defined in section 38(c)(1)) for the period
20 of 5 taxable years ending before the expatria-
21 tion date is greater than \$100,000, or

22 “(B) whose net worth as of such date is
23 \$500,000 or more.

24 If the expatriation date is after 1996, such
25 \$100,000 and \$500,000 amounts shall be increased

1 by an amount equal to such dollar amount multi-
2 plied by the cost-of-living adjustment determined
3 under section 1(f)(3) for such calendar year by sub-
4 stituting ‘1995’ for ‘1992’ in subparagraph (B)
5 thereof. Any increase under the preceding sentence
6 shall be rounded to the nearest multiple of \$1,000.

7 “(2) EXCEPTIONS.—An individual shall not be
8 treated as a covered expatriate if—

9 “(A) the individual—

10 “(i) became at birth a citizen of the
11 United States and a citizen of another
12 country and, as of the expatriation date,
13 continues to be a citizen of, and is taxed
14 as a resident of, such other country, and

15 “(ii) has been a resident of the United
16 States (as defined in section
17 7701(b)(1)(A)(ii)) for not more than 8 tax-
18 able years during the 15-taxable year pe-
19 riod ending with the taxable year during
20 which the expatriation date occurs, or

21 “(B)(i) the individual’s relinquishment of
22 United States citizenship occurs before such in-
23 dividual attains age 18½, and

24 “(ii) the individual has been a resident of
25 the United States (as so defined) for not more

1 than 5 taxable years before the date of relin-
2 quishment.

3 “(d) PROPERTY TO WHICH SECTION APPLIES.—For
4 purposes of this section—

5 “(1) IN GENERAL.—Except as otherwise pro-
6 vided by the Secretary, this section shall apply to—

7 “(A) any interest in property held by a
8 covered expatriate on the expatriation date the
9 gain from which would be includible in the
10 gross income of the expatriate if such interest
11 had been sold for its fair market value on such
12 date in a transaction in which gain is recog-
13 nized in whole or in part, and

14 “(B) any other interest in a trust to which
15 subsection (f) applies.

16 “(2) EXCEPTIONS.—This section shall not
17 apply to the following property:

18 “(A) UNITED STATES REAL PROPERTY IN-
19 TERESTS.—Any United States real property in-
20 terest (as defined in section 897(c)(1)), other
21 than stock of a United States real property
22 holding corporation which does not, on the ex-
23 patriation date, meet the requirements of sec-
24 tion 897(c)(2).

1 “(B) INTEREST IN CERTAIN RETIREMENT
2 PLANS.—

3 “(i) IN GENERAL.—Any interest in a
4 qualified retirement plan (as defined in
5 section 4974(c)), other than any interest
6 attributable to contributions which are in
7 excess of any limitation or which violate
8 any condition for tax-favored treatment.

9 “(ii) FOREIGN PENSION PLANS.—

10 “(I) IN GENERAL.—Under regu-
11 lations prescribed by the Secretary,
12 interests in foreign pension plans or
13 similar retirement arrangements or
14 programs.

15 “(II) LIMITATION.—The value of
16 property which is treated as not sold
17 by reason of this subparagraph shall
18 not exceed \$500,000.

19 “(e) DEFINITIONS.—For purposes of this section—

20 “(1) EXPATRIATE.—The term ‘expatriate’
21 means—

22 “(A) any United States citizen who relin-
23 quishes his citizenship, or

24 “(B) any long-term resident of the United
25 States who—

1 “(i) ceases to be a lawful permanent
2 resident of the United States (within the
3 meaning of section 7701(b)(6)), or

4 “(ii) commences to be treated as a
5 resident of a foreign country under the
6 provisions of a tax treaty between the
7 United States and the foreign country and
8 who does not waive the benefits of such
9 treaty applicable to residents of the foreign
10 country.

11 “(2) EXPATRIATION DATE.—The term ‘expa-
12 triation date’ means—

13 “(A) the date an individual relinquishes
14 United States citizenship, or

15 “(B) in the case of a long-term resident of
16 the United States, the date of the event de-
17 scribed in clause (i) or (ii) of paragraph (1)(B).

18 “(3) RELINQUISHMENT OF CITIZENSHIP.—A
19 citizen shall be treated as relinquishing his United
20 States citizenship on the earliest of—

21 “(A) the date the individual renounces his
22 United States nationality before a diplomatic or
23 consular officer of the United States pursuant
24 to paragraph (5) of section 349(a) of the Immi-

1 gration and Nationality Act (8 U.S.C.
2 1481(a)(5)),

3 “(B) the date the individual furnishes to
4 the United States Department of State a signed
5 statement of voluntary relinquishment of
6 United States nationality confirming the per-
7 formance of an act of expatriation specified in
8 paragraph (1), (2), (3), or (4) of section 349(a)
9 of the Immigration and Nationality Act (8
10 U.S.C. 1481(a)(1)–(4)),

11 “(C) the date the United States Depart-
12 ment of State issues to the individual a certifi-
13 cate of loss of nationality, or

14 “(D) the date a court of the United States
15 cancels a naturalized citizen’s certificate of nat-
16 uralization.

17 Subparagraph (A) or (B) shall not apply to any indi-
18 vidual unless the renunciation or voluntary relin-
19 quishment is subsequently approved by the issuance
20 to the individual of a certificate of loss of nationality
21 by the United States Department of State.

22 “(4) LONG-TERM RESIDENT.—

23 “(A) IN GENERAL.—The term ‘long-term
24 resident’ means any individual (other than a
25 citizen of the United States) who is a lawful

1 permanent resident of the United States in at
2 least 8 taxable years during the period of 15
3 taxable years ending with the taxable year dur-
4 ing which the expatriation date occurs. For pur-
5 poses of the preceding sentence, an individual
6 shall not be treated as a lawful permanent resi-
7 dent for any taxable year if such individual is
8 treated as a resident of a foreign country for
9 the taxable year under the provisions of a tax
10 treaty between the United States and the for-
11 eign country and does not waive the benefits of
12 such treaty applicable to residents of the for-
13 eign country.

14 “(B) SPECIAL RULE.—For purposes of
15 subparagraph (A), there shall not be taken into
16 account—

17 “(i) any taxable year during which
18 any prior sale is treated under subsection
19 (a)(1) as occurring, or

20 “(ii) any taxable year prior to the tax-
21 able year referred to in clause (i).

22 “(f) SPECIAL RULES APPLICABLE TO BENE-
23 FICIARIES’ INTERESTS IN TRUST.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), if an individual is determined under para-
3 graph (3) to hold an interest in a trust—

4 “(A) the individual shall not be treated as
5 having sold such interest,

6 “(B) such interest shall be treated as a
7 separate share in the trust, and

8 “(C)(i) such separate share shall be treat-
9 ed as a separate trust consisting of the assets
10 allocable to such share,

11 “(ii) the separate trust shall be treated as
12 having sold its assets immediately before the ex-
13 patriation date for their fair market value and
14 as having distributed all of its assets to the in-
15 dividual as of such time, and

16 “(iii) the individual shall be treated as hav-
17 ing recontributed the assets to the separate
18 trust.

19 Subsection (a)(2) shall apply to any income, gain, or
20 loss of the individual arising from a distribution de-
21 scribed in subparagraph (C)(ii).

22 “(2) SPECIAL RULES FOR INTERESTS IN QUALI-
23 FIED TRUSTS.—

1 “(A) IN GENERAL.—If the trust interest
2 described in paragraph (1) is an interest in a
3 qualified trust—

4 “(i) paragraph (1) and subsection (a)
5 shall not apply, and

6 “(ii) in addition to any other tax im-
7 posed by this title, there is hereby imposed
8 on each distribution with respect to such
9 interest a tax in the amount determined
10 under subparagraph (B).

11 “(B) AMOUNT OF TAX.—The amount of
12 tax under subparagraph (A)(ii) shall be equal to
13 the lesser of—

14 “(i) the highest rate of tax imposed by
15 section 1(e) for the taxable year in which
16 the expatriation date occurs, multiplied by
17 the amount of the distribution, or

18 “(ii) the balance in the deferred tax
19 account immediately before the distribution
20 determined without regard to any increases
21 under subparagraph (C)(ii) after the 30th
22 day preceding the distribution.

23 “(C) DEFERRED TAX ACCOUNT.—For pur-
24 poses of subparagraph (B)(ii)—

1 “(i) OPENING BALANCE.—The open-
2 ing balance in a deferred tax account with
3 respect to any trust interest is an amount
4 equal to the tax which would have been im-
5 posed on the allocable expatriation gain
6 with respect to the trust interest if such
7 gain had been included in gross income
8 under subsection (a).

9 “(ii) INCREASE FOR INTEREST.—The
10 balance in the deferred tax account shall
11 be increased by the amount of interest de-
12 termined (on the balance in the account at
13 the time the interest accrues), for periods
14 after the 90th day after the expatriation
15 date, by using the rates and method appli-
16 cable under section 6621 for underpay-
17 ments of tax for such periods.

18 “(iii) DECREASE FOR TAXES PRE-
19 VIOUSLY PAID.—The balance in the tax de-
20 ferred account shall be reduced—

21 “(I) by the amount of taxes im-
22 posed by subparagraph (A) on any
23 distribution to the person holding the
24 trust interest, and

1 “(II) in the case of a person
2 holding a nonvested interest, to the
3 extent provided in regulations, by the
4 amount of taxes imposed by subpara-
5 graph (A) on distributions from the
6 trust with respect to nonvested inter-
7 ests not held by such person.

8 “(D) ALLOCABLE EXPATRIATION GAIN.—
9 For purposes of this paragraph, the allocable
10 expatriation gain with respect to any bene-
11 ficiary’s interest in a trust is the amount of
12 gain which would be allocable to such bene-
13 ficiary’s vested and nonvested interests in the
14 trust if the beneficiary held directly all assets
15 allocable to such interests.

16 “(E) TAX DEDUCTED AND WITHHELD.—
17 “(i) IN GENERAL.—The tax imposed
18 by subparagraph (A)(ii) shall be deducted
19 and withheld by the trustees from the dis-
20 tribution to which it relates.

21 “(ii) EXCEPTION WHERE FAILURE TO
22 WAIVE TREATY RIGHTS.—If an amount
23 may not be deducted and withheld under
24 clause (i) by reason of the distributee fail-

1 ing to waive any treaty right with respect
2 to such distribution—

3 “(I) the tax imposed by subpara-
4 graph (A)(ii) shall be imposed on the
5 trust and each trustee shall be person-
6 ally liable for the amount of such tax,
7 and

8 “(II) any other beneficiary of the
9 trust shall be entitled to recover from
10 the distributee the amount of such tax
11 imposed on the other beneficiary.

12 “(F) DISPOSITION.—If a trust ceases to be
13 a qualified trust at any time, a covered expatri-
14 ate disposes of an interest in a qualified trust,
15 or a covered expatriate holding an interest in a
16 qualified trust dies, then, in lieu of the tax im-
17 posed by subparagraph (A)(ii), there is hereby
18 imposed a tax equal to the lesser of—

19 “(i) the tax determined under para-
20 graph (1) as if the expatriation date were
21 the date of such cessation, disposition, or
22 death, whichever is applicable, or

23 “(ii) the balance in the tax deferred
24 account immediately before such date.

1 Such tax shall be imposed on the trust and
2 each trustee shall be personally liable for the
3 amount of such tax and any other beneficiary
4 of the trust shall be entitled to recover from the
5 covered expatriate or the estate the amount of
6 such tax imposed on the other beneficiary.

7 “(G) DEFINITIONS AND SPECIAL RULE.—
8 For purposes of this paragraph—

9 “(i) QUALIFIED TRUST.—The term
10 ‘qualified trust’ means a trust—

11 “(I) which is organized under,
12 and governed by, the laws of the
13 United States or a State, and

14 “(II) with respect to which the
15 trust instrument requires that at least
16 1 trustee of the trust be an individual
17 citizen of the United States or a do-
18 mestic corporation.

19 “(ii) VESTED INTEREST.—The term
20 ‘vested interest’ means any interest which,
21 as of the expatriation date, is vested in the
22 beneficiary.

23 “(iii) NONVESTED INTEREST.—The
24 term ‘nonvested interest’ means, with re-
25 spect to any beneficiary, any interest in a

1 trust which is not a vested interest. Such
2 interest shall be determined by assuming
3 the maximum exercise of discretion in
4 favor of the beneficiary and the occurrence
5 of all contingencies in favor of the bene-
6 ficiary.

7 “(iv) ADJUSTMENTS.—The Secretary
8 may provide for such adjustments to the
9 bases of assets in a trust or a deferred tax
10 account, and the timing of such adjust-
11 ments, in order to ensure that gain is
12 taxed only once.

13 “(3) DETERMINATION OF BENEFICIARIES’ IN-
14 TEREST IN TRUST.—

15 “(A) DETERMINATIONS UNDER PARA-
16 GRAPH (1).—For purposes of paragraph (1), a
17 beneficiary’s interest in a trust shall be based
18 upon all relevant facts and circumstances, in-
19 cluding the terms of the trust instrument and
20 any letter of wishes or similar document, histor-
21 ical patterns of trust distributions, and the ex-
22 istence of and functions performed by a trust
23 protector or any similar advisor.

24 “(B) OTHER DETERMINATIONS.—For pur-
25 poses of this section—

1 “(i) CONSTRUCTIVE OWNERSHIP.—If
2 a beneficiary of a trust is a corporation,
3 partnership, trust, or estate, the sharehold-
4 ers, partners, or beneficiaries shall be
5 deemed to be the trust beneficiaries for
6 purposes of this section.

7 “(ii) TAXPAYER RETURN POSITION.—
8 A taxpayer shall clearly indicate on its in-
9 come tax return—

10 “(I) the methodology used to de-
11 termine that taxpayer’s trust interest
12 under this section, and

13 “(II) if the taxpayer knows (or
14 has reason to know) that any other
15 beneficiary of such trust is using a
16 different methodology to determine
17 such beneficiary’s trust interest under
18 this section.

19 “(g) TERMINATION OF DEFERRALS, ETC.—On the
20 date any property held by an individual is treated as sold
21 under subsection (a), notwithstanding any other provision
22 of this title—

23 “(1) any period during which recognition of in-
24 come or gain is deferred shall terminate, and

1 “(2) any extension of time for payment of tax
2 shall cease to apply and the unpaid portion of such
3 tax shall be due and payable at the time and in the
4 manner prescribed by the Secretary.

5 “(h) IMPOSITION OF TENTATIVE TAX.—

6 “(1) IN GENERAL.—If an individual is required
7 to include any amount in gross income under sub-
8 section (a) for any taxable year, there is hereby im-
9 posed, immediately before the expatriation date, a
10 tax in an amount equal to the amount of tax which
11 would be imposed if the taxable year were a short
12 taxable year ending on the expatriation date.

13 “(2) DUE DATE.—The due date for any tax im-
14 posed by paragraph (1) shall be the 90th day after
15 the expatriation date.

16 “(3) TREATMENT OF TAX.—Any tax paid under
17 paragraph (1) shall be treated as a payment of the
18 tax imposed by this chapter for the taxable year to
19 which subsection (a) applies.

20 “(4) DEFERRAL OF TAX.—The provisions of
21 subsection (b) shall apply to the tax imposed by this
22 subsection to the extent attributable to gain includ-
23 ible in gross income by reason of this section.

1 “(i) COORDINATION WITH ESTATE AND GIFT
2 TAXES.—If subsection (a) applies to property held by an
3 individual for any taxable year and—

4 “(1) such property is includible in the gross es-
5 tate of such individual solely by reason of section
6 2107, or

7 “(2) section 2501 applies to a transfer of such
8 property by such individual solely by reason of sec-
9 tion 2501(a)(3),

10 then there shall be allowed as a credit against the addi-
11 tional tax imposed by section 2101 or 2501, whichever is
12 applicable, solely by reason of section 2107 or 2501(a)(3)
13 an amount equal to the increase in the tax imposed by
14 this chapter for such taxable year by reason of this sec-
15 tion.

16 “(j) REGULATIONS.—The Secretary shall prescribe
17 such regulations as may be necessary or appropriate to
18 carry out the purposes of this section, including regula-
19 tions—

20 “(1) to prevent double taxation by ensuring
21 that—

22 “(A) appropriate adjustments are made to
23 basis to reflect gain recognized by reason of
24 subsection (a) and the exclusion provided by
25 subsection (a)(3), and

1 “(B) any gain by reason of a deemed sale
 2 under subsection (a) of an interest in a corpora-
 3 tion, partnership, trust, or estate is reduced to
 4 reflect that portion of such gain which is attrib-
 5 utable to an interest in a trust which a share-
 6 holder, partner, or beneficiary is treated as
 7 holding directly under subsection (f)(3)(B)(i),
 8 and

9 “(2) which provide for the proper allocation of
 10 the exclusion under subsection (a)(3) to property to
 11 which this section applies.

12 “(k) CROSS REFERENCE.—

**“For income tax treatment of individuals who ter-
 minate United States citizenship, see section
 7701(a)(47).”**

13 (b) INCLUSION IN INCOME OF GIFTS AND INHERIT-
 14 ANCES FROM COVERED EXPATRIATES.—Section 102 (re-
 15 lating to gifts, etc. not included in gross income) is amend-
 16 ed by adding at the end the following new subsection:

17 “(d) GIFTS AND INHERITANCES FROM COVERED EX-
 18 PATRIATES.—Subsection (a) shall not exclude from gross
 19 income the value of any property acquired by gift, bequest,
 20 devise, or inheritance from a covered expatriate after the
 21 expatriation date. For purposes of this subsection, any
 22 term used in this subsection which is also used in section
 23 877A shall have the same meaning as when used in section
 24 877A.”

1 (c) DEFINITION OF TERMINATION OF UNITED
2 STATES CITIZENSHIP.—Section 7701(a) is amended by
3 adding at the end the following new paragraph:

4 “(47) TERMINATION OF UNITED STATES CITI-
5 ZENSHIP.—An individual shall not cease to be treat-
6 ed as a United States citizen before the date on
7 which the individual’s citizenship is treated as relin-
8 quished under section 877A(e)(3).”

9 (d) CONFORMING AMENDMENTS.—

10 (1) Section 877 is amended by adding at the
11 end the following new subsection:

12 “(f) APPLICATION.—This section shall not apply to
13 any individual who relinquishes (within the meaning of
14 section 877A(e)(3)) United States citizenship on or after
15 February 6, 1995.”

16 (2) Section 2107(e) is amended by adding at
17 the end the following new paragraph:

18 “(3) CROSS REFERENCE.—For credit against
19 the tax imposed by subsection (a) for expatriation
20 tax, see section 877A(i).”

21 (3) Section 2501(a)(3) is amended by adding at
22 the end the following new flush sentence:

23 “For credit against the tax imposed under this sec-
24 tion by reason of this paragraph, see section
25 877A(i).”

1 (4) Paragraph (10) of section 7701(b) is
2 amended by adding at the end the following new
3 sentence: “This paragraph shall not apply to any
4 long-term resident of the United States who is an
5 expatriate (as defined in section 877A(e)(1)).”

6 (e) CLERICAL AMENDMENT.—The table of sections
7 for subpart A of part II of subchapter N of chapter 1
8 is amended by inserting after the item relating to section
9 877 the following new item:

 “Sec. 877A. Tax responsibilities of expatriation.”

10 (f) EFFECTIVE DATE.—

11 (1) IN GENERAL.—Except as provided in this
12 subsection, the amendments made by this section
13 shall apply to expatriates (within the meaning of
14 section 877A(e) of the Internal Revenue Code of
15 1986, as added by this section) whose expatriation
16 date (as so defined) occurs on or after February 6,
17 1995.

18 (2) GIFTS AND BEQUESTS.—Section 102(d) of
19 the Internal Revenue Code of 1986 (as added by
20 subsection (b)) shall apply to amounts received from
21 expatriates (as so defined) whose expatriation date
22 (as so defined) occurs on and after February 6,
23 1995.

24 (3) SPECIAL RULES RELATING TO CERTAIN
25 ACTS OCCURRING BEFORE FEBRUARY 6, 1995.—In

1 the case of an individual who took an act of expa-
2 triation specified in paragraph (1), (2), (3), or (4)
3 of section 349(a) of the Immigration and Nationality
4 Act (8 U.S.C. 1481(a) (1)–(4)) before February 6,
5 1995, but whose expatriation date (as so defined)
6 occurs after February 6, 1995—

7 (A) the amendment made by subsection (c)
8 shall not apply,

9 (B) the amendment made by subsection
10 (d)(1) shall not apply for any period prior to
11 the expatriation date, and

12 (C) the other amendments made by this
13 section shall apply as of the expatriation date.

14 (4) DUE DATE FOR TENTATIVE TAX.—The due
15 date under section 877A(h)(2) of such Code shall in
16 no event occur before the 90th day after the date of
17 the enactment of this Act.

18 **SEC. 12442. INFORMATION ON INDIVIDUALS EXPATRIATING.**

19 (a) IN GENERAL.—Subpart A of part III of sub-
20 chapter A of chapter 61 is amended by inserting after sec-
21 tion 6039E the following new section:

22 **“SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIAT-**
23 **ING.**

24 **“(a) REQUIREMENT.—**

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of law, any expatriate (within the meaning
3 of section 877A(e)(1)) shall provide a statement
4 which includes the information described in sub-
5 section (b).

6 “(2) TIMING.—

7 “(A) CITIZENS.—In the case of an expatri-
8 ate described in section 877(e)(1)(A), such
9 statement shall be—

10 “(i) provided not later than the expa-
11 triation date (within the meaning of sec-
12 tion 877A(e)(2)), and

13 “(ii) provided to the person or court
14 referred to in section 877A(e)(3).

15 “(B) NONCITIZENS.—In the case of an ex-
16 patriate described in section 877A(e)(1)(B),
17 such statement shall be provided to the Sec-
18 retary with the return of tax imposed by chap-
19 ter 1 for the taxable year during which the
20 event described in such section occurs.

21 “(b) INFORMATION TO BE PROVIDED.—Information
22 required under subsection (a) shall include—

23 “(1) the taxpayer’s TIN,

24 “(2) the mailing address of such individual’s
25 principal foreign residence,

1 “(3) the foreign country in which such individ-
2 ual is residing,

3 “(4) the foreign country of which such individ-
4 ual is a citizen,

5 “(5) in the case of an individual having a net
6 worth of at least the dollar amount applicable under
7 section 877A(c)(1)(B), information detailing the as-
8 sets and liabilities of such individual, and

9 “(6) such other information as the Secretary
10 may prescribe.

11 “(c) PENALTY.—Any individual failing to provide a
12 statement required under subsection (a) shall be subject
13 to a penalty for each year during any portion of which
14 such failure continues in an amount equal to the greater
15 of—

16 “(1) 5 percent of the additional tax required to
17 be paid under section 877A for such year, or

18 “(2) \$1,000,
19 unless it is shown that such failure is due to reasonable
20 cause and not to willful neglect.

21 “(d) INFORMATION TO BE PROVIDED TO SEC-
22 RETARY.—Notwithstanding any other provision of law—

23 “(1) any Federal agency or court which collects
24 (or is required to collect) the statement under sub-
25 section (a) shall provide to the Secretary—

1 “(A) a copy of any such statement, and

2 “(B) the name (and any other identifying
3 information) of any individual refusing to com-
4 ply with the provisions of subsection (a),

5 “(2) the Secretary of State shall provide to the
6 Secretary a copy of each certificate as to the loss of
7 American nationality under section 358 of the Immi-
8 gration and Nationality Act which is approved by
9 the Secretary of State, and

10 “(3) the Federal agency primarily responsible
11 for administering the immigration laws shall provide
12 to the Secretary the name of each lawful permanent
13 resident of the United States (within the meaning of
14 section 7701(b)(6)) whose status as such has been
15 revoked or has been administratively or judicially de-
16 termined to have been abandoned.

17 Notwithstanding any other provision of law, not later than
18 30 days after the close of each calendar quarter, the Sec-
19 retary shall publish in the Federal Register the name of
20 each individual relinquishing United States citizenship
21 (within the meaning of section 877A(e)(3)) with respect
22 to whom the Secretary receives information under the pre-
23 ceding sentence during such quarter.

24 “(e) EXEMPTION.—The Secretary may by regulations
25 exempt any class of individuals from the requirements of

1 this section if the Secretary determines that applying this
2 section to such individuals is not necessary to carry out
3 the purposes of this section.”

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for such subpart A is amended by inserting after the item
6 relating to section 6039E the following new item:

“Sec. 6039F. Information on individuals expatriating.”

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to individuals to whom section
9 877A of the Internal Revenue Code of 1986 applies and
10 whose expatriation date (as defined in section 877A(e)(2))
11 occurs on or after February 6, 1995, except that no state-
12 ment shall be required by such amendments before the
13 90th day after the date of the enactment of this Act.

14 **Subtitle F—Taxpayer Bill of Rights** 15 **2 Provisions**

16 **SEC. 12501. EXPANSION OF AUTHORITY TO ABATE INTER-** 17 **EST.**

18 (a) GENERAL RULE.—Paragraph (1) of section
19 6404(e) (relating to abatement of interest in certain cases)
20 is amended—

21 (1) by inserting “unreasonable” before “error”
22 each place it appears in subparagraphs (A) and (B),
23 and

1 (2) by striking “in performing a ministerial
2 act” each place it appears and inserting “in per-
3 forming a ministerial or managerial act”.

4 (b) CLERICAL AMENDMENT.—The subsection head-
5 ing for subsection (e) of section 6404 is amended—

6 (1) by striking “ASSESSMENTS” and inserting
7 “ABATEMENT”, and

8 (2) by inserting “UNREASONABLE” before “ER-
9 RORS”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to interest accruing with respect
12 to deficiencies or payments for taxable years beginning
13 after the date of the enactment of this Act.

14 **SEC. 12502. REVIEW OF IRS FAILURE TO ABATE INTEREST.**

15 (a) IN GENERAL.—Section 6404 is amended by add-
16 ing at the end the following new subsection:

17 “(g) REVIEW OF DENIAL OF REQUEST FOR ABATE-
18 MENT OF INTEREST.—The Tax Court shall have jurisdic-
19 tion over any action brought by a taxpayer who meets the
20 requirements referred to in section 7430(c)(4)(A)(iii) to
21 determine whether the Secretary’s failure to abate interest
22 under this section was an abuse of discretion if such action
23 is brought within 6 months after the date of the Sec-
24 retary’s final determination not to abate such interest.”

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to requests for abatement after the
3 date of the enactment of this Act.

4 **SEC. 12503. JOINT RETURN MAY BE MADE AFTER SEPA-**
5 **RATE RETURNS WITHOUT FULL PAYMENT OF**
6 **TAX.**

7 (a) GENERAL RULE.—Paragraph (2) of section
8 6013(b) (relating to limitations on filing of joint return
9 after filing separate returns) is amended by striking sub-
10 paragraph (A) and by redesignating subparagraphs (B)
11 through (E) as subparagraphs (A) through (D), respec-
12 tively.

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 the date of the enactment of this Act.

16 **SEC. 12504. MODIFICATIONS TO CERTAIN LEVY EXEMPTION**
17 **AMOUNTS.**

18 (a) FUEL, ETC.—Paragraph (2) of section 6334(a)
19 (relating to fuel, provisions, furniture, and personal effects
20 exempt from levy) is amended—

21 (1) by striking “If the taxpayer is the head of
22 a family, so” and inserting “So”,

23 (2) by striking “his household” and inserting
24 “the taxpayer’s household”, and

1 (3) by striking “\$1,650 (\$1,550 in the case of
2 levies issued during 1989)” and inserting “\$2,500”.

3 (b) BOOKS, ETC.—Paragraph (3) of section 6334(a)
4 (relating to books and tools of a trade, business, or profes-
5 sion) is amended by striking “\$1,100 (\$1,050 in the case
6 of levies issued during 1989)” and inserting “\$1,250”.

7 (c) INFLATION ADJUSTMENT.—Section 6334 (relat-
8 ing to property exempt from levy) is amended by adding
9 at the end the following new subsection:

10 “(f) INFLATION ADJUSTMENT.—

11 “(1) IN GENERAL.—In the case of any calendar
12 year beginning after 1996, each dollar amount re-
13 ferred to in paragraphs (2) and (3) of subsection (a)
14 shall be increased by an amount equal to—

15 “(A) such dollar amount, multiplied by

16 “(B) the cost-of-living adjustment deter-
17 mined under section 1(f)(3) for such calendar
18 year, by substituting ‘calendar year 1995’ for
19 ‘calendar year 1992’ in subparagraph (B)
20 thereof.

21 “(2) ROUNDING.—If any dollar amount after
22 being increased under paragraph (1) is not a mul-
23 tiple of \$10, such dollar amount shall be rounded to
24 the nearest multiple of \$10.”

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect with respect to levies issued
3 after December 31, 1995.

4 **SEC. 12505. OFFERS-IN-COMPROMISE.**

5 (a) REVIEW REQUIREMENTS.—Subsection (b) of sec-
6 tion 7122 (relating to records) is amended by striking
7 “\$500.” and inserting “\$50,000. However, such com-
8 promise shall be subject to continuing quality review by
9 the Secretary.”

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall take effect on the date of the enactment
12 of this Act.

13 **SEC. 12506. AWARD OF LITIGATION COSTS PERMITTED IN**
14 **DECLARATORY JUDGMENT PROCEEDINGS.**

15 (a) IN GENERAL.—Subsection (b) of section 7430 is
16 amended by striking paragraph (3) and by redesignating
17 paragraph (4) as paragraph (3).

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply with respect to proceedings com-
20 menced after the date of the enactment of this Act.

1 **SEC. 12507. COURT DISCRETION TO REDUCE AWARD FOR**
2 **LITIGATION COSTS FOR FAILURE TO EX-**
3 **HAUST ADMINISTRATIVE REMEDIES.**

4 (a) GENERAL RULE.—Paragraph (1) of section
5 7433(d) (relating to civil damages for certain unauthor-
6 ized collection actions) is amended to read as follows:

7 “(1) AWARD FOR DAMAGES MAY BE REDUCED
8 IF ADMINISTRATIVE REMEDIES NOT EXHAUSTED.—
9 The amount of damages awarded under subsection
10 (b) may be reduced if the court determines that the
11 plaintiff has not exhausted the administrative rem-
12 edies available to such plaintiff within the Internal
13 Revenue Service.”

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply with respect to proceedings com-
16 menced after the date of the enactment of this Act.

17 **SEC. 12508. ENROLLED AGENTS INCLUDED AS THIRD-**
18 **PARTY RECORDKEEPERS.**

19 (a) IN GENERAL.—Paragraph (3) of section 7609(a)
20 (relating to third-party recordkeeper defined) is amended
21 by striking “and” at the end of subparagraph (G), by
22 striking the period at the end of subparagraph (H) and
23 inserting “; and”, and by adding at the end the following
24 new subparagraph:

25 “(I) any enrolled agent.”

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to summonses issued after the date
3 of the enactment of this Act.

4 **SEC. 12509. SAFEGUARDS RELATING TO DESIGNATED SUM-**
5 **MONSES.**

6 (a) LIMITATION ON PERSONS TO WHOM DES-
7 IGNATED SUMMONS MAY BE ISSUED.—Paragraph (1) of
8 section 6503(k), as added by section 11311(a) of the Om-
9 nibus Budget Reconciliation Act of 1990, is amended by
10 striking “with respect to any return of tax by a corpora-
11 tion” and inserting “to a corporation (or to any other per-
12 son to whom the corporation has transferred records) with
13 respect to any return of tax by such corporation for a tax-
14 able year (or other period) for which such corporation is
15 being examined under the coordinated examination pro-
16 gram (or any successor program) of the Internal Revenue
17 Service”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to summonses issued after the date
20 of the enactment of this Act.

21 **SEC. 12510. ANNUAL REMINDERS TO TAXPAYERS WITH OUT-**
22 **STANDING DELINQUENT ACCOUNTS.**

23 (a) IN GENERAL.—Chapter 77 (relating to mis-
24 cellaneous provisions) is amended by adding at the end
25 the following new section:

1 **“SEC. 7524. ANNUAL NOTICE OF TAX DELINQUENCY.**

2 “Not less often than annually, the Secretary shall
3 send a written notice to each taxpayer who has a tax delin-
4 quent account of the amount of the tax delinquency as
5 of the date of the notice.”

6 (b) CLERICAL AMENDMENT.—The table of sections
7 for chapter 77 is amended by adding at the end the follow-
8 ing new item:

“Sec. 7524. Annual notice of tax delinquency.”

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to calendar years after 1995.

11 **Subtitle G—Casualty and**
12 **Involuntary Conversion Provisions**

13 **SEC. 12601. BASIS ADJUSTMENT TO PROPERTY HELD BY**
14 **CORPORATION WHERE STOCK IN CORPORA-**
15 **TION IS REPLACEMENT PROPERTY UNDER**
16 **INVOLUNTARY CONVERSION RULES.**

17 (a) IN GENERAL.—Subsection (b) of section 1033 is
18 amended to read as follows:

19 “(b) BASIS OF PROPERTY ACQUIRED THROUGH IN-
20 VOLUNTARY CONVERSION.—

21 “(1) CONVERSIONS DESCRIBED IN SUBSECTION
22 (a)(1).—If the property was acquired as the result
23 of a compulsory or involuntary conversion described
24 in subsection (a)(1), the basis shall be the same as
25 in the case of the property so converted—

1 “(A) decreased in the amount of any
2 money received by the taxpayer which was not
3 expended in accordance with the provisions of
4 law (applicable to the year in which such con-
5 version was made) determining the taxable sta-
6 tus of the gain or loss upon such conversion,
7 and

8 “(B) increased in the amount of gain or
9 decreased in the amount of loss to the taxpayer
10 recognized upon such conversion under the law
11 applicable to the year in which such conversion
12 was made.

13 “(2) CONVERSIONS DESCRIBED IN SUBSECTION
14 (a)(2).—In the case of property purchased by the
15 taxpayer in a transaction described in subsection
16 (a)(2) which resulted in the nonrecognition of any
17 part of the gain realized as the result of a compul-
18 sory or involuntary conversion, the basis shall be the
19 cost of such property decreased in the amount of the
20 gain not so recognized; and if the property pur-
21 chased consists of more than 1 piece of property, the
22 basis determined under this sentence shall be allo-
23 cated to the purchased properties in proportion to
24 their respective costs.

1 “(3) PROPERTY HELD BY CORPORATION THE
2 STOCK OF WHICH IS REPLACEMENT PROPERTY.—

3 “(A) IN GENERAL.—If the basis of stock
4 in a corporation is decreased under paragraph
5 (2), an amount equal to such decrease shall also
6 be applied to reduce the basis of property held
7 by the corporation at the time the taxpayer ac-
8 quired control (as defined in subsection
9 (a)(2)(E)) of such corporation.

10 “(B) LIMITATION.—Subparagraph (A)
11 shall not apply to the extent that it would (but
12 for this subparagraph) require a reduction in
13 the aggregate adjusted bases of the property of
14 the corporation below the taxpayer’s adjusted
15 basis of the stock in the corporation (deter-
16 mined immediately after such basis is decreased
17 under paragraph (2)).

18 “(C) ALLOCATION OF BASIS REDUCTION.—
19 The decrease required under subparagraph (A)
20 shall be allocated—

21 “(i) first to property which is similar
22 or related in service or use to the converted
23 property,

1 “(ii) second to depreciable property
2 (as defined in section 1017(b)(3)(B)) not
3 described in clause (i), and

4 “(iii) then to other property.

5 “(D) SPECIAL RULES.—

6 “(i) REDUCTION NOT TO EXCEED AD-
7 JUSTED BASIS OF PROPERTY.—No reduc-
8 tion in the basis of any property under this
9 paragraph shall exceed the adjusted basis
10 of such property (determined without re-
11 gard to such reduction).

12 “(ii) ALLOCATION OF REDUCTION
13 AMONG PROPERTIES.—If more than 1
14 property is described in a clause of sub-
15 paragraph (C), the reduction under this
16 paragraph shall be allocated among such
17 property in proportion to the adjusted
18 bases of such property (as so deter-
19 mined).”

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to involuntary conversions occur-
22 ring after September 13, 1995.

1 **SEC. 12602. EXPANSION OF REQUIREMENT THAT INVOLUN-**
2 **TARILY CONVERTED PROPERTY BE RE-**
3 **PLACED WITH PROPERTY ACQUIRED FROM**
4 **AN UNRELATED PERSON.**

5 (a) IN GENERAL.—Subsection (i) of section 1033 is
6 amended to read as follows:

7 “(i) REPLACEMENT PROPERTY MUST BE ACQUIRED
8 FROM UNRELATED PERSON IN CERTAIN CASES.—

9 “(1) IN GENERAL.—If the property which is in-
10 voluntarily converted is held by a taxpayer to which
11 this subsection applies, subsection (a) shall not apply
12 if the replacement property or stock is acquired from
13 a related person. The preceding sentence shall not
14 apply to the extent that the related person acquired
15 the replacement property or stock from an unrelated
16 person during the period applicable under subsection
17 (a)(2)(B).

18 “(2) TAXPAYERS TO WHICH SUBSECTION AP-
19 PLIES.—This subsection shall apply to—

20 “(A) a C corporation,

21 “(B) a partnership in which 1 or more C
22 corporations own, directly or indirectly (deter-
23 mined in accordance with section 707(b)(3)),
24 more than 50 percent of the capital interest, or
25 profits interest, in such partnership at the time
26 of the involuntary conversion, and

1 ing on the cash receipts and disbursements method
2 of accounting—

3 “(A) may elect to treat any such payment
4 received in the taxable year of destruction or
5 damage of crops as having been received in the
6 following taxable year if the taxpayer estab-
7 lishes that, under the taxpayer’s practice, in-
8 come from such crops involved would have been
9 reported in a following taxable year, or

10 “(B) may elect to treat any such payment
11 received in a taxable year following the taxable
12 year of the destruction or damage of crops as
13 having been received in the taxable year of de-
14 struction or damage, if the taxpayer establishes
15 that, under the taxpayer’s practice, income
16 from such crops involved would have been re-
17 ported in the taxable year of destruction or
18 damage.

19 “(2) PAYMENTS DESCRIBED.—For purposes of
20 this subsection, a payment is described in this para-
21 graph if such payment—

22 “(A) is insurance proceeds received on ac-
23 count of destruction or damage to crops, or

24 “(B) is disaster assistance received under
25 any Federal law as a result of—

1 “(i) destruction or damage to crops
2 caused by drought, flood, or other natural
3 disaster, or

4 “(ii) inability to plant crops because
5 of such a disaster.”

6 (b) **EFFECTIVE DATE.**—The amendment made by
7 subsection (a) applies to payments received after Decem-
8 ber 31, 1992, as a result of destruction or damage occur-
9 ring after such date.

10 **SEC. 12604. APPLICATION OF INVOLUNTARY EXCLUSION**

11 **RULES TO PRESIDENTIALLY DECLARED DIS-**
12 **ASTERS.**

13 (a) **IN GENERAL.**—Section 1033(h) is amended by
14 redesignating paragraphs (2) and (3) as paragraphs (3)
15 and (4) and by inserting after paragraph (1) the following
16 new paragraph:

17 “(2) **TRADE OR BUSINESS AND INVESTMENT**
18 **PROPERTY.**—If a taxpayer’s property held for pro-
19 ductive use in a trade or business or for investment
20 is compulsorily or involuntarily converted as a result
21 of a Presidentially declared disaster, tangible prop-
22 erty of a type held for productive use in a trade or
23 business shall be treated for purposes of subsection
24 (a) as property similar or related in use to the prop-
25 erty so converted.”

1 (b) CONFORMING AMENDMENTS.—Section 1033(h) is
2 amended—

3 (1) by striking “residence” in paragraph (3) (as
4 redesignated by subsection (a)) and inserting “prop-
5 erty”,

6 (2) by striking “Principal Residences” in the
7 heading and inserting “Property”, and

8 (3) by striking “(1) IN GENERAL.—” and in-
9 serting “(1) PRINCIPAL RESIDENCES.—”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to disasters declared after Decem-
12 ber 31, 1994, in taxable years ending after such date.

13 **Subtitle H—Exempt Organizations** 14 **and Charitable Reforms**

15 **SEC. 12701. COOPERATIVE SERVICE ORGANIZATIONS FOR** 16 **CERTAIN FOUNDATIONS.**

17 (a) IN GENERAL.—Section 501 (relating to exemp-
18 tion from tax on corporations, certain trusts, etc.) is
19 amended by redesignating subsection (n) as subsection (o)
20 and by inserting after subsection (m) the following new
21 subsection:

22 “(n) COOPERATIVE SERVICE ORGANIZATIONS FOR
23 CERTAIN FOUNDATIONS.—

24 “(1) IN GENERAL.—For purposes of this title,
25 if an organization—

1 “(A) is organized and operated solely for
2 purposes referred to in subsection (f)(1),

3 “(B) is composed solely of members which
4 are exempt from taxation under subsection (a)
5 and are—

6 “(i) private foundations, or

7 “(ii) community foundations as to
8 which section 170(b)(1)(A)(vi) applies,

9 “(C) has at least 20 members,

10 “(D) does not at any time after the second
11 taxable year beginning after the date of its or-
12 ganization or, if later, beginning after the date
13 of the enactment of this subsection, have a
14 member which holds more than 10 percent (by
15 value) of the interests in the organization,

16 “(E) is organized and controlled by its
17 members but is not controlled by any one mem-
18 ber and does not have a member which controls
19 another member of the organization, and

20 “(F) permits members of the organization
21 to require the dismissal of any of the organiza-
22 tion’s investment advisers, following reasonable
23 notice, if members holding a majority of inter-
24 est in the account managed by such adviser
25 vote to remove such adviser,

1 then such organization shall be treated as an organi-
2 zation organized and operated exclusively for chari-
3 table purposes.

4 “(2) TREATMENT OF INCOME OF MEMBERS.—

5 If any member of an organization described in para-
6 graph (1) is a private foundation (other than an ex-
7 empt operating foundation, as defined in section
8 4940(d)), such private foundation’s allocable share
9 of the capital gain net income and gross investment
10 income of the organization for any taxable year of
11 the organization shall be treated, for purposes of
12 section 4940, as capital gain net income and gross
13 investment income of such private foundation
14 (whether or not distributed to such foundation) for
15 the taxable year of such private foundation with or
16 within which the taxable year of the organization de-
17 scribed in paragraph (1) ends (and such private
18 foundation shall take into account its allocable share
19 of the deductions referred to in section 4940(c)(3) of
20 the organization).

21 “(3) APPLICABLE EXCISE TAXES.—Subchapter

22 A of chapter 42 (other than sections 4940 and
23 4942) shall apply to any organization described in
24 paragraph (1).”

25 (b) CONFORMING AMENDMENTS.—

1 (1) Section 4945(d) is amended by adding at
2 the end the following new flush sentence:

3 “Paragraph (4)(B) shall not apply to a grant to an organi-
4 zation described in section 501(n).”

5 (2) Section 4942(g)(1)(A) is amended by insert-
6 ing “or an organization described in section 501(n)”
7 after “subsection (j)(3))”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years ending after De-
10 cember 31, 1995.

11 **SEC. 12702. EXCLUSION FROM UNRELATED BUSINESS TAX-**
12 **ABLE INCOME FOR CERTAIN SPONSORSHIP**
13 **PAYMENTS.**

14 (a) IN GENERAL.—Section 513 (relating to unrelated
15 trade or business income) is amended by adding at the
16 end the following new subsection:

17 “(i) TREATMENT OF CERTAIN SPONSORSHIP PAY-
18 MENTS.—

19 “(1) IN GENERAL.—The term ‘unrelated trade
20 or business’ does not include the activity of soliciting
21 and receiving qualified sponsorship payments.

22 “(2) QUALIFIED SPONSORSHIP PAYMENTS.—
23 For purposes of this subsection—

24 “(A) IN GENERAL.—The term ‘qualified
25 sponsorship payment’ means any payment made

1 by any person engaged in a trade or business
2 with respect to which there is no arrangement
3 or expectation that such person will receive any
4 substantial return benefit other than the use or
5 acknowledgement of the name or logo (or prod-
6 uct lines) of such person's trade or business in
7 connection with the activities of the organiza-
8 tion that receives such payment. Such a use or
9 acknowledgement does not include advertising
10 such person's products or services (including
11 messages containing qualitative or comparative
12 language, price information or other indications
13 of savings or value, an endorsement, or an in-
14 ducement to purchase, sell, or use such prod-
15 ucts or services).

16 “(B) LIMITATIONS.—

17 “(i) CONTINGENT PAYMENTS.—The
18 term ‘qualified sponsorship payment’ does
19 not include any payment if the amount of
20 such payment is contingent upon the level
21 of attendance at one or more events,
22 broadcast ratings, or other factors indicat-
23 ing the degree of public exposure to one or
24 more events.

1 “(ii) ACKNOWLEDGEMENTS OR AD-
2 VERTISING IN PERIODICALS.—The term
3 ‘qualified sponsorship payment’ does not
4 include any payment which entitles the
5 payor to an acknowledgement or advertis-
6 ing in regularly scheduled and printed ma-
7 terial that is not related to and primarily
8 distributed in connection with a specific
9 event conducted by the payee organization.

10 “(3) ALLOCATION OF PORTIONS OF SINGLE
11 PAYMENT.—For purposes of this subsection, to the
12 extent that a portion of a payment would (if made
13 as a separate payment) be a qualified sponsorship
14 payment, such portion of such payment and the
15 other portion of such payment shall be treated as
16 separate payments.”

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to payments solicited or received
19 after December 31, 1995.

20 **SEC. 12703. TREATMENT OF DUES PAID TO AGRICULTURAL**
21 **OR HORTICULTURAL ORGANIZATIONS.**

22 (a) GENERAL RULE.—Section 512 (defining unre-
23 lated business taxable income) is amended by adding at
24 the end the following new subsection:

1 “(d) TREATMENT OF DUES OF AGRICULTURAL OR
2 HORTICULTURAL ORGANIZATIONS.—

3 “(1) IN GENERAL.—If—

4 “(A) an agricultural or horticultural orga-
5 nization described in section 501(c)(5) requires
6 annual dues to be paid in order to be a member
7 of such organization, and

8 “(B) the amount of such required annual
9 dues does not exceed \$100,

10 in no event shall any portion of such dues be treated
11 as derived by such organization from an unrelated
12 trade or business by reason of any benefits or privi-
13 leges to which members of such organization are en-
14 titled.

15 “(2) INDEXATION OF \$100 AMOUNT.—In the
16 case of any taxable year beginning in a calendar
17 year after 1995, the \$100 amount in paragraph (1)
18 shall be increased by an amount equal to—

19 “(A) \$100, multiplied by

20 “(B) the cost-of-living adjustment deter-
21 mined under section 1(f)(3) for the calendar
22 year in which the taxable year begins, by sub-
23 stituting ‘calendar year 1994’ for ‘calendar year
24 1992’ in subparagraph (B) thereof.

1 (2) by adding at the end the following new sub-
2 section:

3 “(b) SPECIAL RULE FOR TRANSFERS OF REMAINDER
4 INTERESTS DESCRIBED IN SECTION 2055(e)(2)(A).—

5 “(1) IN GENERAL.—In the case of an estate
6 claiming a charitable contribution deduction for the
7 value of a transfer of a remainder interest in prop-
8 erty described in section 2055(e)(2)(A), the executor
9 or other fiduciary shall provide written notice of the
10 name of the charitable remainder trust and the in-
11 terest created by such trust to each charitable bene-
12 ficiary described in section 2055(a) which has such
13 an interest within 3 months of the due date for the
14 filing of the Federal estate tax return on which the
15 charitable contribution deduction is claimed (includ-
16 ing extensions) in the manner required by form or
17 regulation.

18 “(2) NOTICE TO CONTINGENT INTEREST HOLD-
19 ERS NOT REQUIRED.—For purposes of paragraph
20 (1), a remainder interest shall not include a contin-
21 gent remainder interest (determined without regard
22 to any contingency that any charitable beneficiary
23 continue to be a tax-exempt organization).”

24 (b) ANNUAL NOTICES.—Section 6034A (relating to
25 information to beneficiaries of estates and trusts) is

1 amended by adding at the end the following new sub-
2 section:

3 “(c) ANNUAL NOTICE TO CHARITABLE REMAINDER
4 BENEFICIARY.—

5 “(1) IN GENERAL.—The fiduciary of any chari-
6 table remainder trust required to file a return under
7 chapter 61 for any taxable year shall provide a writ-
8 ten notice each such year of the name of the chari-
9 table remainder trust and the interest created by
10 such trust to each charitable beneficiary described in
11 section 2055(a) which has such an interest, at the
12 time and in the manner required by form or regula-
13 tion.

14 “(2) EXCEPTIONS.—Unless otherwise pre-
15 scribed by the Secretary, notice shall not be required
16 by any fiduciary—

17 “(A) if such notice is not necessary to the
18 efficient administration of the internal revenue
19 laws,

20 “(B) if a corporate fiduciary, pursuant to
21 State law or section 6036(b), previously notified
22 the charitable beneficiary of its interest in the
23 trust,

1 “(C) if the charitable beneficiary relieves
2 the fiduciary from continuing to file such no-
3 tice,

4 “(D) if the interest of the designated char-
5 itable beneficiary is a contingent interest (deter-
6 mined without regard to any contingency that
7 any charitable beneficiary continue to be a tax-
8 exempt organization), or

9 “(E) if the fiduciary, pursuant to State
10 law, provides the charitable beneficiary with an
11 annual accounting of the trust.

12 “(3) PENALTIES.—

**“For provisions relating to the failure to furnish
 on a timely or complete basis the information re-
 quired under paragraph (1), see section 6652(c).”**

13 (c) PENALTIES.—Subsection (c) of section 6652 (re-
14 lating to failure to file certain information returns, reg-
15 istration statements, etc.) is amended by adding at the
16 end the following new paragraph:

17 “(2) NOTICES UNDER SECTION 6034A(c) OR
18 6036(b).—In the case of—

19 “(A) a failure to furnish any notice re-
20 quired under section 6034A(c) (relating to an-
21 nual notice to charitable remainder beneficiary),
22 or

1 “(B) a failure to furnish any notice re-
 2 quired under section 6036(b) (relating to a
 3 qualification notice or tax return filing notice),
 4 on the date and in the manner prescribed therefore,
 5 there shall be paid by the fiduciary failing to furnish
 6 such notice \$10 for each day during which such fail-
 7 ure continues, but the total amount imposed under
 8 this paragraph on any fiduciary for failure to fur-
 9 nish any 1 notice shall not exceed \$5,000.”

10 (d) EFFECTIVE DATES.—

11 (1) GENERAL NOTICES.—The amendments
 12 made by subsection (a) shall apply to estates of de-
 13 cedents dying after the date of the enactment of this
 14 Act.

15 (2) ANNUAL NOTICES.—The amendment made
 16 by subsection (b) shall apply to taxable years begin-
 17 ning after December 31, 1995.

18 (3) PENALTIES.—The amendment made by
 19 subsection (c) shall take effect on the date of the en-
 20 actment of this Act.

21 **SEC. 12706. CLARIFICATION OF TREATMENT OF QUALIFIED**

22 **FOOTBALL COACHES PLANS.**

23 (a) IN GENERAL.—Subparagraph (F) of section
 24 3(37) of the Employee Retirement Income Security Act
 25 of 1974 (29 U.S.C. 1002(37)(F)) is amended by redesi-

1 nating clause (ii) as clause (iii) and by inserting after
2 clause (i) the following new clause:

3 “(ii) For purposes of the Internal Revenue
4 Code of 1986—

5 “(I) clause (i) shall apply, and

6 “(II) a qualified football coaches plan
7 shall be treated as a multiemployer collec-
8 tively bargained plan.”

9 (b) IMPOSITION OF EXCISE TAX.—

10 (1) IN GENERAL.—For purposes of reinstatement
11 as a qualified football coaches plan under the
12 Internal Revenue Code of 1986, there is hereby im-
13 posed on the cash or deferred arrangement main-
14 tained by an organization described in section
15 501(c)(6) of such Code, an excise tax equal to
16 \$25,000, to be paid in the first plan year of the ar-
17 rangement beginning after the date of the enactment
18 of this Act.

19 (2) APPLICATION OF CERTAIN RULES.—For
20 purposes of the Internal Revenue Code of 1986, the
21 tax imposed under paragraph (1) shall be treated as
22 a tax imposed under subtitle D of such Code.

23 (c) EFFECTIVE DATE.—The amendments made by
24 subsection (a) shall apply to years beginning after Decem-
25 ber 22, 1987.

1 **Subtitle I—Tax Reform and Other**
2 **Provisions**

3 **CHAPTER 1—PROVISIONS RELATING TO**
4 **BUSINESSES**

5 **SEC. 12801. TAX TREATMENT OF CERTAIN EXTRAORDINARY**
6 **DIVIDENDS.**

7 (a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN
8 EXCESS OF BASIS.—Paragraph (2) of section 1059(a) (re-
9 lating to corporate shareholder’s basis in stock reduced by
10 nontaxed portion of extraordinary dividends) is amended
11 to read as follows:

12 “(2) AMOUNTS IN EXCESS OF BASIS.—If the
13 nontaxed portion of such dividends exceeds such
14 basis, such excess shall be treated as gain from the
15 sale or exchange of such stock for the taxable year
16 in which the extraordinary dividend is received.”

17 (b) TREATMENT OF REDEMPTIONS WHERE OPTIONS
18 INVOLVED.—Paragraph (1) of section 1059(e) (relating to
19 treatment of partial liquidations and non-pro rata redemp-
20 tions) is amended to read as follows:

21 “(1) TREATMENT OF PARTIAL LIQUIDATIONS
22 AND CERTAIN REDEMPTIONS.—Except as otherwise
23 provided in regulations—

24 “(A) REDEMPTIONS.—In the case of any
25 redemption of stock—

1 “(i) which is part of a partial liquida-
2 tion (within the meaning of section 302(e))
3 of the redeeming corporation,

4 “(ii) which is not pro rata as to all
5 shareholders, or

6 “(iii) which would not have been
7 treated (in whole or in part) as a dividend
8 if any options had not been taken into ac-
9 count under section 318(a)(4),

10 any amount treated as a dividend with respect
11 to such redemption shall be treated as an ex-
12 traordinary dividend to which paragraphs (1)
13 and (2) of subsection (a) apply without regard
14 to the period the taxpayer held such stock. In
15 the case of a redemption described in clause
16 (iii), only the basis in the stock redeemed shall
17 be taken into account under subsection (a).

18 “(B) REORGANIZATIONS, ETC.—An ex-
19 change described in section 356(a)(1) which is
20 treated as a dividend under section 356(a)(2)
21 shall be treated as a redemption of stock for
22 purposes of applying subparagraph (A).”

23 (c) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to distributions after May 3,
3 1995.

4 (2) TRANSITION RULE.—The amendments
5 made by this section shall not apply to any distribu-
6 tion made pursuant to the terms of a written bind-
7 ing contract in effect on May 3, 1995, and at all
8 times thereafter before such distribution.

9 (3) CERTAIN DIVIDENDS NOT PURSUANT TO
10 CERTAIN REDEMPTIONS.—In determining whether
11 the amendment made by subsection (a) applies to
12 any extraordinary dividend other than a dividend
13 treated as an extraordinary dividend under section
14 1059(e)(1) of the Internal Revenue Code of 1986
15 (as amended by this Act), paragraphs (1) and (2)
16 shall be applied by substituting “September 13,
17 1995” for “May 3, 1995”.

18 **SEC. 12802. REGISTRATION OF CONFIDENTIAL CORPORATE**

19 **TAX SHELTERS.**

20 (a) IN GENERAL.—Section 6111 (relating to registra-
21 tion of tax shelters) is amended by redesignating sub-
22 sections (d) and (e) as subsections (e) and (f), respectively,
23 and by inserting after subsection (e) the following new
24 subsection:

1 “(d) CERTAIN CONFIDENTIAL ARRANGEMENTS
2 TREATED AS TAX SHELTERS.—

3 “(1) IN GENERAL.—For purposes of this sec-
4 tion, the term ‘tax shelter’ includes any entity, plan,
5 arrangement, or transaction—

6 “(A) a significant purpose of the structure
7 of which is the avoidance or evasion of Federal
8 income tax for a participant which is a corpora-
9 tion,

10 “(B) which is offered to any potential par-
11 ticipant under conditions of confidentiality, and

12 “(C) for which the tax shelter promoters
13 may receive fees in excess of \$100,000 in the
14 aggregate.

15 “(2) CONDITIONS OF CONFIDENTIALITY.—For
16 purposes of paragraph (1)(B), an offer is under con-
17 ditions of confidentiality if—

18 “(A) the potential participant to whom the
19 offer is made (or any other person acting on be-
20 half of such participant) has an understanding
21 or agreement with or for the benefit of any pro-
22 moter of the tax shelter that such participant
23 (or other person) will limit disclosure of the tax
24 shelter or any significant tax features of the tax
25 shelter, or

1 “(B) any promoter of the tax shelter—

2 “(i) claims, knows, or has reason to
3 know,

4 “(ii) knows or has reason to know
5 that any other person (other than the po-
6 tential participant) claims, or

7 “(iii) causes another person to claim,
8 that the tax shelter (or any aspect thereof) is
9 proprietary to any person other than the poten-
10 tial participant or is otherwise protected from
11 disclosure to or use by others.

12 For purposes of this subsection, the term ‘promoter’
13 means any person or any related person (within the
14 meaning of section 267 or 707) who participates in
15 the organization, management, or sale of the tax
16 shelter.

17 “(3) PERSONS OTHER THAN PROMOTER RE-
18 QUIRED TO REGISTER IN CERTAIN CASES.—

19 “(A) IN GENERAL.—If—

20 “(i) the requirements of subsection (a)
21 are not met with respect to any tax shelter
22 (as defined in paragraph (1)) by any tax
23 shelter promoter, and

24 “(ii) no tax shelter promoter is a
25 United States person,

1 then each United States person who discussed
2 participation in such shelter shall register such
3 shelter under subsection (a).

4 “(B) EXCEPTION.—Subparagraph (A)
5 shall not apply to a United States person who
6 discussed participation in a tax shelter if—

7 “(i) such person notified the promoter
8 in writing (not later than the close of the
9 seventh day after the day on which such
10 discussions began) that such person would
11 not participate in such shelter, and

12 “(ii) such person does not participate
13 in such shelter.

14 “(4) OFFER TO PARTICIPATE TREATED AS
15 OFFER FOR SALE.—For purposes of subsections (a)
16 and (b), an offer to participate in a tax shelter (as
17 defined in paragraph (1)) shall be treated as an
18 offer for sale.”

19 (b) PENALTY.—Subsection (a) of section 6707 (relat-
20 ing to failure to furnish information regarding tax shel-
21 ters) is amended by adding at the end the following new
22 paragraph:

23 “(3) CONFIDENTIAL ARRANGEMENTS.—

24 “(A) IN GENERAL.—In the case of a tax
25 shelter (as defined in section 6111(d)), the pen-

1 alty imposed under paragraph (1) shall be an
2 amount equal to the greater of—

3 “(i) 50 percent of the fees paid to any
4 promoter of the tax shelter with respect to
5 offerings made before the date such shelter
6 is registered under section 6111, or

7 “(ii) \$10,000.

8 Clause (i) shall be applied by substituting ‘75
9 percent’ for ‘50 percent’ in the case of an inten-
10 tional failure or act described in paragraph (1).

11 “(B) SPECIAL RULE FOR PARTICIPANTS
12 REQUIRED TO REGISTER SHELTER.—In the
13 case of a person required to register such a tax
14 shelter by reason of section 6111(d)(3)—

15 “(i) such person shall be required to
16 pay the penalty under paragraph (1) only
17 if such person actually participated in such
18 shelter,

19 “(ii) the amount of such penalty shall
20 be determined by taking into account
21 under subparagraph (A)(i) only the fees
22 paid by such person, and

23 “(iii) such penalty shall be in addition
24 to the penalty imposed on any other person
25 for failing to register such shelter.”

1 (c) CONFORMING AMENDMENTS.—

2 (1) Paragraph (2) of section 6707(a) is amend-
3 ed by striking “The penalty” and inserting “Except
4 as provided in paragraph (3), the penalty”.

5 (2) Subparagraph (A) of section 6707(a)(1) is
6 amended by striking “paragraph (2)” and inserting
7 “paragraph (2) or (3), as the case may be”.

8 (d) EFFECTIVE DATE.—

9 (1) IN GENERAL.—The amendments made by
10 this section shall apply to any tax shelter (as defined
11 in section 6111(d) of the Internal Revenue Code of
12 1986, as amended by this section) interests in which
13 are offered to potential participants after the date of
14 the enactment of this Act.

15 (2) DUE DATE FOR REGISTRATION.—The due
16 date for registering any tax shelter required to be
17 registered by reason of the amendments made by
18 this section shall be not earlier than the close of a
19 reasonable period after the Secretary of the Treas-
20 ury prescribes guidance with respect to meeting such
21 requirements.

1 **SEC. 12803. DENIAL OF DEDUCTION FOR INTEREST ON**
2 **LOANS WITH RESPECT TO COMPANY-OWNED**
3 **INSURANCE.**

4 (a) IN GENERAL.—Paragraph (4) of section 264(a)
5 is amended—

6 (1) by inserting “, or any endowment or annu-
7 ity contracts owned by the taxpayer covering any in-
8 dividual,” after “the life of any individual”, and

9 (2) by striking all that follows “carried on by
10 the taxpayer” and inserting a period.

11 (b) EXCEPTION FOR CONTRACTS RELATING TO KEY
12 PERSONS; PERMISSIBLE INTEREST RATES.—Section 264
13 is amended—

14 (1) by striking “Any” in subsection (a)(4) and
15 inserting “Except as provided in subsection (d),
16 any”, and

17 (2) by adding at the end the following new sub-
18 section:

19 “(d) SPECIAL RULES FOR APPLICATION OF SUB-
20 SECTION (a)(4).—

21 “(1) EXCEPTION FOR KEY PERSONS.—Sub-
22 section (a)(4) shall not apply to any interest paid or
23 accrued on any indebtedness with respect to policies
24 or contracts covering an individual who is a key per-
25 son to the extent that the aggregate amount of such

1 indebtedness with respect to policies and contracts
2 covering such individual does not exceed \$50,000.

3 “(2) INTEREST RATE CAP ON KEY PERSONS
4 AND PRE-1986 CONTRACTS.—No deduction shall be
5 allowed by reason of paragraph (1) or the last sen-
6 tence of subsection (a) with respect to interest paid
7 or accrued for any month to the extent the amount
8 of such interest exceeds the amount which would
9 have been determined if the rate of interest for such
10 month were the rate of interest described as Moody’s
11 Corporate Bond Yield Average-Monthly Average
12 Corporates as published by Moody’s Investors Serv-
13 ice, Inc., or any successor thereto, for such month.

14 “(3) KEY PERSON.—For purposes of paragraph
15 (1), the term ‘key person’ means an officer or 20-
16 percent owner, except that the number of individuals
17 who may be treated as key persons with respect to
18 any taxpayer shall not exceed the greater of—

19 “(A) 5 individuals, or

20 “(B) the lesser of 5 percent of the total of-
21 ficers and employees of the taxpayer or 25 indi-
22 viduals.

23 “(4) 20-PERCENT OWNER.—For purposes of
24 this subsection, the term ‘20-percent owner’
25 means—

1 “(A) if the taxpayer is a corporation, any
2 person who owns directly 20 percent or more of
3 the outstanding stock of the corporation or
4 stock possessing 20 percent or more of the total
5 combined voting power of all stock of the cor-
6 poration, or

7 “(B) if the taxpayer is not a corporation,
8 any person who owns 20 percent or more of the
9 capital or profits interest in the employer.

10 “(5) AGGREGATION RULES.—

11 “(A) IN GENERAL.—For purposes of para-
12 graph (4)(A) and applying the \$50,000 limita-
13 tion in paragraph (1)—

14 “(i) all members of a controlled group
15 shall be treated as 1 taxpayer, and

16 “(ii) such limitation shall be allocated
17 among the members of such group in such
18 manner as the Secretary may prescribe.

19 “(B) CONTROLLED GROUP.—For purposes
20 of this paragraph, all persons treated as a sin-
21 gle employer under subsection (a) or (b) of sec-
22 tion 52 or subsection (m) or (o) of section 414
23 shall be treated as members of a controlled
24 group.”

25 “(c) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to interest paid or accrued
3 after December 31, 1995.

4 (2) TRANSITION RULE FOR EXISTING INDEBT-
5 EDNESS.—

6 (A) IN GENERAL.—In the case of indebted-
7 ness incurred before January 1, 1996, the
8 amendments made by this section shall not
9 apply to qualified interest paid or accrued on
10 such indebtedness after October 13, 1995, and
11 before January 1, 2001.

12 (B) QUALIFIED INTEREST.—For purposes
13 of subparagraph (A), the qualified interest with
14 respect to any indebtedness for any month is
15 the amount of interest which would be paid or
16 accrued for such month on such indebtedness if
17 the lesser of the following rates of interest were
18 used for such month:

19 (i) The rate of interest specified under
20 the terms of the indebtedness as in effect
21 on October 13, 1995 (and without regard
22 to modification of such terms after such
23 date).

24 (ii) The applicable percentage rate of
25 interest described as Moody's Corporate

1 Bond Yield Average-Monthly Average
2 Corporates as published by Moody’s Inves-
3 tors Service, Inc., or any successor thereto,
4 for such month.

5 (C) APPLICABLE PERCENTAGE.—For pur-
6 poses of subparagraph (B), the applicable per-
7 centage 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.”

8 (3) SPECIAL RULE FOR GRANDFATHERED CON-
9 TRACTS.—This section shall not apply to any con-
10 tract purchased on or before June 20, 1986, except
11 that—

12 (A) paragraph (2) shall apply to interest
13 on indebtedness incurred in connection with
14 such contract which is paid or accrued after Oc-
15 tober 13, 1995, and before January 1, 1996,
16 and

17 (B) section 264(d)(2) of the Internal Reve-
18 nue Code of 1986 (as added by subsection (b))
19 shall apply to such interest paid or accrued
20 after December 31, 1995.

21 (d) SPREAD OF INCOME INCLUSION ON SURRENDER,
22 ETC. OF CONTRACTS.—

1 (1) IN GENERAL.—If any amount is received
2 under any life insurance policy or endowment or an-
3 nuity contract described in paragraph (4) of section
4 264(a) of the Internal Revenue Code of 1986—

5 (A) on the complete surrender, redemption,
6 or maturity of such policy or contract during
7 calendar year 1996, 1997, 1998, 1999, 2000,
8 or 2001, or

9 (B) in full discharge during any such cal-
10 endar year of the obligation under the policy or
11 contract which is in the nature of a refund of
12 the consideration paid for the policy or con-
13 tract,

14 then (in lieu of any other inclusion in gross income)
15 such amount shall be includible in gross income rat-
16 ably over the 4-taxable year period beginning with
17 the taxable year such amount would (but for this
18 paragraph) be includible. The preceding sentence
19 shall only apply to the extent the amount is includ-
20 ible in gross income for the taxable year in which
21 the event described in subparagraph (A) or (B) oc-
22 curs.

23 (2) SPECIAL RULES FOR APPLYING SECTION
24 264.—A contract shall not be treated as failing—

1 (A) to meet the requirement of section
2 264(c)(1) of the Internal Revenue Code of
3 1986, or

4 (B) to be treated as a single premium con-
5 tract under section 264(b)(1) of such Code,
6 solely by reason of an occurrence described in sub-
7 paragraph (A) or (B) of paragraph (1) of this sub-
8 section or solely by reason of no additional pre-
9 miums being received under the contract by reason
10 of a lapse occurring after October 13, 1995.

11 (3) SPECIAL RULE FOR DEFERRED ACQUI-
12 SITION COSTS.—In the case of the occurrence of any
13 event described in subparagraph (A) or (B) of para-
14 graph (1) of this subsection with respect to any pol-
15 icy or contract—

16 (A) section 848 of the Internal Revenue
17 Code of 1986 shall not apply to the
18 unamortized balance (if any) of the specified
19 policy acquisition expenses attributable to such
20 policy or contract immediately before the insur-
21 ance company's taxable year in which such
22 event occurs, and

23 (B) there shall be allowed as a deduction
24 to such company for such taxable year under

1 chapter 1 of such Code an amount equal to
2 such unamortized balance.

3 **SEC. 12804. TERMINATION OF SUSPENSE ACCOUNTS FOR**
4 **FAMILY CORPORATIONS REQUIRED TO USE**
5 **ACCRUAL METHOD OF ACCOUNTING.**

6 (a) IN GENERAL.—Subsection (i) of section 447 (re-
7 lating to method of accounting for corporations engaged
8 in farming) is amended by adding at the end the following
9 new paragraph:

10 “(7) TERMINATION.—

11 “(A) IN GENERAL.—No suspense account
12 may be established under this subsection by any
13 corporation required by this section to change
14 its method of accounting for any taxable year
15 ending after September 13, 1995.

16 “(B) 20-YEAR PHASEOUT OF EXISTING
17 SUSPENSE ACCOUNTS.—Each suspense account
18 under this subsection shall be reduced (but not
19 below zero) for each of the first 20 taxable
20 years beginning after September 13, 1995, by
21 an amount equal to the applicable portion of
22 such account. Any reduction in a suspense ac-
23 count under this paragraph shall be included in
24 gross income for the taxable year of the reduc-
25 tion. The amount of the reduction required

1 under this paragraph for any taxable year shall
2 be reduced (but not below zero) by the amount
3 of any reduction required for such taxable year
4 under any other provision of this subsection.

5 “(C) APPLICABLE PORTION.—For pur-
6 poses of subparagraph (B), the term ‘applicable
7 portion’ means, for any taxable year, the
8 amount which would ratably reduce the amount
9 in the account (after taking into account prior
10 reductions) to zero over the period consisting of
11 such taxable year and the remaining taxable
12 years in such first 20 taxable years.”

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to taxable years ending after Sep-
15 tember 13, 1995.

16 **SEC. 12805. TERMINATION OF PUERTO RICO AND POSSES-**
17 **SION TAX CREDIT.**

18 (a) IN GENERAL.—Section 936 is amended by adding
19 at the end the following new subsection:

20 “(j) TERMINATION.—

21 “(1) IN GENERAL.—Except as otherwise pro-
22 vided in this subsection, this section shall not apply
23 to any taxable year beginning after December 31,
24 1995.

1 “(2) TRANSITION RULES FOR ACTIVE BUSINESS
2 INCOME CREDIT.—

3 “(A) IN GENERAL.—In the case of an ex-
4 isting credit claimant with respect to a posses-
5 sion, the credit determined under subsection
6 (a)(1)(A) for that possession shall be allowed
7 for taxable years beginning after December 31,
8 1995, and before January 1, 2002.

9 “(B) PHASEDOWN OF REDUCED CREDIT.—

10 “(i) IN GENERAL.—In the case of an
11 existing credit claimant to which sub-
12 section (a)(4)(B) applies, the applicable
13 percentage under clause (ii) thereof shall
14 be reduced by—

15 “(I) 10 percentage points for tax-
16 able years beginning in 1999,

17 “(II) 20 percentage points for
18 taxable years beginning in 2000, and

19 “(III) 30 percentage points for
20 taxable years beginning in 2001.

21 “(ii) REDUCTION NOT TAKEN INTO
22 ACCOUNT FOR LOCAL TAX DEDUCTION.—

23 The reduction under clause (i) shall not be
24 taken into account for purposes of the last
25 sentence of subsection (a)(4)(B)(i).

1 “(iii) ELECTION IRREVOCABLE AFTER
2 1997.—An election under subsection
3 (a)(4)(B)(iii) which is in effect for the tax-
4 payer’s last taxable year beginning before
5 1997 may not be revoked unless it is re-
6 voked for the taxpayer’s first taxable year
7 beginning in 1997 and all subsequent tax-
8 able years.

9 “(3) RESTRICTIONS ON QUALIFIED POSSESSION
10 SOURCE INVESTMENT INCOME.—

11 “(A) IN GENERAL.—In the case of an ex-
12 isting credit claimant with respect to a posses-
13 sion, the credit determined under subsection
14 (a)(1)(B) for that possession shall be allowed
15 for taxable years beginning after December 31,
16 1995, and before January 1, 2001, except that
17 only qualified possession source invest-
18 ment income derived from a qualifying asset may be
19 taken into account in computing the amount of
20 such credit.

21 “(B) QUALIFYING ASSET.—For purposes
22 of subparagraph (A)—

23 “(i) IN GENERAL.—The term ‘qualify-
24 ing asset’ means—

1 “(I) an asset held by the posses-
2 sion corporation on October 13, 1995,
3 or

4 “(II) an asset which was pur-
5 chased from the proceeds of an asset
6 described in subclause (I) or this
7 subclause.

8 “(ii) RESTRICTION ON REINVEST-
9 MENT.—An asset shall not be treated as a
10 qualifying asset under clause (i) with re-
11 spect to income derived from such asset for
12 periods after the date on which the exist-
13 ing credit claimant has held such asset
14 (and all prior assets the proceeds of which
15 have been rolled into such asset) for the
16 shortest period which results in the maxi-
17 mum reduction of possession taxes under
18 the laws of the possession in effect on Oc-
19 tober 13, 1995.

20 “(4) SPECIAL RULES FOR CERTAIN POSSES-
21 SIONS.—

22 “(A) IN GENERAL.—In the case of an ex-
23 isting credit claimant with respect to an appli-
24 cable possession, this section (other than the
25 preceding paragraphs of this subsection) shall

1 apply to taxable years beginning after Decem-
2 ber 31, 1995, and before January 1, 2006.

3 “(B) APPLICABLE POSSESSION.—For pur-
4 poses of this paragraph, the term ‘applicable
5 possession’ means Guam, American Samoa, and
6 the Commonwealth of the Northern Mariana Is-
7 lands.

8 “(5) EXISTING CREDIT CLAIMANT.—For pur-
9 poses of this subsection—

10 “(A) IN GENERAL.—The term ‘existing
11 credit claimant’ means, with respect to any pos-
12 session, a corporation—

13 “(i) which was actively conducting a
14 trade or business in that possession on Oc-
15 tober 13, 1995, and

16 “(ii) with respect to which an election
17 under this section was in effect for the cor-
18 poration’s taxable year which includes Oc-
19 tober 13, 1995.

20 “(B) NEW LINES OF BUSINESS PROHIB-
21 ITED.—If, after October 13, 1995, a corpora-
22 tion which would (but for this subparagraph) be
23 an existing credit claimant with respect to a
24 possession adds a substantial new line of busi-
25 ness with respect to a trade or business con-

1 subsection (h) and by inserting after subsection (f) the
2 following new subsection:

3 “(g) DEPRECIATION UNDER INCOME FORECAST
4 METHOD.—

5 “(1) IN GENERAL.—If the depreciation deduc-
6 tion allowable under this section to any taxpayer
7 with respect to any property is determined under the
8 income forecast method or any similar method—

9 “(A) in determining the amount of the de-
10 preciation deduction under such method, the es-
11 timated income from the property shall include
12 all income earned in connection with the prop-
13 erty before the close of the 10th taxable year
14 following the taxable year in which the property
15 was placed in service,

16 “(B) the adjusted basis of the property
17 shall only include amounts with respect to
18 which the requirements of section 461(h) are
19 satisfied,

20 “(C) the depreciation deduction under such
21 method for the 10th taxable year beginning
22 after the taxable year in which the property was
23 placed in service shall be equal to the adjusted
24 basis of such property as of the beginning of
25 such 10th taxable year, and

1 “(D) such taxpayer shall pay (or be enti-
2 tled to receive) interest computed under the
3 look-back method of paragraph (2) for any re-
4 computation year.

5 “(2) LOOK-BACK METHOD.—The interest com-
6 puted under the look-back method of this paragraph
7 for any recomputation year shall be determined by—

8 “(A) first determining the depreciation de-
9 ductions under this section with respect to such
10 property which would have been allowable for
11 prior taxable years if the determination of the
12 amounts so allowable had been made on the
13 basis of the sum of the following (instead of the
14 estimated income with respect to such prop-
15 erty)—

16 “(i) the actual income from such
17 property for periods before the close of the
18 recomputation year, and

19 “(ii) an estimate of the future income
20 with respect to such property for periods
21 after the recomputation year,

22 “(B) second, determining (solely for pur-
23 poses of computing such interest) the overpay-
24 ment or underpayment of tax for each such

1 prior taxable year which would result solely
2 from the application of subparagraph (A), and
3 “(C) then using the adjusted overpayment
4 rate (as defined in section 460(b)(7)),
5 compounded daily, on the overpayment or
6 underpayment determined under subparagraph
7 (B).

8 For purposes of the preceding sentence, any cost in-
9 curred after the property is placed in service (which
10 is not treated as a separate property under para-
11 graph (5)) shall be taken into account by discount-
12 ing (using the Federal mid-term rate determined
13 under section 1274(d) as of the time such cost is in-
14 curred) such cost to its value as of the date the
15 property is placed in service. The taxpayer may elect
16 with respect to any property to have the preceding
17 sentence not apply to such property.

18 “(3) EXCEPTION FROM LOOK-BACK METHOD.—
19 Paragraph (1)(D) shall not apply with respect to
20 any property which, when placed in service by the
21 taxpayer, had a basis of \$100,000 or less.

22 “(4) RECOMPUTATION YEAR.—For purposes of
23 this subsection, except as provided in regulations,
24 the term ‘recomputation year’ means, with respect to
25 any property, the third and the 10th taxable years

1 beginning after the taxable year in which the prop-
2 erty was placed in service, unless the actual income
3 from the property for the period before the close of
4 such third or 10th taxable year is within 10 percent
5 of the estimated income from the property for such
6 period which was taken into account under para-
7 graph (1)(A).

8 “(5) SPECIAL RULES.—

9 “(A) CERTAIN COSTS TREATED AS SEPA-
10 RATE PROPERTY.—For purposes of this sub-
11 section, the following costs shall be treated as
12 separate properties:

13 “(i) Any costs incurred with respect
14 to any property after the 10th taxable year
15 beginning after the taxable year in which
16 the property was placed in service.

17 “(ii) Any costs incurred after the
18 property is placed in service and before the
19 close of such 10th taxable year if such
20 costs are significant and give rise to a sig-
21 nificant increase in the income from the
22 property which was not included in the es-
23 timated income from the property.

24 “(B) SYNDICATION INCOME FROM TELE-
25 VISION SERIES.—In the case of property which

1 is an episode in a television series, income from
2 syndicating such series shall not be required to
3 be taken into account under this subsection be-
4 fore the earlier of—

5 “(i) the 4th taxable year beginning
6 after the date the first episode in such se-
7 ries is placed in service, or

8 “(ii) the earliest taxable year in which
9 the taxpayer has an arrangement relating
10 to the future syndication of such series.

11 “(C) COLLECTION OF INTEREST.—For
12 purposes of subtitle F (other than sections
13 6654 and 6655), any interest required to be
14 paid by the taxpayer under paragraph (1) for
15 any recomputation year shall be treated as an
16 increase in the tax imposed by this chapter for
17 such year.

18 “(D) DETERMINATIONS.—For purposes of
19 this subsection, determinations of the amount
20 of income from any property shall be deter-
21 mined in the same manner as for purposes of
22 applying the income forecast method; except
23 that any income from the disposition of such
24 property shall be taken into account.

1 “(E) TREATMENT OF PASS-THRU ENTI-
2 TIES.—Rules similar to the rules of section
3 460(b)(4) shall apply for purposes of this sub-
4 section.”

5 (b) EFFECTIVE DATE.—

6 (1) IN GENERAL.—The amendment made by
7 subsection (a) shall apply to property placed in serv-
8 ice after September 13, 1995.

9 (2) BINDING CONTRACTS.—The amendment
10 made by subsection (a) shall not apply to any prop-
11 erty produced or acquired by the taxpayer pursuant
12 to a written contract which was binding on Septem-
13 ber 13, 1995, and at all times thereafter before such
14 production or acquisition.

15 **SEC. 12807. TRANSFERS OF EXCESS PENSION ASSETS.**

16 (a) IN GENERAL.—Section 420 (relating to transfers
17 of excess pension assets to retiree health accounts) is
18 amended by adding at the end the following new sub-
19 section:

20 “(f) SIMILAR RULES TO APPLY TO OTHER TRANS-
21 FERS OF EXCESS PLAN ASSETS.—

22 “(1) IN GENERAL.—If there is a qualified em-
23 ployee benefit transfer of any excess pension assets
24 of a defined benefit plan (other than a multiem-
25 ployer plan) to an employer—

1 “(A) a trust which is part of such plan
2 shall not be treated as failing to meet the re-
3 quirements of section 401(a) solely by reason of
4 such transfer (or any other action authorized
5 under this section), and

6 “(B) such transfer shall not be treated
7 as—

8 “(i) an employer reversion for pur-
9 poses of section 4980, or

10 “(ii) a prohibited transaction for pur-
11 poses of section 4975.

12 The gross income of the employer shall include the
13 amount of any qualified employee benefit transfer
14 made during the taxable year.

15 “(2) QUALIFIED EMPLOYEE BENEFIT TRANS-
16 FER.—For purposes of this section—

17 “(A) IN GENERAL.—The term ‘qualified
18 employee benefit transfer’ means a transfer—

19 “(i) of excess pension assets of a de-
20 fined benefit plan to the employer, and

21 “(ii) with respect to which—

22 “(I) the use requirements of
23 paragraph (3) are met, and

24 “(II) the requirements of sub-
25 section (c)(2)(A) are met (determined

1 by treating such transfer as a quali-
2 fied transfer).

3 “(B) LIMITATION ON AMOUNTS TRANS-
4 FERRED.—The amount of excess pension assets
5 which may be transferred in qualified employee
6 benefit transfers during any taxable year shall
7 not exceed the amount which is reasonably esti-
8 mated to be the amount the employer maintain-
9 ing the plan will pay (whether directly or
10 through reimbursement) during the taxable
11 year for qualified current employee benefit li-
12 abilities.

13 “(C) COORDINATION WITH TRANSFERS TO
14 RETIREE HEALTH ACCOUNTS.—Such term shall
15 not include any qualified transfer (as defined in
16 subsection (b)).

17 “(D) EXPIRATION.—No transfer in any
18 taxable year beginning after December 31,
19 2001, shall be treated as a qualified employee
20 benefit transfer.

21 “(3) RESTRICTIONS ON USE OF TRANSFERRED
22 ASSETS.—

23 “(A) IN GENERAL.—Any assets transferred
24 to an employer in a qualified employee benefit
25 transfer shall be used only to pay qualified cur-

1 rent employee benefit liabilities for the taxable
2 year of the transfer (whether directly or
3 through reimbursement).

4 “(B) AMOUNTS NOT USED TO PAY BENE-
5 FITS.—An employer shall transfer to a plan an
6 amount equal to any assets transferred out of
7 the plan in a qualified employee benefit transfer
8 which are not used as provided in subparagraph
9 (A). Such amount shall be treated in the same
10 manner as amounts are treated under sub-
11 section (c)(1)(B)(ii), except that allocable in-
12 come shall be determined by using the Federal
13 short-term rate under section 1274(d).

14 “(C) QUALIFIED CURRENT EMPLOYEE
15 BENEFIT LIABILITIES.—For purposes of this
16 subsection—

17 “(i) IN GENERAL.—The term ‘quali-
18 fied current employee benefit liabilities’
19 means, with respect to any taxable year,
20 the aggregate amounts (including adminis-
21 trative expenses) for which a deduction is
22 allowable to the employer for such taxable
23 year with respect to applicable employee
24 benefits.

1 “(ii) APPLICABLE EMPLOYEE BENE-
2 FITS.—The term ‘applicable employee ben-
3 efits’ means—

4 “(I) contributions to a trust de-
5 scribed in section 401(a) which is ex-
6 empt from tax under section 501(a),

7 “(II) benefits under an accident
8 or health plan (within the meaning of
9 section 105),

10 “(III) disability benefits,

11 “(IV) benefits under an edu-
12 cational assistance program of the
13 employer described in section 127(b),
14 and

15 “(V) benefits under a dependent
16 care assistance program of the em-
17 ployer described in section 129(d).

18 “(4) DEFINITION AND SPECIAL RULE.—For
19 purposes of this subsection—

20 “(A) EXCESS PENSION ASSETS.—The term
21 ‘excess pension assets’ has the meaning given
22 such term by subsection (e)(2); except that—

23 “(i) the amount thereof shall be the
24 lesser of—

1 “(I) the amount determined as of
2 the most recent valuation date of the
3 plan preceding the transfer, reduced
4 by prior qualified employee benefit
5 transfers and qualified transfers after
6 such date, or

7 “(II) the amount determined as
8 of January 1, 1995 (or, if January 1,
9 1995, is not a valuation date, the
10 most recent prior valuation date), re-
11 duced by prior qualified employee ben-
12 efit transfers and qualified transfers
13 after such date, and

14 “(ii) subparagraph (B)(i) thereof shall
15 in no event be less than the amount under
16 section 412(c)(7)(E)(i)(I).

17 “(B) COORDINATION WITH SECTION 412.—
18 In the case of a qualified employee benefit
19 transfer—

20 “(i) any assets transferred in a plan
21 year on or before the valuation date for
22 such year (and any income allocable there-
23 to) shall, for purposes of section 412, be
24 treated as assets in the plan as of the valu-
25 ation date for such year, and

1 “(ii) the plan shall be treated as hav-
2 ing a net experience loss under section
3 412(b)(2)(B)(iv) in an amount equal to the
4 amount of such transfer and for which am-
5 ortization charges begin for the first plan
6 year after the plan year in which such
7 transfer occurs, except that such section
8 shall be applied to such amount by sub-
9 stituting ‘10 plan years’ for ‘5 plan
10 years’.”

11 (b) APPLICATION OF ERISA.—

12 (1) NOTICE.—Section 101(e) of the Employee
13 Retirement Income Security Act of 1974 (29 U.S.C.
14 1021(e)) is amended—

15 (A) by inserting “or a qualified employee
16 benefit transfer,” after “to a health benefits ac-
17 count,” in paragraphs (1) and (2)(A),

18 (B) by inserting “or qualified employee
19 benefits” after “the amount of health benefits
20 liabilities” in paragraph (1),

21 (C) by striking “January 1, 1995” in
22 paragraph (3) and inserting “the date of the
23 enactment of the Revenue Reconciliation Act of
24 1995”, and

1 (D) by striking “TO HEALTH BENEFITS
2 ACCOUNTS” in the heading.

3 (2) EXCLUSIVE BENEFIT.—Paragraph (1) of
4 section 403(c) of such Act (29 U.S.C. 1103(c)(1)) is
5 amended by striking “January 1, 1995” and insert-
6 ing “the date of the enactment of the Revenue Rec-
7 onciliation Act of 1995”.

8 (3) EXEMPTION FROM PROHIBITED TRANS-
9 ACTION.—Section 408(b) of such Act (29 U.S.C.
10 1108(b)) is amended by adding at the end the fol-
11 lowing new paragraph:

12 “(14) Any transfer in a taxable year beginning
13 before January 1, 2001, of excess pension assets
14 from a deferred benefit plan in a qualified employee
15 benefit transfer permitted under section 420(f) of
16 the Internal Revenue Code of 1986 (as in effect on
17 the date of the enactment of the Revenue Reconcili-
18 ation Act of 1995).”

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to transfers on and after the date
21 of the enactment of this Act.

1 **SEC. 12808. REPEAL OF EXCLUSION FOR INTEREST ON**
2 **LOANS USED TO ACQUIRE EMPLOYER SECURITIES.**
3 **RITIES.**

4 (a) IN GENERAL.—Section 133 (relating to interest
5 on certain loans used to acquire employer securities) is
6 hereby repealed.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Subparagraph (B) of section 291(e)(1) is
9 amended by striking clause (iv) and by redesignating
10 clause (v) as clause (iv).

11 (2) Section 812 is amended by striking sub-
12 section (g).

13 (3) Paragraph (5) of section 852(b) is amended
14 by striking subparagraph (C).

15 (4) Paragraph (2) of section 4978(b) is amend-
16 ed by striking subparagraph (A) and all that follows
17 and inserting the following:

18 “(A) first from qualified securities to
19 which section 1042 applied acquired during the
20 3-year period ending on the date of the disposi-
21 tion, beginning with the securities first so ac-
22 quired, and

23 “(B) then from any other employer securi-
24 ties.

1 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.”

2
3
4 (5)(A) Section 4978B (relating to tax on disposition of employer securities to which section 133 applied) is hereby repealed.

5
6
7 (B) The table of sections for chapter 43 is amended by striking the item relating to section 8 4978B.

9
10 (6) Subsection (e) of section 6047 is amended by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

11
12
13 “(1) any employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, an employee stock ownership plan which holds 14 stock with respect to which section 404(k) applies to 15 dividends paid on such stock, or 16

17
18 “(2) both such employer or plan administrator,”. 19

20 (7) Subsection (f) of section 7872 is amended by striking paragraph (12). 21

22 (c) EFFECTIVE DATE.—

23 (1) IN GENERAL.—The amendments made by 24 this section shall apply to loans made after October 25 13, 1995.

1 (2) REFINANCINGS.—The amendments made by
2 this section shall not apply to loans made after Octo-
3 ber 13, 1995, to refinance securities acquisition
4 loans (determined without regard to section
5 133(b)(1)(B) of the Internal Revenue Code of 1986,
6 as in effect on the day before the date of the enact-
7 ment of this Act) made on or before such date or
8 to refinance loans described in this paragraph if—

9 (A) the refinancing loans meet the require-
10 ments of section 133 of such Code (as so in ef-
11 fect),

12 (B) immediately after the refinancing the
13 principal amount of the loan resulting from the
14 refinancing does not exceed the principal
15 amount of the refinanced loan (immediately be-
16 fore the refinancing), and

17 (C) the term of such refinancing loan does
18 not extend beyond the last day of the term of
19 the original securities acquisition loan.

20 For purposes of this paragraph, the term “securities
21 acquisition loan” includes a loan from a corporation
22 to an employee stock ownership plan described in
23 section 133(b)(3) of such Code (as so in effect).

1 **CHAPTER 2—LEGAL REFORMS**
2 **SEC. 12811. REPEAL OF EXCLUSION FOR PUNITIVE DAM-**
3 **AGES AND FOR DAMAGES NOT ATTRIB-**
4 **UTABLE TO PHYSICAL INJURIES OR SICK-**
5 **NESS.**

6 (a) IN GENERAL.—Paragraph (2) of section 104(a)
7 (relating to compensation for injuries or sickness) is
8 amended to read as follows:

9 “(2) the amount of any damages (other than
10 punitive damages) received (whether by suit or
11 agreement and whether as lump sums or as periodic
12 payments) on account of personal physical injuries
13 or physical sickness;”.

14 (b) EMOTIONAL DISTRESS AS SUCH TREATED AS
15 NOT PHYSICAL INJURY OR PHYSICAL SICKNESS.—Sec-
16 tion 104(a) is amended by striking the last sentence and
17 inserting the following new sentence: “For purposes of
18 paragraph (2), emotional distress shall not be treated as
19 a physical injury or physical sickness. The preceding sen-
20 tence shall not apply to an amount of damages not in ex-
21 cess of the amount paid for medical care (described in sub-
22 paragraph (A) or (B) of section 213(d)(1)) attributable
23 to emotional distress.”

24 (c) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), the amendments made by this section
3 shall apply to amounts received after December 31,
4 1995, in taxable years ending after such date.

5 (2) EXCEPTION.—The amendments made by
6 this section shall not apply to any amount received
7 under a written binding agreement, court decree, or
8 mediation award in effect on (or issued on or before)
9 September 13, 1995.

10 **SEC. 12812. REPORTING OF CERTAIN PAYMENTS MADE TO**
11 **ATTORNEYS.**

12 (a) IN GENERAL.—Section 6045 (relating to returns
13 of brokers) is amended by adding at the end the following
14 new subsection:

15 “(f) RETURN REQUIRED IN THE CASE OF PAYMENTS
16 TO ATTORNEYS.—

17 “(1) IN GENERAL.—Any person engaged in a
18 trade or business and making a payment (in the
19 course of such trade or business) to which this sub-
20 section applies shall file a return under subsection
21 (a) and a statement under subsection (b) with re-
22 spect to such payment.

23 “(2) APPLICATION OF SUBSECTION.—

24 “(A) IN GENERAL.—This subsection shall
25 apply to any payment to an attorney in connec-

1 tion with legal services (whether or not such
2 services are performed for the payor).

3 “(B) EXCEPTION.—This subsection shall
4 not apply to the portion of any payment which
5 is required to be reported under section 6041(a)
6 (or would be so required but for the dollar limi-
7 tation contained therein) or section 6051.”

8 (b) REPORTING OF ATTORNEYS’ FEES PAYABLE TO
9 CORPORATIONS.—The regulations providing an exception
10 under section 6041 of the Internal Revenue Code of 1986
11 for payments made to corporations shall not apply to pay-
12 ments of attorneys’ fees.

13 (c) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to payments made after December
15 31, 1995.

16 **CHAPTER 3—REFORMS RELATING TO**
17 **NONRECOGNITION PROVISIONS**

18 **SEC. 12821. NO ROLLOVER OR EXCLUSION OF GAIN ON**
19 **SALE OF PRINCIPAL RESIDENCE WHICH IS**
20 **ATTRIBUTABLE TO DEPRECIATION DEDUC-**
21 **TIONS.**

22 (a) IN GENERAL.—Subsection (d) of section 1034
23 (relating to limitations) is amended by adding at the end
24 the following new paragraph:

1 “(3) RECOGNITION OF GAIN ATTRIBUTABLE TO
2 DEPRECIATION.—Subsection (a) shall not apply to
3 so much of the gain from the sale of any residence
4 as does not exceed the portion of the depreciation
5 adjustments (as defined in section 1250(b)(3)) at-
6 tributable to periods after December 31, 1995, in re-
7 spect of such residence.”

8 (b) COMPARABLE TREATMENT UNDER 1-TIME EX-
9 CLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE.—
10 Subsection (d) of section 121 is amended by adding at
11 the end the following new paragraph:

12 “(10) RECOGNITION OF GAIN ATTRIBUTABLE
13 TO DEPRECIATION.—

14 “(A) IN GENERAL.—Subsection (a) shall
15 not apply to so much of the gain from the sale
16 of any property as does not exceed the portion
17 of the depreciation adjustments (as defined in
18 section 1250(b)(3)) attributable to periods after
19 December 31, 1995, in respect of such prop-
20 erty.

21 “(B) COORDINATION WITH PARAGRAPH
22 (5).—If this section does not apply to gain at-
23 tributable to a portion of a residence by reason
24 of paragraph (5), subparagraph (A) shall not

1 apply to depreciation adjustments attributable
2 to such portion.”

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years ending after De-
5 cember 31, 1995.

6 **SEC. 12822. NONRECOGNITION OF GAIN ON SALE OF PRIN-**
7 **CIPAL RESIDENCE BY NONCITIZENS LIMITED**
8 **TO NEW RESIDENCES LOCATED IN THE**
9 **UNITED STATES.**

10 (a) IN GENERAL.—Subsection (d) of section 1034
11 (relating to limitations) (as amended by section 12821)
12 is amended by adding at the end the following new para-
13 graph:

14 “(4) NEW RESIDENCE MUST BE LOCATED IN
15 UNITED STATES IN CERTAIN CASES.—

16 “(A) IN GENERAL.—In the case of a sale
17 of an old residence by a taxpayer—

18 “(i) who is not a citizen of the United
19 States at the time of sale, and

20 “(ii) who is not a citizen or resident
21 of the United States on the date which is
22 2 years after the date of the sale of such
23 old residence,

1 subsection (a) shall apply only if the new resi-
2 dence is located in the United States or a pos-
3 session of the United States.

4 “(B) PROPERTY HELD JOINTLY BY HUS-
5 BAND AND WIFE.—Subparagraph (A) shall not
6 apply if—

7 “(i) the old residence is held by a hus-
8 band and wife as joint tenants, tenants by
9 the entirety, or community property,

10 “(ii) such husband and wife make a
11 joint return for the taxable year of the sale
12 or exchange, and

13 “(iii) one spouse is a citizen of the
14 United States at the time of sale.”

15 (b) EFFECTIVE DATE.—

16 (1) IN GENERAL.—The amendment made by
17 this section shall apply to sales of old residences
18 after December 31, 1995.

19 (2) TREATMENT OF PURCHASES OF NEW RESI-
20 DENCES.—The amendment made by this section
21 shall not apply to new residences—

22 (A) purchased before September 13, 1995,

23 or

24 (B) purchased on or after such date pursu-
25 ant to a binding contract in effect on such date

1 and at all times thereafter before such pur-
2 chase.

3 (3) CERTAIN RULES TO APPLY.—For purposes
4 of this subsection, the rules of paragraphs (1), (2),
5 and (3) of section 1034(e) of the Internal Revenue
6 Code of 1986 shall apply.

7 **CHAPTER 4—EXCISE TAX AND TAX-**
8 **EXEMPT BOND PROVISIONS**

9 **SEC. 12831. REPEAL OF DIESEL FUEL TAX REBATE TO PUR-**
10 **CHASERS OF DIESEL-POWERED AUTO-**
11 **MOBILES AND LIGHT TRUCKS.**

12 (a) IN GENERAL.—Section 6427 (relating to fuels
13 not used for taxable purposes) is amended by striking sub-
14 section (g).

15 (b) CONFORMING AMENDMENTS.—

16 (1) Paragraph (3) of section 34(a) is amended
17 to read as follows:

18 “(3) under section 6427 with respect to fuels
19 used for nontaxable purposes or resold during the
20 taxable year (determined without regard to section
21 6427(k)).”

22 (2) Paragraphs (1) and (2)(A) of section
23 6427(i) are each amended—

24 (A) by striking “(g),” and

1 (B) by striking “(or a qualified diesel pow-
2 ered highway vehicle purchased)” each place it
3 appears.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to vehicles purchased after Decem-
6 ber 31, 1995.

7 **SEC. 12832. REPEAL OF WINE AND FLAVORS CONTENT**
8 **CREDIT.**

9 (a) IN GENERAL.—Section 5010 (relating to credit
10 for wine content and for flavors content) is repealed.

11 (b) EFFECTIVE DATE.—The repeal made by this sec-
12 tion shall take effect with respect to distilled spirits (as
13 defined in section 5002(a)(8) of the Internal Revenue
14 Code of 1986) removed from bonded premises (as defined
15 in section 5002(a)(3) of such Code) after December 31,
16 1995.

17 **SEC. 12833. MODIFICATIONS TO EXCISE TAX ON OZONE-DE-**
18 **PLETING CHEMICALS.**

19 (a) IN GENERAL.—Section 4682(d)(1) (relating to
20 recycling) is amended by inserting “(including any halon
21 imported from any country which is a signatory to the
22 Montreal Protocol on Substances that Deplete the Ozone
23 Layer)” after “ozone-depleting chemical”.

24 (b) CERTIFICATION SYSTEM.—The Secretary of the
25 Treasury, after consultation with the Administrator of the

1 Environmental Protection Agency, shall develop a certifi-
2 cation system to ensure compliance with the recycling re-
3 quirement for imported halon under section 4682(d)(1) of
4 the Internal Revenue Code of 1986, as amended by sub-
5 section (a).

6 (c) EFFECTIVE DATE.—The amendment made by
7 subsection (a) shall take effect on the date of the enact-
8 ment of this Act.

9 **SEC. 12834. ELECTION TO AVOID TAX-EXEMPT BOND PEN-**
10 **ALTIES FOR LOCAL FURNISHERS OF ELEC-**
11 **TRICITY AND GAS.**

12 Section 142(f) (relating to local furnishing of electric
13 energy or gas) is amended by adding at the end the follow-
14 ing new paragraphs:

15 “(3) ELECTION TO AVOID PENALTIES FOR CER-
16 TAIN FURNISHERS.—

17 “(A) IN GENERAL.—If—

18 “(i) the principal user of facilities for
19 the local furnishing of electric energy or
20 gas financed such facilities in whole or in
21 part with exempt facility bonds described
22 in subsection (a)(8) issued before the date
23 of the enactment of this paragraph,

24 “(ii) such bonds would (but for this
25 paragraph) cease to be tax-exempt by rea-

1 son of such user failing to meet the local
2 furnishing requirement of such section as a
3 result of a service area expansion by such
4 user, and

5 “(iii) an election described in subpara-
6 graph (B) is made by such user with re-
7 spect to all such facilities of the user,

8 then such bonds shall not cease to be tax-ex-
9 empt by reason of such expansion (and section
10 150(b)(4) shall not apply to interest on such
11 bonds).

12 “(B) ELECTION.—An election is described
13 in this subparagraph if it is an election made
14 in such manner as the Secretary prescribes, and
15 such user agrees that—

16 “(i) no bonds exempt from tax under
17 section 103 may be issued on or after the
18 date of the enactment of this paragraph
19 with respect to the facilities or any other
20 facilities with respect to which such user is
21 a principal user,

22 “(ii) the expansion of the service
23 area—

1 “(I) is not financed with the pro-
2 ceeds of any exempt facility bond de-
3 scribed in subsection (a)(8), and

4 “(II) is not treated as a
5 nonqualifying use under the rules of
6 paragraph (2), and

7 “(iii) all outstanding bonds used to fi-
8 nance the facilities are redeemed not later
9 than 6 months after the later of—

10 “(I) the earliest date on which
11 such bonds may be redeemed, or

12 “(II) the date of the agreement.

13 “(C) PRINCIPAL USER.—For purposes of
14 this paragraph, the term ‘principal user’ means
15 any person or a group of related persons (with-
16 in the meaning of section 144(a)(3)) which in-
17 cludes such person.

18 “(4) APPLICATION OF SECTION.—For purposes
19 of this section, no person may qualify as a local fur-
20 nisher of electric energy or gas unless such person
21 is such a local furnisher on the date of the enact-
22 ment of this paragraph.”

1 **SEC. 12835. TAX-EXEMPT BONDS FOR SALE OF ALASKA**
2 **POWER ADMINISTRATION FACILITY.**

3 Sections 142(f)(4) (as added by section 12834(a))
4 and 147(d) of the Internal Revenue Code of 1986 shall
5 not apply with respect to any private activity bond issued
6 after the date of the enactment of this Act and used to
7 finance the acquisition of the Snettisham hydroelectric
8 project from the Alaska Power Administration in deter-
9 mining if such bond is a qualified bond for purposes of
10 such Code.

11 **CHAPTER 5—FOREIGN TRUST TAX**
12 **COMPLIANCE**

13 **SEC. 12841. IMPROVED INFORMATION REPORTING ON FOR-**
14 **EIGN TRUSTS.**

15 (a) IN GENERAL.—Section 6048 (relating to returns
16 as to certain foreign trusts) is amended to read as follows:

17 **“SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN**
18 **FOREIGN TRUSTS.**

19 “(a) NOTICE OF CERTAIN EVENTS.—

20 “(1) GENERAL RULE.—On or before the 90th
21 day (or such later day as the Secretary may pre-
22 scribe) after any reportable event, the responsible
23 party shall provide written notice of such event to
24 the Secretary in accordance with paragraph (2).

1 “(2) CONTENTS OF NOTICE.—The notice re-
2 quired by paragraph (1) shall contain such informa-
3 tion as the Secretary may prescribe, including—

4 “(A) the amount of money or other prop-
5 erty (if any) transferred to the trust in connec-
6 tion with the reportable event, and

7 “(B) the identity of the trust and of each
8 trustee and beneficiary (or class of bene-
9 ficiaries) of the trust.

10 “(3) REPORTABLE EVENT.—For purposes of
11 this subsection—

12 “(A) IN GENERAL.—The term ‘reportable
13 event’ means—

14 “(i) the creation of any foreign trust
15 by a United States person,

16 “(ii) the transfer of any money or
17 property (directly or indirectly) to a for-
18 eign trust by a United States person, in-
19 cluding a transfer by reason of death, and

20 “(iii) the death of a citizen or resident
21 of the United States if—

22 “(I) the decedent was treated as
23 the owner of any portion of a foreign
24 trust under the rules of subpart E of

1 part I of subchapter J of chapter 1,
2 or

3 “(II) any portion of a foreign
4 trust was included in the gross estate
5 of the decedent.

6 “(B) EXCEPTIONS.—

7 “(i) FAIR MARKET VALUE SALES.—
8 Subparagraph (A)(ii) shall not apply to
9 any transfer of property to a trust in ex-
10 change for consideration of at least the fair
11 market value of the transferred property.
12 For purposes of the preceding sentence,
13 consideration other than cash shall be
14 taken into account at its fair market value
15 and the rules of section 679(a)(3) shall
16 apply.

17 “(ii) PENSION AND CHARITABLE
18 TRUSTS.—Subparagraph (A) shall not
19 apply with respect to a trust which is—

20 “(I) described in section
21 404(a)(4) or 404A, or

22 “(II) determined by the Sec-
23 retary to be described in section
24 501(c)(3).

1 “(4) RESPONSIBLE PARTY.—For purposes of
2 this subsection, the term ‘responsible party’
3 means—

4 “(A) the grantor in the case of the cre-
5 ation of an inter vivos trust,

6 “(B) the transferor in the case of a report-
7 able event described in paragraph (3)(A)(ii)
8 other than a transfer by reason of death, and

9 “(C) the executor of the decedent’s estate
10 in any other case.

11 “(b) UNITED STATES GRANTOR OF FOREIGN
12 TRUST.—

13 “(1) IN GENERAL.—If, at any time during any
14 taxable year of a United States person, such person
15 is treated as the owner of any portion of a foreign
16 trust under the rules of subpart E of part I of sub-
17 chapter J of chapter 1, such person shall be respon-
18 sible to ensure that—

19 “(A) such trust makes a return for such
20 year which sets forth a full and complete ac-
21 counting of all trust activities and operations
22 for the year, the name of the United States
23 agent for such trust, and such other informa-
24 tion as the Secretary may prescribe, and

1 “(B) such trust furnishes such information
2 as the Secretary may prescribe to each United
3 States person (i) who is treated as the owner of
4 any portion of such trust or (ii) who receives
5 (directly or indirectly) any distribution from the
6 trust.

7 “(2) TRUSTS NOT HAVING UNITED STATES
8 AGENT.—

9 “(A) IN GENERAL.—If the rules of this
10 paragraph apply to any foreign trust, the deter-
11 mination of amounts required to be taken into
12 account with respect to such trust by a United
13 States person under the rules of subpart E of
14 part I of subchapter J of chapter 1 shall be de-
15 termined by the Secretary in the Secretary’s
16 sole discretion from the Secretary’s own knowl-
17 edge or from such information as the Secretary
18 may obtain through testimony or otherwise.

19 “(B) UNITED STATES AGENT REQUIRED.—
20 The rules of this paragraph shall apply to any
21 foreign trust to which paragraph (1) applies un-
22 less such trust agrees (in such manner, subject
23 to such conditions, and at such time as the Sec-
24 retary shall prescribe) to authorize a United
25 States person to act as such trust’s limited

1 agent solely for purposes of applying sections
2 7602, 7603, and 7604 with respect to—

3 “(i) any request by the Secretary to
4 examine records or produce testimony re-
5 lated to the proper treatment of amounts
6 required to be taken into account under
7 the rules referred to in subparagraph (A),
8 or

9 “(ii) any summons by the Secretary
10 for such records or testimony.

11 The appearance of persons or production of
12 records by reason of a United States person
13 being such an agent shall not subject such per-
14 sons or records to legal process for any purpose
15 other than determining the correct treatment
16 under this title of the amounts required to be
17 taken into account under the rules referred to
18 in subparagraph (A). A foreign trust which ap-
19 points an agent described in this subparagraph
20 shall not be considered to have an office or a
21 permanent establishment in the United States,
22 or to be engaged in a trade or business in the
23 United States, solely because of the activities of
24 such agent pursuant to this subsection.

1 “(C) OTHER RULES TO APPLY.—Rules
2 similar to the rules of paragraphs (2) and (4)
3 of section 6038A(e) shall apply for purposes of
4 this paragraph.

5 “(c) REPORTING BY UNITED STATES BENEFICIARIES
6 OF FOREIGN TRUSTS.—

7 “(1) IN GENERAL.—If any United States per-
8 son receives (directly or indirectly) during any tax-
9 able year of such person any distribution from a for-
10 eign trust, such person shall make a return with re-
11 spect to such trust for such year which includes—

12 “(A) the name of such trust,

13 “(B) the aggregate amount of the distribu-
14 tions so received from such trust during such
15 taxable year, and

16 “(C) such other information as the Sec-
17 retary may prescribe.

18 “(2) INCLUSION IN INCOME IF RECORDS NOT
19 PROVIDED.—If adequate records are not provided to
20 the Secretary to determine the proper treatment of
21 any distribution from a foreign trust, such distribu-
22 tion shall be treated as an accumulation distribution
23 includible in the gross income of the distributee
24 under chapter 1. To the extent provided in regula-
25 tions, the preceding sentence shall not apply if the

1 foreign trust elects to be subject to rules similar to
2 the rules of subsection (b)(2)(B).

3 “(d) SPECIAL RULES.—

4 “(1) DETERMINATION OF WHETHER UNITED
5 STATES PERSON RECEIVES DISTRIBUTION.—For
6 purposes of this section, in determining whether a
7 United States person receives a distribution from a
8 foreign trust, the fact that a portion of such trust
9 is treated as owned by another person under the
10 rules of subpart E of part I of subchapter J of chap-
11 ter 1 shall be disregarded.

12 “(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVI-
13 TIES.—To the extent provided in regulations, a trust
14 which is a United States person shall be treated as
15 a foreign trust for purposes of this section and sec-
16 tion 6677 if such trust has substantial activities, or
17 holds substantial property, outside the United
18 States.

19 “(3) TIME AND MANNER OF FILING INFORMA-
20 TION.—Any notice or return required under this sec-
21 tion shall be made at such time and in such manner
22 as the Secretary shall prescribe.

23 “(4) MODIFICATION OF RETURN REQUIRE-
24 MENTS.—The Secretary is authorized to suspend or
25 modify any requirement of this section if the Sec-

1 retary determines that the United States has no sig-
2 nificant tax interest in obtaining the required infor-
3 mation.”

4 (b) INCREASED PENALTIES.—Section 6677 (relating
5 to failure to file information returns with respect to cer-
6 tain foreign trusts) is amended to read as follows:

7 **“SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT**
8 **TO CERTAIN FOREIGN TRUSTS.**

9 “(a) CIVIL PENALTY.—In addition to any criminal
10 penalty provided by law, if any notice or return required
11 to be filed by section 6048—

12 “(1) is not filed on or before the time provided
13 in such section, or

14 “(2) does not include all the information re-
15 quired pursuant to such section or includes incorrect
16 information,

17 the person required to file such notice or return shall pay
18 a penalty equal to 35 percent of the gross reportable
19 amount. If any failure described in the preceding sentence
20 continues for more than 90 days after the day on which
21 the Secretary mails notice of such failure to the person
22 required to pay such penalty, such person shall pay a pen-
23 alty (in addition to the amount determined under the pre-
24 ceding sentence) of \$10,000 for each 30-day period (or
25 fraction thereof) during which such failure continues after

1 the expiration of such 90-day period. In no event shall the
2 penalty under this subsection with respect to any failure
3 exceed the gross reportable amount.

4 “(b) SPECIAL RULES FOR RETURNS UNDER SEC-
5 TION 6048(b).—In the case of a return required under
6 section 6048(b)—

7 “(1) the United States person referred to in
8 such section shall be liable for the penalty imposed
9 by subsection (a), and

10 “(2) subsection (a) shall be applied by sub-
11 stituting ‘5 percent’ for ‘35 percent’.

12 “(c) GROSS REPORTABLE AMOUNT.—For purposes
13 of subsection (a), the term ‘gross reportable amount’
14 means—

15 “(1) the gross value of the property involved in
16 the event (determined as of the date of the event)
17 in the case of a failure relating to section 6048(a),

18 “(2) the gross value of the portion of the trust’s
19 assets at the close of the year treated as owned by
20 the United States person in the case of a failure re-
21 lating to section 6048(b)(1), and

22 “(3) the gross amount of the distributions in
23 the case of a failure relating to section 6048(c).

24 “(d) REASONABLE CAUSE EXCEPTION.—No penalty
25 shall be imposed by this section on any failure which is

1 shown to be due to reasonable cause and not due to willful
2 neglect. The fact that a foreign jurisdiction would impose
3 a civil or criminal penalty on the taxpayer (or any other
4 person) for disclosing the required information is not rea-
5 sonable cause.

6 “(e) DEFICIENCY PROCEDURES NOT TO APPLY.—
7 Subchapter B of chapter 63 (relating to deficiency proce-
8 dures for income, estate, gift, and certain excise taxes)
9 shall not apply in respect of the assessment or collection
10 of any penalty imposed by subsection (a).”

11 (c) CONFORMING AMENDMENTS.—

12 (1) Paragraph (2) of section 6724(d), as
13 amended by section 12203, is amended by striking
14 “or” at the end of subparagraph (U), by striking the
15 period at the end of subparagraph (V) and inserting
16 “, or”, and by inserting after subparagraph (V) the
17 following new subparagraph:

18 “(W) section 6048(b)(1)(B) (relating to
19 foreign trust reporting requirements).”

20 (2) The table of sections for subpart B of part
21 III of subchapter A of chapter 61 is amended by
22 striking the item relating to section 6048 and insert-
23 ing the following new item:

“Sec. 6048. Information with respect to certain foreign trusts.”

24 (3) The table of sections for part I of sub-
25 chapter B of chapter 68 is amended by striking the

1 item relating to section 6677 and inserting the fol-
2 lowing new item:

“Sec. 6677. Failure to file information with respect to certain for-
eign trusts.”

3 (d) EFFECTIVE DATES.—

4 (1) REPORTABLE EVENTS.—To the extent re-
5 lated to subsection (a) of section 6048 of the Inter-
6 nal Revenue Code of 1986, as amended by this sec-
7 tion, the amendments made by this section shall
8 apply to reportable events (as defined in such section
9 6048) occurring after the date of the enactment of
10 this Act.

11 (2) GRANTOR TRUST REPORTING.—To the ex-
12 tent related to subsection (b) of such section 6048,
13 the amendments made by this section shall apply to
14 taxable years of United States persons beginning
15 after the date of the enactment of this Act.

16 (3) REPORTING BY UNITED STATES BENE-
17 FICIARIES.—To the extent related to subsection (c)
18 of such section 6048, the amendments made by this
19 section shall apply to distributions received after the
20 date of the enactment of this Act.

21 **SEC. 12842. MODIFICATIONS OF RULES RELATING TO FOR-**
22 **EIGN TRUSTS HAVING ONE OR MORE UNITED**
23 **STATES BENEFICIARIES.**

24 (a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

1 (1) Paragraph (2) of section 679(a) is amended
2 by striking subparagraph (B) and inserting the fol-
3 lowing:

4 “(B) TRANSFERS AT FAIR MARKET
5 VALUE.—To any transfer of property to a trust
6 in exchange for consideration of at least the fair
7 market value of the transferred property. For
8 purposes of the preceding sentence, consider-
9 ation other than cash shall be taken into ac-
10 count at its fair market value.”

11 (2) Subsection (a) of section 679 (relating to
12 foreign trusts having one or more United States
13 beneficiaries) is amended by adding at the end the
14 following new paragraph:

15 “(3) CERTAIN OBLIGATIONS NOT TAKEN INTO
16 ACCOUNT UNDER FAIR MARKET VALUE EXCEP-
17 TION.—

18 “(A) IN GENERAL.—In determining wheth-
19 er paragraph (2)(B) applies to any transfer by
20 a person described in clause (ii) or (iii) of sub-
21 paragraph (C), there shall not be taken into ac-
22 count—

23 “(i) except as provided in regulations,
24 any obligation of a person described in
25 subparagraph (C), and

1 “(ii) to the extent provided in regula-
2 tions, any obligation which is guaranteed
3 by a person described in subparagraph (C).

4 “(B) TREATMENT OF PRINCIPAL PAY-
5 MENTS ON OBLIGATION.—Principal payments
6 by the trust on any obligation referred to in
7 subparagraph (A) shall be taken into account
8 on and after the date of the payment in deter-
9 mining the portion of the trust attributable to
10 the property transferred.

11 “(C) PERSONS DESCRIBED.—The persons
12 described in this subparagraph are—

13 “(i) the trust,

14 “(ii) any grantor or beneficiary of the
15 trust, and

16 “(iii) any person who is related (with-
17 in the meaning of section 643(i)(2)(B)) to
18 any grantor or beneficiary of the trust.”

19 (b) EXEMPTION OF TRANSFERS TO CHARITABLE
20 TRUSTS.—Subsection (a) of section 679 is amended by
21 striking “section 404(a)(4) or 404A” and inserting “sec-
22 tion 6048(a)(3)(B)(ii)”.

23 (c) OTHER MODIFICATIONS.—Subsection (a) of sec-
24 tion 679 is amended by adding at the end the following
25 new paragraphs:

1 “(4) SPECIAL RULES APPLICABLE TO FOREIGN
2 GRANTOR WHO LATER BECOMES A UNITED STATES
3 PERSON.—

4 “(A) IN GENERAL.—If a nonresident alien
5 individual has a residency starting date within
6 5 years after directly or indirectly transferring
7 property to a foreign trust, this section and sec-
8 tion 6048 shall be applied as if such individual
9 transferred to such trust on the residency start-
10 ing date an amount equal to the portion of such
11 trust attributable to the property transferred by
12 such individual to such trust in such transfer.

13 “(B) TREATMENT OF UNDISTRIBUTED IN-
14 COME.—For purposes of this section, undistrib-
15 uted net income for periods before such individ-
16 ual’s residency starting date shall be taken into
17 account in determining the portion of the trust
18 which is attributable to property transferred by
19 such individual to such trust but shall not oth-
20 erwise be taken into account.

21 “(C) RESIDENCY STARTING DATE.—For
22 purposes of this paragraph, an individual’s resi-
23 dency starting date is the residency starting
24 date determined under section 7701(b)(2)(A).

25 “(5) OUTBOUND TRUST MIGRATIONS.—If—

1 “(A) an individual who is a citizen or resi-
2 dent of the United States transferred property
3 to a trust which was not a foreign trust, and

4 “(B) such trust becomes a foreign trust
5 while such individual is alive,

6 then this section and section 6048 shall be applied
7 as if such individual transferred to such trust on the
8 date such trust becomes a foreign trust an amount
9 equal to the portion of such trust attributable to the
10 property previously transferred by such individual to
11 such trust. A rule similar to the rule of paragraph
12 (4)(B) shall apply for purposes of this paragraph.”

13 (d) MODIFICATIONS RELATING TO WHETHER TRUST
14 HAS UNITED STATES BENEFICIARIES.—Subsection (c) of
15 section 679 is amended by adding at the end the following
16 new paragraphs:

17 “(3) CERTAIN UNITED STATES BENEFICIARIES
18 DISREGARDED.—A beneficiary shall not be treated
19 as a United States person in applying this section
20 with respect to any transfer of property to foreign
21 trust if such beneficiary first became a United
22 States person more than 5 years after the date of
23 such transfer.

24 “(4) TREATMENT OF FORMER UNITED STATES
25 PERSONS.—To the extent provided by the Secretary,

1 for purposes of this subsection, the term ‘United
2 States person’ includes any person who was a Unit-
3 ed States person at any time during the existence of
4 the trust.”

5 (e) TECHNICAL AMENDMENT.—Subparagraph (A) of
6 section 679(c)(2) is amended to read as follows:

7 “(A) in the case of a foreign corporation,
8 such corporation is a controlled foreign corpora-
9 tion (as defined in section 957(a)),”.

10 (f) REGULATIONS.—Section 679 is amended by add-
11 ing at the end the following new subsection:

12 “(d) REGULATIONS.—The Secretary shall prescribe
13 such regulations as may be necessary or appropriate to
14 carry out the purposes of this section.”

15 (g) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to transfers of property after Feb-
17 ruary 6, 1995.

18 **SEC. 12843. FOREIGN PERSONS NOT TO BE TREATED AS**

19 **OWNERS UNDER GRANTOR TRUST RULES.**

20 (a) GENERAL RULE.—

21 (1) Subsection (f) of section 672 (relating to
22 special rule where grantor is foreign person) is
23 amended to read as follows:

24 “(f) SUBPART NOT TO RESULT IN FOREIGN OWNER-
25 SHIP.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of this subpart, this subpart shall apply
3 only to the extent such application results in an
4 amount being currently taken into account (directly
5 or through 1 or more entities) under this chapter in
6 computing the income of a citizen or resident of the
7 United States or a domestic corporation.

8 “(2) EXCEPTIONS.—

9 “(A) CERTAIN REVOCABLE AND IRREV-
10 OCABLE TRUSTS.—

11 “(i) IN GENERAL.—Except as pro-
12 vided in clause (ii), paragraph (1) shall not
13 apply to any trust if—

14 “(I) the power to revest abso-
15 lutely in the grantor title to the trust
16 property is exercisable solely by the
17 grantor without the approval or con-
18 sent of any other person or with the
19 consent of a related or subordinate
20 party who is subservient to the grant-
21 or, or

22 “(II) the only amounts distribut-
23 able from such trust (whether income
24 or corpus) during the lifetime of the
25 grantor are amounts distributable to

1 the grantor or the spouse of the
2 grantor.

3 “(ii) EXCEPTION.—Clause (i) shall
4 not apply to any trust which has a bene-
5 ficiary who is a United States person to
6 the extent such beneficiary has made
7 transfers of property by gift (directly or in-
8 directly) to a foreign person who is the
9 grantor of such trust. For purposes of the
10 preceding sentence, any gift shall not be
11 taken into account to the extent such gift
12 is excluded from taxable gifts under sec-
13 tion 2503(b).

14 “(B) COMPENSATORY TRUSTS.—Except as
15 provided in regulations, paragraph (1) shall not
16 apply to any portion of a trust distributions
17 from which are taxable as compensation for
18 services rendered.

19 “(3) SPECIAL RULES.—Except as otherwise
20 provided in regulations prescribed by the Sec-
21 retary—

22 “(A) a controlled foreign corporation (as
23 defined in section 957) shall be treated as a do-
24 mestic corporation for purposes of paragraph
25 (1), and

1 “(B) paragraph (1) shall not apply for
2 purposes of applying part III of subchapter G
3 (relating to foreign personal holding companies)
4 and part VI of subchapter P (relating to treat-
5 ment of certain passive foreign investment com-
6 panies).

7 “(4) RECHARACTERIZATION OF PURPORTED
8 GIFTS.—In the case of any transfer directly or indi-
9 rectly from a partnership or foreign corporation
10 which the transferee treats as a gift or bequest, the
11 Secretary may recharacterize such transfer in such
12 circumstances as the Secretary determines to be ap-
13 propriate to prevent the avoidance of the purposes of
14 this subsection.

15 “(5) REGULATIONS.—The Secretary shall pre-
16 scribe such regulations as may be necessary or ap-
17 propriate to carry out the purposes of this sub-
18 section, including regulations providing that para-
19 graph (1) shall not apply in appropriate cases.”

20 (2) The last sentence of subsection (c) of sec-
21 tion 672 of such Code is amended by inserting “sub-
22 section (f) and” before “sections 674”.

23 (b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of
24 section 665(d) is amended by adding at the end the follow-
25 ing new sentence: “Under rules or regulations prescribed

1 by the Secretary, in the case of any foreign trust of which
2 the settlor or another person would be treated as owner
3 of any portion of the trust under subpart E but for section
4 672(f), the term ‘taxes imposed on the trust’ includes the
5 allocable amount of any income, war profits, and excess
6 profits taxes imposed by any foreign country or possession
7 of the United States on the settlor or such other person
8 in respect of trust gross income.”

9 (c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS
10 THROUGH NOMINEES.—

11 (1) Section 643 is amended by adding at the
12 end the following new subsection:

13 “(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS
14 THROUGH NOMINEES.—For purposes of this part, any
15 amount paid to a United States person which is derived
16 directly or indirectly from a foreign trust of which the
17 payor is not the grantor shall be deemed in the year of
18 payment to have been directly paid by the foreign trust
19 to such United States person.”

20 (2) Section 665 is amended by striking sub-
21 section (c).

22 (d) EFFECTIVE DATE.—

23 (1) IN GENERAL.—Except as provided by para-
24 graph (2), the amendments made by this section

1 shall take effect on the date of the enactment of this
2 Act.

3 (2) EXCEPTION FOR CERTAIN TRUSTS.—The
4 amendments made by this section shall not apply to
5 any trust—

6 (A) which is treated as owned by the
7 grantor or another person under section 676 or
8 677 (other than subsection (a)(3) thereof) of
9 the Internal Revenue Code of 1986, and

10 (B) which is in existence on September 19,
11 1995.

12 The preceding sentence shall not apply to the por-
13 tion of any such trust attributable to any transfer to
14 such trust after September 19, 1995.

15 (e) TRANSITIONAL RULE.—If—

16 (1) by reason of the amendments made by this
17 section, any person other than a United States per-
18 son ceases to be treated as the owner of a portion
19 of a domestic trust, and

20 (2) before January 1, 1997, such trust becomes
21 a foreign trust, or the assets of such trust are trans-
22 ferred to a foreign trust,

23 no tax shall be imposed by section 1491 of the Internal
24 Revenue Code of 1986 by reason of such trust becoming

1 a foreign trust or the assets of such trust being trans-
2 ferred to a foreign trust.

3 **SEC. 12844. INFORMATION REPORTING REGARDING FOR-**
4 **EIGN GIFTS.**

5 (a) IN GENERAL.—Subpart A of part III of sub-
6 chapter A of chapter 61, as amended by section 12442,
7 is amended by inserting after section 6039F the following
8 new section:

9 **“SEC. 6039G. NOTICE OF GIFTS RECEIVED FROM FOREIGN**
10 **PERSONS.**

11 “(a) IN GENERAL.—If the value of the aggregate for-
12 eign gifts received by a United States person (other than
13 an organization described in section 501(c) and exempt
14 from tax under section 501(a)) during any taxable year
15 exceeds \$10,000, such United States person shall furnish
16 (at such time and in such manner as the Secretary shall
17 prescribe) such information as the Secretary may pre-
18 scribe regarding each foreign gift received during such
19 year.

20 “(b) FOREIGN GIFT.—For purposes of this section,
21 the term ‘foreign gift’ means any amount received from
22 a person other than a United States person which the re-
23 cipient treats as a gift or bequest. Such term shall not
24 include any qualified transfer (within the meaning of sec-
25 tion 2503(e)(2)).

1 “(c) PENALTY FOR FAILURE TO FILE INFORMA-
2 TION.—

3 “(1) IN GENERAL.—If a United States person
4 fails to furnish the information required by sub-
5 section (a) with respect to any foreign gift within
6 the time prescribed therefor (including extensions)—

7 “(A) the tax consequences of the receipt of
8 such gift shall be determined by the Secretary
9 in the Secretary’s sole discretion from the Sec-
10 retary’s own knowledge or from such informa-
11 tion as the Secretary may obtain through testi-
12 mony or otherwise, and

13 “(B) such United States person shall pay
14 (upon notice and demand by the Secretary and
15 in the same manner as tax) an amount equal to
16 5 percent of the amount of such foreign gift for
17 each month for which the failure continues (not
18 to exceed 25 percent of such amount in the ag-
19 gregate).

20 “(2) REASONABLE CAUSE EXCEPTION.—Para-
21 graph (1) shall not apply to any failure to report a
22 foreign gift if the United States person shows that
23 the failure is due to reasonable cause and not due
24 to willful neglect.

1 “(d) REGULATIONS.—The Secretary shall prescribe
2 such regulations as may be necessary or appropriate to
3 carry out the purposes of this section.”

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for such subpart is amended by inserting after the item
6 relating to section 6039F the following new item:

“Sec. 6039G. Notice of large gifts received from foreign persons.”

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to amounts received after the date
9 of the enactment of this Act in taxable years ending after
10 such date.

11 **SEC. 12845. MODIFICATION OF RULES RELATING TO FOR-**
12 **EIGN TRUSTS WHICH ARE NOT GRANTOR**
13 **TRUSTS.**

14 (a) MODIFICATION OF INTEREST CHARGE ON ACCU-
15 MULATION DISTRIBUTIONS.—Subsection (a) of section
16 668 (relating to interest charge on accumulation distribu-
17 tions from foreign trusts) is amended to read as follows:

18 “(a) GENERAL RULE.—For purposes of the tax de-
19 termined under section 667(a)—

20 “(1) INTEREST DETERMINED USING
21 UNDERPAYMENT RATES.—The interest charge deter-
22 mined under this section with respect to any dis-
23 tribution is the amount of interest which would be
24 determined on the partial tax computed under sec-
25 tion 667(b) for the period described in paragraph

1 (2) using the rates and the method under section
2 6621 applicable to underpayments of tax.

3 “(2) PERIOD.—For purposes of paragraph (1),
4 the period described in this paragraph is the period
5 which begins on the date which is the applicable
6 number of years before the date of the distribution
7 and which ends on the date of the distribution.

8 “(3) APPLICABLE NUMBER OF YEARS.—For
9 purposes of paragraph (2)—

10 “(A) IN GENERAL.—The applicable num-
11 ber of years with respect to a distribution is the
12 number determined by dividing—

13 “(i) the sum of the products described
14 in subparagraph (B) with respect to each
15 undistributed income year, by

16 “(ii) the aggregate undistributed net
17 income.

18 The quotient determined under the preceding
19 sentence shall be rounded under procedures
20 prescribed by the Secretary.

21 “(B) PRODUCT DESCRIBED.—For pur-
22 poses of subparagraph (A), the product de-
23 scribed in this subparagraph with respect to
24 any undistributed income year is the product
25 of—

1 “(i) the undistributed net income for
2 such year, and

3 “(ii) the sum of the number of taxable
4 years between such year and the taxable
5 year of the distribution (counting in each
6 case the undistributed income year but not
7 counting the taxable year of the distribu-
8 tion).

9 “(4) UNDISTRIBUTED INCOME YEAR.—For pur-
10 poses of this subsection, the term ‘undistributed in-
11 come year’ means any prior taxable year of the trust
12 for which there is undistributed net income, other
13 than a taxable year during all of which the bene-
14 ficiary receiving the distribution was not a citizen or
15 resident of the United States.

16 “(5) DETERMINATION OF UNDISTRIBUTED NET
17 INCOME.—Notwithstanding section 666, for pur-
18 poses of this subsection, an accumulation distribu-
19 tion from the trust shall be treated as reducing pro-
20 portionately the undistributed net income for undis-
21 tributed income years.

22 “(6) PERIODS BEFORE 1996.—Interest for the
23 portion of the period described in paragraph (2)
24 which occurs before January 1, 1996, shall be deter-
25 mined—

1 “(A) by using an interest rate of 6 percent,
2 and

3 “(B) without compounding until January
4 1, 1996.”

5 (b) ABUSIVE TRANSACTIONS.—Section 643(a) is
6 amended by inserting after paragraph (6) the following
7 new paragraph:

8 “(7) ABUSIVE TRANSACTIONS.—The Secretary
9 shall prescribe such regulations as may be necessary
10 or appropriate to carry out the purposes of this part,
11 including regulations to prevent avoidance of such
12 purposes.”

13 (c) TREATMENT OF LOANS FROM TRUST PROP-
14 erty.—

15 (1) IN GENERAL.—Section 643 (relating to
16 definitions applicable to subparts A, B, C, and D)
17 is amended by adding at the end the following new
18 subsection:

19 “(i) LOANS FROM FOREIGN TRUSTS.—For purposes
20 of subparts B, C, and D—

21 “(1) GENERAL RULE.—If a foreign trust makes
22 a loan of cash or marketable securities directly or in-
23 directly to—

24 “(A) any grantor or beneficiary of such
25 trust who is a United States person, or

1 “(B) any United States person not de-
2 scribed in subparagraph (A) who is related to
3 such grantor or beneficiary,
4 the amount of such loan shall be treated as a dis-
5 tribution by such trust to such grantor or bene-
6 ficiary (as the case may be).

7 “(2) DEFINITIONS AND SPECIAL RULES.—For
8 purposes of this subsection—

9 “(A) CASH.—The term ‘cash’ includes for-
10 eign currencies and cash equivalents.

11 “(B) RELATED PERSON.—

12 “(i) IN GENERAL.—A person is relat-
13 ed to another person if the relationship be-
14 tween such persons would result in a dis-
15 allowance of losses under section 267 or
16 707(b). In applying section 267 for pur-
17 poses of the preceding sentence, section
18 267(e)(4) shall be applied as if the family
19 of an individual includes the spouses of the
20 members of the family.

21 “(ii) ALLOCATION OF USE.—If any
22 person described in paragraph (1)(B) is re-
23 lated to more than one person, the grantor
24 or beneficiary to whom the treatment
25 under this subsection applies shall be de-

1 terminated under regulations prescribed by
2 the Secretary.

3 “(C) EXCLUSION OF TAX-EXEMPTS.—The
4 term ‘United States person’ does not include
5 any entity exempt from tax under this chapter.

6 “(D) TRUST NOT TREATED AS SIMPLE
7 TRUST.—Any trust which is treated under this
8 subsection as making a distribution shall be
9 treated as not described in section 651.

10 “(3) SUBSEQUENT TRANSACTIONS REGARDING
11 LOAN PRINCIPAL.—If any loan is taken into account
12 under paragraph (1), any subsequent transaction be-
13 tween the trust and the original borrower regarding
14 the principal of the loan (by way of complete or par-
15 tial repayment, satisfaction, cancellation, discharge,
16 or otherwise) shall be disregarded for purposes of
17 this title.”

18 (2) TECHNICAL AMENDMENT.—Paragraph (8)
19 of section 7872(f) is amended by inserting “,
20 643(i),” before “or 1274” each place it appears.

21 (d) EFFECTIVE DATES.—

22 (1) INTEREST CHARGE.—The amendment made
23 by subsection (a) shall apply to distributions after
24 the date of the enactment of this Act.

1 (2) ABUSIVE TRANSACTIONS.—The amendment
2 made by subsection (b) shall take effect on the date
3 of the enactment of this Act.

4 (3) USE OF TRUST PROPERTY.—The amend-
5 ment made by subsection (c) shall apply to loans of
6 cash or marketable securities after September 19,
7 1995.

8 **SEC. 12846. RESIDENCE OF ESTATES AND TRUSTS, ETC.**

9 (a) TREATMENT AS UNITED STATES PERSON.—

10 (1) IN GENERAL.—Paragraph (30) of section
11 7701(a) is amended by striking subparagraph (D)
12 and by inserting after subparagraph (C) the follow-
13 ing:

14 “(D) any estate or trust if—

15 “(i) a court within the United States
16 is able to exercise primary supervision over
17 the administration of the estate or trust,
18 and

19 “(ii) in the case of a trust, one or
20 more United States fiduciaries have the
21 authority to control all substantial deci-
22 sions of the trust.”

23 (2) CONFORMING AMENDMENT.—Paragraph
24 (31) of section 7701(a) is amended to read as fol-
25 lows:

1 “(31) FOREIGN ESTATE OR TRUST.—The term
2 ‘foreign estate’ or ‘foreign trust’ means any estate or
3 trust other than an estate or trust described in sec-
4 tion 7701(a)(30)(D).”

5 (3) EFFECTIVE DATE.—The amendments made
6 by this subsection shall apply—

7 (A) to taxable years beginning after De-
8 cember 31, 1996, or

9 (B) at the election of the trustee of a
10 trust, to taxable years ending after the date of
11 the enactment of this Act.

12 Such an election, once made, shall be irrevocable.

13 (b) DOMESTIC TRUSTS WHICH BECOME FOREIGN
14 TRUSTS.—

15 (1) IN GENERAL.—Section 1491 (relating to
16 imposition of tax on transfers to avoid income tax)
17 is amended by adding at the end the following new
18 flush sentence:

19 “If a trust which is not a foreign trust becomes a foreign
20 trust, such trust shall be treated for purposes of this sec-
21 tion as having transferred, immediately before becoming
22 a foreign trust, all of its assets to a foreign trust.”

23 (2) PENALTY.—Section 1494 is amended by
24 adding at the end the following new subsection:

1 “(c) PENALTY.—In the case of any failure to file a
 2 return required by the Secretary with respect to any trans-
 3 fer described in section 1491 with respect to a trust, the
 4 person required to file such return shall be liable for the
 5 penalties provided in section 6677 in the same manner as
 6 if such failure were a failure to file a return under section
 7 6048(a).”

8 (3) EFFECTIVE DATE.—The amendments made
 9 by this subsection shall take effect on the date of the
 10 enactment of this Act.

11 **CHAPTER 6—FINANCIAL ASSET**
 12 **SECURITIZATION INVESTMENTS**

13 **SEC. 12851. FINANCIAL ASSET SECURITIZATION INVEST-**
 14 **MENT TRUSTS.**

15 (a) IN GENERAL.—Subchapter M of chapter 1 is
 16 amended by adding at the end the following new part:

17 **“PART V—FINANCIAL ASSET SECURITIZATION**
 18 **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 in-
 clusions.

“Sec. 860L. Treatment of transfers of high-yield interests to dis-
 qualified holders.

“Sec. 860M. Definitions and other rules.

19 **“SEC. 860H. TAXATION OF FASIT’S.**

20 “(a) GENERAL RULE.—Except as otherwise provided
 21 in this part, solely for purposes of this title, a FASIT shall

1 be treated as a partnership and shall not be treated as
2 a taxable mortgage pool.

3 “(b) INCOME TAXABLE TO HOLDERS.—The income
4 of any FASIT shall be taxable to the holder of the owner-
5 ship interest in such FASIT as provided in this part.

6 **“SEC. 860I. TAXATION OF HOLDERS OF REGULAR INTER-
7 ESTS.**

8 “(a) GENERAL RULE.—In determining the tax under
9 this chapter of any holder of a regular interest in a
10 FASIT, such interest shall be treated—

11 “(1) if not otherwise a debt instrument, as a
12 debt instrument, and

13 “(2) for purposes of section 165(g), as issued
14 by a corporation.

15 “(b) HOLDERS MUST USE ACCRUAL METHOD.—The
16 amounts includible in gross income with respect to any
17 regular interest in a FASIT shall be determined under the
18 accrual method of accounting.

19 **“SEC. 860J. TAXATION OF HOLDER OF OWNERSHIP INTER-
20 EST.**

21 “(a) GENERAL RULE.—Except as otherwise provided
22 in this subtitle, the tax under this chapter of the holder
23 of the ownership interest in a FASIT shall be determined
24 as if—

1 “(1) such holder were a partner in such
2 FASIT, and

3 “(2) such FASIT had filed an election under
4 section 754.

5 “(b) CERTAIN PROVISIONS OF SUBCHAPTER K NOT
6 TO APPLY.—The following provisions shall not apply
7 under subsection (a): Section 704 (other than subsection
8 (d)) and sections 708, 721, 724, 735, 737, and 751.

9 “(c) OTHER RULES FOR DETERMINING TAXABLE
10 INCOME OF FASIT.—For purposes of this subtitle, the
11 taxable income of a FASIT shall be determined under an
12 accrual method of accounting, and in determining such
13 taxable income—

14 “(1) regular interests in such FASIT (if not
15 otherwise debt instruments) shall be treated as in-
16 debtedness of such FASIT,

17 “(2) the constant yield method (including the
18 rules of section 1272(a)(6)) shall be applied in de-
19 termining all interest, acquisition discount, original
20 issue discount, and market discount and all premium
21 deductions or adjustments with respect to all debt
22 instruments held by the FASIT,

23 “(3) the amount of the tax imposed by section
24 860M(e) (relating to tax on income from foreclosure
25 property) shall be allowed as a deduction, and

1 “(4) there shall not be taken into account any
2 item of income, gain, loss, or deduction allocable to
3 prohibited income.

4 “(d) RECOGNITION OF GAIN ON CONTRIBUTIONS TO
5 FASIT.—

6 “(1) IN GENERAL.—If property is contributed
7 to a FASIT by the holder of the ownership interest
8 in such FASIT—

9 “(A) notwithstanding any other provision
10 of this subtitle, gain shall be recognized to the
11 holder of such interest in the same manner as
12 if such holder had sold such property to the
13 FASIT at its fair market value on the date of
14 such contribution, and

15 “(B) the basis of the FASIT in such prop-
16 erty shall be such fair market value.

17 To the extent provided in regulations, gain recog-
18 nized under the preceding sentence shall not be in-
19 cludible in gross income before the earliest date on
20 which such property supports any regular interest in
21 such FASIT or any indebtedness of the holder of the
22 ownership interest (or by any person related to such
23 holder).

24 “(2) GAIN RECOGNITION ON PROPERTY SUP-
25 PORTING REGULAR INTERESTS.—Solely for purposes

1 of determining gain, property held by the holder of
2 the ownership interest in a FASIT (or by any per-
3 son related to such holder) which supports any regu-
4 lar interest in such FASIT shall be treated as sold
5 on the earliest date such property supports such an
6 interest at its fair market value on such date and as
7 reacquired by such holder (or person) immediately
8 thereafter.

9 “(3) VALUATION OF PROPERTY.—For purposes
10 of this subsection and subsection (e)—

11 “(A) IN GENERAL.—In the case of any
12 property contributed to a FASIT (other than
13 cash equivalents), the fair market value of such
14 property shall be equal to the sum of the
15 present values of the reasonably expected pay-
16 ments under such property determined in the
17 manner provided by regulations prescribed by
18 the Secretary—

19 “(i) as of the date of the contribution
20 or the earliest date of such support (as the
21 case may be), and

22 “(ii) by using a discount rate equal to
23 130 percent of the applicable Federal rate
24 (as defined in section 1274(d)), or such

1 other discount rate specified in such regu-
2 lations, compounded semiannually.

3 “(B) SPECIAL RULE FOR REVOLVING LOAN
4 ACCOUNTS.—For purposes of subparagraph
5 (A), in the case of extensions of credit on re-
6 volving loan accounts having substantially the
7 same terms—

8 “(i) each extension of credit shall be
9 treated as a separate debt instrument, and

10 “(ii) the reasonably expected pay-
11 ments under such an instrument shall be
12 determined using a periodic principal pay-
13 ment rate equal to the reasonably antici-
14 pated periodic rate at which principal pay-
15 ments on the accounts will be made, as a
16 proportion of their aggregate outstanding
17 principal balances.

18 “(e) GAIN RECOGNITION ON CERTAIN DISTRIBU-
19 TIONS.—If a FASIT makes a distribution of property with
20 respect to any regular or ownership interest—

21 “(1) notwithstanding any other provision of this
22 subtitle, gain shall be recognized to such FASIT on
23 the distribution in the same manner as if the FASIT
24 had sold such property to the distributee at its fair
25 market value on the date of such distribution, and

1 “(c) COORDINATION WITH MINIMUM TAX.—For pur-
2 poses of part VI of subchapter A of this chapter—

3 “(1) the reference in section 55(b)(2) to taxable
4 income shall be treated as a reference to taxable in-
5 come determined without regard to this section,

6 “(2) the alternative minimum taxable income of
7 any holder of the ownership interest or high-yield in-
8 terest in a FASIT for any taxable year shall in no
9 event be less than such holder’s taxable income de-
10 termined solely with respect to such interests, and

11 “(3) any increase in taxable income under this
12 section shall be disregarded for purposes of comput-
13 ing the alternative tax net operating loss deduction.

14 **“SEC. 860L. TREATMENT OF TRANSFERS OF HIGH-YIELD IN-**
15 **TERESTS TO DISQUALIFIED HOLDERS.**

16 “(a) GENERAL RULE.—If any high-yield interest is
17 held by a disqualified holder, this chapter shall be applied
18 as if the transferor of such interest to such holder had
19 not transferred such interest.

20 “(b) EXCEPTIONS.—Rules similar to the rules of
21 paragraphs (4) and (7) of section 860E(e) shall apply to
22 the tax imposed by reason of subsection (a).

23 “(c) DISQUALIFIED HOLDER.—For purposes of this
24 section, the term ‘disqualified holder’ means any holder

1 other than an eligible corporation (as defined in section
2 860M(a)(2)).

3 “(d) TREATMENT OF INTERESTS HELD BY CERTAIN
4 DEALERS.—

5 “(1) IN GENERAL.—Subsection (a) shall not
6 apply to any high-yield interest held by a disquali-
7 fied holder if—

8 “(A) such holder is a dealer in goods or
9 services and such interest exclusively represents
10 an interest supported by—

11 “(i) loans made by the dealer to fi-
12 nance a customer’s acquisition of goods or
13 services from such dealer in the ordinary
14 course of business, and

15 “(ii) assets described in section
16 860M(e)(1)(D) that are incidental to the
17 securitization of such loans, or

18 “(B) such holder is a dealer in securities
19 who acquired such interest exclusively for sale
20 to customers in the ordinary course of business
21 (and not for investment).

22 “(2) CHANGE IN DEALER STATUS.—

23 “(A) IN GENERAL.—In the case of a dealer
24 described in paragraph (1)(B) which is not an

1 eligible corporation (as defined in section
2 860M(a)(2)), if—

3 “(i) such dealer ceases to be a dealer
4 in securities, or

5 “(ii) such dealer commences holding
6 the high-yield interest for investment,

7 there is hereby imposed (in addition to other
8 taxes) an excise tax equal to the product of the
9 highest rate of tax specified in section 11(b)(1)
10 and the income of such dealer attributable to
11 such interest for periods after the date of such
12 cessation or commencement.

13 “(B) HOLDING FOR 31 DAYS OR LESS.—
14 For purposes of subparagraph (A)(ii), a dealer
15 shall not be treated as holding an interest for
16 investment before the 32d day after the date
17 such dealer acquired such interest unless such
18 interest is so held as part of a plan to avoid the
19 purposes of this paragraph.

20 “(C) ADMINISTRATIVE PROVISIONS.—The
21 deficiency procedures of subtitle F shall apply
22 to the tax imposed by this paragraph.

23 **“SEC. 860M. DEFINITIONS AND OTHER RULES.**

24 “(a) FASIT.—

1 “(1) IN GENERAL.—For purposes of this title,
2 the terms ‘financial asset securitization investment
3 trust’ and ‘FASIT’ mean any entity—

4 “(A) for which an election to be treated as
5 a FASIT applies for the taxable year and all
6 prior taxable years,

7 “(B) all of the interests in which are regu-
8 lar interests or the ownership interest,

9 “(C) which has 1 (and only 1) ownership
10 interest and such ownership interest is held di-
11 rectly by an eligible corporation,

12 “(D) as of the close of the 3rd month be-
13 ginning after the day of its formation and at all
14 times thereafter, substantially all of the assets
15 of which consist of permitted assets,

16 “(E) which has a taxable year which is the
17 taxable year of the holder of the ownership in-
18 terest in the FASIT, and

19 “(F) which is not described in section
20 851(a).

21 A rule similar to the rule of the last sentence of sec-
22 tion 860D(a) shall apply for purposes of this para-
23 graph.

1 “(2) ELIGIBLE CORPORATION.—For purposes
2 of paragraph (1)(C), the term ‘eligible corporation’
3 means any domestic C corporation other than—

4 “(A) a corporation which is exempt from
5 tax under this chapter, and

6 “(B) an entity described in section 851(a)
7 or 856(a).

8 “(3) FAILURE TO QUALIFY AS FASIT IF RIGHTS
9 TO EXCESSIVE SERVICING FEES HELD BY OTH-
10 ERS.—For purposes of this subtitle, an entity shall
11 not be treated as a FASIT if any person (other than
12 such entity) retains a stripped interest or has a right
13 to receive excessive servicing fees with respect to any
14 debt instrument held by such entity. A right is de-
15 scribed in the preceding sentence only if such right
16 was created at the time such instrument was con-
17 tributed to such entity (or in anticipation of such
18 right being contributed) or is held by the contributor
19 of such instrument or by any person who is related
20 to such contributor.

21 “(4) ELECTION.—An entity (otherwise meeting
22 the requirements of paragraph (1)) may elect to be
23 treated as a FASIT for its 1st taxable year. Such
24 an election shall be made on its return for such 1st
25 taxable year. Except as provided in paragraph (5),

1 such an election shall apply to the taxable year for
2 which made and all subsequent taxable years.

3 “(5) TERMINATION.—If any entity ceases to be
4 a FASIT at any time during the taxable year, such
5 entity shall not be treated as a FASIT for such tax-
6 able year or any succeeding taxable year.

7 “(6) INADVERTENT TERMINATIONS, ETC.—
8 Rules similar to the rules of section 860D(b)(2)(B)
9 shall apply to inadvertent failures to qualify or re-
10 main qualified as a FASIT.

11 “(b) INTERESTS IN FASIT.—For purposes of this
12 subpart—

13 “(1) REGULAR INTEREST.—

14 “(A) IN GENERAL.—The term ‘regular in-
15 terest’ means any interest which is issued by a
16 FASIT with fixed terms and which is des-
17 ignated as a regular interest if—

18 “(i) such interest unconditionally enti-
19 tles the holder to receive a specified prin-
20 cipal amount (or other similar amount),

21 “(ii) except as otherwise provided by
22 the Secretary—

23 “(I) in the case of a FASIT
24 which would be treated as a REMIC
25 if an election under section 860D(b)

1 had been made, interest payments (or
2 other similar amounts), if any, with
3 respect to such interest at or before
4 maturity meet the requirements appli-
5 cable under clause (i) or (ii) of section
6 860G(a)(1)(B), or

7 “(II) in the case of any other
8 FASIT, interest payments (or other
9 similar amounts), if any, with respect
10 to such interest would not be treated
11 as contingent payments (as defined in
12 regulations prescribed by the Sec-
13 retary under section 1275,

14 “(iii) such interest does not have a
15 stated maturity (including options to
16 renew) greater than 30 years (or such
17 longer period as may be permitted by regu-
18 lations),

19 “(iv) the issue price of such interest
20 does not exceed 125 percent of its stated
21 principal amount, and

22 “(v) the yield to maturity on such in-
23 terest is less than the sum determined
24 under section 163(i)(1)(B) with respect to
25 such interest.

1 Interest shall not fail to meet the requirements
2 of clause (i) merely because the timing (but not
3 the amount) of the principal payments (or other
4 similar amounts) may be contingent on the ex-
5 tent that payments on debt instruments held by
6 the FASIT are made in advance of anticipated
7 payments and on the amount of income from
8 permitted assets.

9 “(B) HIGH-YIELD INTERESTS.—

10 “(i) IN GENERAL.—The term ‘regular
11 interest’ includes any high-yield interest.

12 “(ii) HIGH-YIELD INTEREST.—The
13 term ‘high-yield interest’ means any inter-
14 est which would be described in subpara-
15 graph (A) but for failing to meet the re-
16 quirements of one or more of clauses (i),
17 (iv), or (v) thereof.

18 “(2) OWNERSHIP INTEREST.—The term ‘owner-
19 ship interest’ means the interest issued by a FASIT
20 which is designated as an ownership interest and
21 which is not a regular interest.

22 “(c) PERMITTED ASSETS.—For purposes of this
23 part—

24 “(1) IN GENERAL.—The term ‘permitted asset’
25 means—

1 “(A) any investment of amounts received
2 under debt instruments described in subpara-
3 graph (B) for a temporary period before dis-
4 tribution to holders of interests in the FASIT,

5 “(B) debt instruments (as defined in sec-
6 tion 1275(a)(1)) under which interest, if any, is
7 payable—

8 “(i) at a fixed rate,

9 “(ii) at a qualified variable rate (as
10 defined in regulations prescribed by the
11 Secretary under section 860G(a)(1)(B)(i),
12 or

13 “(iii) at any other varying rate per-
14 mitted under regulations prescribed by the
15 Secretary,

16 “(C) foreclosure property,

17 “(D) any asset—

18 “(i) which is an interest rate or for-
19 eign currency notional principal contract,
20 letter of credit, insurance, guarantee
21 against payment defaults, or other similar
22 instrument, permitted by the Secretary,
23 and

24 “(ii) which is a reasonably required to
25 guarantee or hedge against the FASIT’s

1 risks associated with being the obligor on
2 interests issued by the FASIT,

3 “(E) any interest in a partnership if—

4 “(i) all of the assets of the partner-
5 ship are debt instruments described in sub-
6 paragraph (B), and

7 “(ii) such interest is an undivided pro
8 rata interest in such assets, and

9 “(F) contract rights to acquire debt instru-
10 ments described in subparagraph (B) or assets
11 described in subparagraph (D).

12 “(2) DEBT ISSUED BY HOLDER OF OWNERSHIP
13 INTEREST NOT PERMITTED ASSET.—The term ‘per-
14 mitted asset’ shall not include any debt instrument
15 issued by the holder of the ownership interest in the
16 FASIT or by any person related to such holder or
17 any direct or indirect interest in such a debt instru-
18 ment.

19 “(3) FORECLOSURE PROPERTY.—The term
20 ‘foreclosure property’ means property—

21 “(A) which would be foreclosure property
22 under section 856(e) (determined without re-
23 gard to paragraph (5) thereof) if acquired by a
24 real estate investment trust, and

1 “(B) which is acquired in connection with
2 the default or imminent default of a debt in-
3 strument held by the FASIT unless the security
4 interest in such property was created for the
5 principal purpose of permitting the FASIT to
6 invest in such property.

7 Solely for purposes of subsection (a)(1), the deter-
8 mination of whether any property is foreclosure
9 property shall be made without regard to section
10 856(e)(4).

11 “(d) TAX ON PROHIBITED TRANSACTIONS.—

12 “(1) IN GENERAL.—There is hereby imposed
13 for each taxable year of a FASIT a tax equal to 100
14 percent of the net income derived from prohibited
15 transactions.

16 “(2) PROHIBITED TRANSACTIONS.—For pur-
17 poses of this part, the term ‘prohibited transaction’
18 means—

19 “(A) the receipt of any income derived
20 from any asset that is not a permitted asset,

21 “(B) except as provided in paragraph (3),
22 the disposition of any permitted asset,

23 “(C) the receipt of any income derived
24 from any activity other than—

1 “(i) the acquisition of existing debt in-
2 struments,

3 “(ii) the holding of existing debt in-
4 struments, and

5 “(iii) the processing of payments re-
6 ceived on debt instruments held by the
7 FASIT and the distribution of amounts to
8 holders of interests in the FASIT, and

9 “(D) the receipt of any income represent-
10 ing a fee or other compensation for services
11 (other than any fee received as compensation
12 for a waiver, amendment, or consent under per-
13 mitted assets (other than foreclosure property)
14 held by the FASIT).

15 “(3) EXCEPTION FOR INCOME FROM CERTAIN
16 DISPOSITIONS.—

17 “(A) IN GENERAL.—Paragraph (2)(B)
18 shall not apply to a disposition which would not
19 be a prohibited transaction (as defined in sec-
20 tion 860F(a)(2)) by reason of—

21 “(i) clause (ii), (iii), or (iv) of section
22 860F(a)(2)(A), or

23 “(ii) section 860F(a)(5),

1 if the FASIT were treated as a REMIC and
2 debt instruments described in subsection
3 (c)(1)(B) were treated as qualified mortgages.

4 “(B) SUBSTITUTION OF DEBT INSTRU-
5 MENTS; REDUCTION OF OVER-
6 COLLATERALIZATION.—Paragraph (2)(B) shall
7 not apply to—

8 “(i) the substitution of a debt instru-
9 ment described in subsection (c)(1)(B) for
10 another debt instrument which is a per-
11 mitted asset, or

12 “(ii) the distribution of a debt instru-
13 ment contributed by the holder of the own-
14 ership interest to such holder in order to
15 reduce over-collateralization of the FASIT,
16 but only if a principal purpose of acquiring the
17 debt instrument which is disposed of was not
18 the recognition of gain (or the reduction of an
19 loss) as a result of an increase in the market
20 value of the debt instrument after its acquisi-
21 tion by the FASIT.

22 “(C) LIQUIDATION OF CLASS OF REGULAR
23 INTERESTS.—Paragraph (2)(B) shall not apply
24 to the complete liquidation of any class of regu-
25 lar interests.

1 “(4) NET INCOME.—For purposes of this sub-
2 section, net income shall be determined in accord-
3 ance with section 860F(a)(3).

4 “(e) TAX ON INCOME FROM FORECLOSURE PROP-
5 ERTY.—

6 “(1) IN GENERAL.—A tax is hereby imposed for
7 each taxable year on the net income from foreclosure
8 property of each FASIT. Such tax shall be computed
9 by multiplying the net income from foreclosure prop-
10 erty by the highest rate of tax specified in section
11 11(b).

12 “(2) NET INCOME FROM FORECLOSURE PROP-
13 ERTY.—For purposes of this part, the term ‘net in-
14 come from foreclosure property’ means the amount
15 which would be the FASIT’s net income from fore-
16 closure property under section 857(b)(4)(B) if the
17 FASIT were a real estate investment trust.

18 “(f) COORDINATION WITH WASH SALES RULES.—
19 Rules similar to the rules of section 860F(d) shall apply
20 to the ownership interest in a FASIT.

21 “(g) RELATED PERSON.—For purposes of this part,
22 a person (hereinafter in this subsection referred to as the
23 ‘related person’) is related to any person if—

1 “(1) the related person bears a relationship to
2 such person specified in section 267(b) or section
3 707(b)(1), or

4 “(2) the related person and such person are en-
5 gaged in trades or businesses under common control
6 (within the meaning of subsections (a) and (b) of
7 section 52).

8 For purposes of paragraph (1), in applying section 267(b)
9 or 707(b)(1), ‘20 percent’ shall be substituted for ‘50 per-
10 cent’.

11 “(h) REGULATIONS.—The Secretary shall prescribe
12 such regulations as may be necessary or appropriate to
13 carry out the purposes of this part, including regulations
14 to prevent the abuse of the purposes of this part through
15 transactions which are not primarily related to
16 securitization of debt instruments by a FASIT.”

17 (b) TECHNICAL AMENDMENTS.—

18 (1) Paragraph (2) of section 26(b) is amended
19 by striking “and” at the end of subparagraph (M),
20 by striking the period at the end of subparagraph
21 (N) and inserting “, and”, and by adding at the end
22 the following new subparagraph:

23 “(O) section 860L (relating to treatment
24 of transfers of high-yield interests to disquali-
25 fied holders).”

1 (2) Paragraph (6) of section 56(g) is amended
2 by striking “or REMIC” and inserting “REMIC, or
3 FASIT”.

4 (3) Clause (ii) of section 382(l)(4)(B) is amend-
5 ed by striking “or a REMIC to which part IV of
6 subchapter M applies” and inserting “a REMIC to
7 which part IV of subchapter M applies, or a FASIT
8 to which part V of subchapter M applies”.

9 (4) Paragraph (1) of section 582(e) is amended
10 by inserting “, and any regular or ownership interest
11 in a FASIT,” after “REMIC”.

12 (5) Paragraph (4) of section 593(d) is amend-
13 ed—

14 (A) by adding at the end the following new
15 sentence: “References in the preceding provi-
16 sions of this paragraph to a REMIC shall be
17 treated as including a reference to a FASIT.”,
18 and

19 (B) by inserting “OR FASIT’S” after
20 “REMIC’S” in the heading.

21 (6) Subparagraph (E) of section 856(c)(6) is
22 amended by adding at the end the following new
23 sentence: “References in the preceding provisions of
24 this subparagraph to a REMIC shall be treated as
25 including a reference to a FASIT.”

1 (7) Subparagraph (C) of section 1202(e)(4) is
2 amended by striking “or REMIC” and inserting
3 “REMIC, or FASIT”.

4 (8) Clause (xi) of section 7701(a)(19)(C) is
5 amended to read as follows:

6 “(xi) any regular or residual interest
7 in a REMIC, and any regular or ownership
8 interest in a FASIT, but only in the pro-
9 portion which the assets of such REMIC
10 or FASIT consist of property described in
11 any of the preceding clauses of this sub-
12 paragraph; except that if 95 percent or
13 more of the assets of such REMIC or
14 FASIT are assets described in clauses (i)
15 through (x), the entire interest in the
16 REMIC or FASIT shall qualify.”

17 (9) Subparagraph (A) of section 7701(i)(2) is
18 amended by inserting “or a FASIT” after “a
19 REMIC”.

20 (c) CLERICAL AMENDMENT.—The table of parts for
21 subchapter M of chapter 1 is amended by adding at the
22 end the following new item:

 “Part V. Financial asset securitization investment trusts.”

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect on the date of the enactment
25 of this Act.

1 **CHAPTER 7—DEPRECIATION PROVISIONS**

2 **SEC. 12861. TREATMENT OF CONTRIBUTIONS IN AID OF**
3 **CONSTRUCTION.**

4 (a) TREATMENT OF CONTRIBUTIONS IN AID OF CON-
5 STRUCTION.—

6 (1) IN GENERAL.—Section 118 (relating to con-
7 tributions to the capital of a corporation) is amend-
8 ed—

9 (A) by redesignating subsection (c) as sub-
10 section (e), and

11 (B) by inserting after subsection (b) the
12 following new subsections:

13 “(c) SPECIAL RULES FOR WATER AND SEWAGE DIS-
14 POSAL UTILITIES.—

15 “(1) GENERAL RULE.—For purposes of this
16 section, the term ‘contribution to the capital of the
17 taxpayer’ includes any amount of money or other
18 property received from any person (whether or not
19 a shareholder) by a regulated public utility which
20 provides water or sewerage disposal services if—

21 “(A) such amount is a contribution in aid
22 of construction,

23 “(B) in the case of contribution of prop-
24 erty other than water or sewerage disposal fa-

1 ilities, such amount meets the requirements of
2 the expenditure rule of paragraph (2), and

3 “(C) such amount (or any property ac-
4 quired or constructed with such amount) is not
5 included in the taxpayer’s rate base for rate-
6 making purposes.

7 “(2) EXPENDITURE RULE.—An amount meets
8 the requirements of this paragraph if—

9 “(A) an amount equal to such amount is
10 expended for the acquisition or construction of
11 tangible property described in section
12 1231(b)—

13 “(i) which is the property for which
14 the contribution was made or is of the
15 same type as such property, and

16 “(ii) which is used predominantly in
17 the trade or business of furnishing water
18 or sewerage disposal services,

19 “(B) the expenditure referred to in sub-
20 paragraph (A) occurs before the end of the sec-
21 ond taxable year after the year in which such
22 amount was received, and

23 “(C) accurate records are kept of the
24 amounts contributed and expenditures made,
25 the expenditures to which contributions are al-

1 located, and the year in which the contributions
2 and expenditures are received and made.

3 “(3) DEFINITIONS.—For purposes of this sub-
4 section—

5 “(A) CONTRIBUTION IN AID OF CONSTRUC-
6 TION.—The term ‘contribution in aid of con-
7 struction’ shall be defined by regulations pre-
8 scribed by the Secretary, except that such term
9 shall not include amounts paid as service
10 charges for starting or stopping services.

11 “(B) PREDOMINANTLY.—The term ‘pre-
12 dominantly’ means 80 percent or more.

13 “(C) REGULATED PUBLIC UTILITY.—The
14 term ‘regulated public utility’ has the meaning
15 given such term by section 7701(a)(33), except
16 that such term shall not include any utility
17 which is not required to provide water or sewer-
18 age disposal services to members of the general
19 public in its service area.

20 “(4) DISALLOWANCE OF DEDUCTIONS AND
21 CREDIT; ADJUSTED BASIS.—Notwithstanding any
22 other provision of this subtitle, no deduction or cred-
23 it shall be allowed for, or by reason of, any expendi-
24 ture which constitutes a contribution in aid of con-
25 struction to which this subsection applies. The ad-

1 justed basis of any property acquired with contribu-
2 tions in aid of construction to which this subsection
3 applies shall be zero.

4 “(d) STATUTE OF LIMITATIONS.—If the taxpayer for
5 any taxable year treats an amount as a contribution to
6 the capital of the taxpayer described in subsection (c),
7 then—

8 “(1) the statutory period for the assessment of
9 any deficiency attributable to any part of such
10 amount shall not expire before the expiration of 3
11 years from the date the Secretary is notified by the
12 taxpayer (in such manner as the Secretary may pre-
13 scribe) of—

14 “(A) the amount of the expenditure re-
15 ferred to in subparagraph (A) of subsection
16 (c)(2),

17 “(B) the taxpayer’s intention not to make
18 the expenditures referred to in such subpara-
19 graph, or

20 “(C) a failure to make such expenditure
21 within the period described in subparagraph
22 (B) of subsection (c)(2); and

23 “(2) such deficiency may be assessed before the
24 expiration of such 3-year period notwithstanding the

1 provisions of any other law or rule of law which
2 would otherwise prevent such assessment.”.

3 (2) CONFORMING AMENDMENT.—Section
4 118(b) is amended by inserting “except as provided
5 in subsection (c),” before “the term”.

6 (3) EFFECTIVE DATE.—The amendments made
7 by this subsection shall apply to amounts received
8 after the date of the enactment of this Act.

9 (b) RECOVERY METHOD AND PERIOD FOR WATER
10 UTILITY PROPERTY.—

11 (1) REQUIREMENT TO USE STRAIGHT LINE
12 METHOD.—Section 168(b)(3) is amended by adding
13 at the end the following new subparagraph:

14 “(F) Water utility property described in
15 subsection (e)(5).”

16 (2) 25-YEAR RECOVERY PERIOD.—The table
17 contained in section 168(e)(1) is amended by insert-
18 ing the following item after the item relating to 20-
19 year property:

“Water utility property 25 years”.

20 (3) WATER UTILITY PROPERTY.—

21 (A) IN GENERAL.—Section 168(e) is
22 amended by adding at the end the following
23 new paragraph:

24 “(5) WATER UTILITY PROPERTY.—The term
25 ‘water utility property’ means property—

1 “(A) which is an integral part of the gath-
2 ering, treatment, or commercial distribution of
3 water, and which, without regard to this para-
4 graph, would be 20-year property, and

5 “(B) any municipal sewer.”

6 (B) CONFORMING AMENDMENTS.—Section
7 168 is amended—

8 (i) by striking subparagraph (F) of
9 subsection (e)(3), and

10 (ii) by striking the item relating to
11 subparagraph (F) in the table in sub-
12 section (g)(3).

13 (4) ALTERNATIVE SYSTEM.—Clause (iv) of sec-
14 tion 168(g)(2)(C) is amended by inserting “or water
15 utility property” after “tunnel bore”.

16 (5) EFFECTIVE DATE.—The amendments made
17 by this subsection shall apply to property placed in
18 service after the date of the enactment of this Act,
19 other than property placed in service pursuant to a
20 binding contract in effect on such date and at all
21 times thereafter before the property is placed in
22 service.

1 **SEC. 12862. DEDUCTION FOR CERTAIN OPERATING AU-**
2 **THORITY.**

3 (a) GENERAL RULE.—For purpose of chapter 1 of
4 the Internal Revenue Code of 1986, in computing the tax-
5 able income of a taxpayer who, on January 1, 1995, held
6 one or more operating authorities preempted by section
7 601 of the Federal Aviation Administration Authorization
8 Act of 1994, the taxpayer shall be entitled to deduct rat-
9 ably over the 36-month period beginning with January
10 1995 an amount equal to the aggregate adjusted bases
11 of such operating authorities held by the taxpayer on Jan-
12 uary 1, 1995.

13 (b) TREATMENT AS DEPRECIATION.—Any deduction
14 under subsection (a) shall be treated as a deduction for
15 depreciation for purposes of the Internal Revenue Code
16 of 1986.

17 (c) EFFECTIVE DATE.—The provisions of this section
18 shall apply to taxable years ending after December 31,
19 1994.

20 **SEC. 12863. CLASS LIFE FOR GAS STATION CONVENIENCE**
21 **STORES AND SIMILAR STRUCTURES.**

22 (a) IN GENERAL.—Section 168(e)(3)(E) (classifying
23 certain property as 15-year property) is amended by strik-
24 ing “and” at the end of clause (i), by striking the period
25 at the end of clause (ii) and inserting “, and”, and by
26 adding at the end the following new clause:

1 “(iii) any section 1250 property which
2 is a retail motor fuels outlet (whether or
3 not food or other convenience items are
4 sold at the outlet).”

5 (b) **EFFECTIVE DATE.**—The amendments made by
6 this section shall apply to property which is placed in serv-
7 ice on or after the date of the enactment of this Act and
8 to which section 168 of the Internal Revenue Code of 1986
9 applies after the amendment made by section 201 of the
10 Tax Reform Act of 1986. A taxpayer may elect to have
11 such amendments apply with respect to any property
12 placed in service before such date and to which such sec-
13 tion so applies.

14 **CHAPTER 8—OTHER PROVISIONS**

15 **SEC. 12871. APPLICATION OF FAILURE-TO-PAY PENALTY TO** 16 **SUBSTITUTE RETURNS.**

17 (a) **GENERAL RULE.**—Section 6651 (relating to fail-
18 ure to file tax return or to pay tax) is amended by adding
19 at the end the following new subsection:

20 “(g) **TREATMENT OF RETURNS PREPARED BY SEC-**
21 **RETARY UNDER SECTION 6020(b).**—In the case of any
22 return made by the Secretary under section 6020(b)—

23 “(1) such return shall be disregarded for pur-
24 poses of determining the amount of the addition
25 under paragraph (1) of subsection (a), but

1 “(2) such return shall be treated as the return
2 filed by the taxpayer for purposes of determining the
3 amount of the addition under paragraphs (2) and
4 (3) of subsection (a).”

5 (b) **EFFECTIVE DATE.**—The amendment made by
6 subsection (a) shall apply in the case of any return the
7 due date for which (determined without regard to exten-
8 sions) is after the date of the enactment of this Act.

9 **SEC. 12872. EXTENSION OF WITHHOLDING TO CERTAIN**
10 **GAMBLING WINNINGS.**

11 (a) **REPEAL OF EXEMPTION FOR BINGO AND**
12 **KENO.**—Paragraph (5) of section 3402(q) is amended to
13 read as follows:

14 “(5) **EXEMPTION FOR SLOT MACHINES.**—The
15 tax imposed under paragraph (1) shall not apply to
16 winnings from a slot machine.”

17 (b) **THRESHOLD AMOUNT.**—Paragraph (3) of section
18 3402(q) is amended—

19 (1) by striking “(B) and (C)” in subparagraph
20 (A) and inserting “(B), (C), and (D)”, and

21 (2) by adding at the end the following new sub-
22 paragraph:

23 “(D) **BINGO AND KENO.**—Proceeds of
24 more than \$5,000 from a wager placed in a
25 bingo or keno game.”

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on January 1, 1996.

3 **SEC. 12873. LOSSES FROM FORECLOSURE PROPERTY.**

4 (a) IN GENERAL.—Section 818(b) is amended by
5 adding at the end the following new paragraph:

6 “(2) LOSSES FROM FORECLOSURE PROP-
7 ERTY.—

8 “(A) IN GENERAL.—In the case of any loss
9 arising from the sale or exchange of foreclosure
10 property which (without regard to this para-
11 graph) is treated as a capital loss—

12 “(i) only 15 percent of the amount of
13 such loss shall be treated as a capital loss,
14 and

15 “(ii) the remainder shall be treated as
16 a loss from the sale or exchange of real
17 property used in carrying on an insurance
18 business which is recognized ratably over
19 the 10-taxable year period beginning with
20 the taxable year following the taxable year
21 in which the sale or exchange of the fore-
22 closure property occurred.

23 “(B) FORECLOSURE PROPERTY.—For pur-
24 poses of this paragraph, the term “foreclosure
25 property” means any real property used in a

1 trade or businesses (as defined in section
2 1231(b) without regard to this subsection)
3 which is acquired by a life insurance company
4 as the result of—

5 “(i) such company having bid on such
6 property at foreclosure, or

7 “(ii) such company having otherwise
8 reduced such property to ownership or pos-
9 session by agreement or process of law,
10 after there was a default (or default was
11 imminent) on indebtedness which such
12 property secured.”

13 (b) CONFORMING AMENDMENTS.—Section 818(b) is
14 amended—

15 (1) by striking “In the” and inserting:

16 “(1) IN GENERAL.—In the ”, and

17 (2) by redesignating paragraphs (1) and (2)
18 and subparagraphs (A) and (B) of paragraph (1) as
19 subparagraphs (A) and (B) and clauses (i) and (ii)
20 of subparagraph (A), respectively.

21 (c) EFFECTIVE DATE.—The amendments made by
22 subsection (a) shall apply to taxable years beginning after
23 December 31, 1994.

1 **SEC. 12874. COAL INDUSTRY RETIREE HEALTH EQUITY.**

2 (a) IN GENERAL.—Paragraph (3) of section 9704(e)
 3 (relating to shortfalls and surpluses) is amended to read
 4 as follows:

5 “(3) SHORTFALLS AND SURPLUSES.—

6 “(A) DETERMINATIONS.—

7 “(i) IN GENERAL.—The trustees of
 8 the Combined Fund shall, as of the close
 9 of any plan year ending on or after Sep-
 10 tember 30, 1995—

11 “(I) determine any shortfall or
 12 surplus in any premium account es-
 13 tablished under paragraph (1) and, to
 14 the maximum extent possible, reduce
 15 or eliminate any shortfall in any such
 16 account by transferring amounts to it
 17 from any surplus in any other such
 18 account, and

19 “(II) determine, after any trans-
 20 fers under subclause (I), the aggre-
 21 gate shortfall or surplus in the Com-
 22 bined Fund, taking into account all
 23 receipts of any kind during the plan
 24 year from all sources.

25 “(ii) DETERMINATIONS MADE ON
 26 CASH FLOW BASIS.—

1 “(I) IN GENERAL.—Subject to
2 the provisions of subclause (II) and
3 clause (iii), any determination under
4 clause (i) for any plan year shall be
5 determined under the cash receipts
6 and disbursements method of account-
7 ing, taking into account only receipts
8 and disbursements for the plan year.

9 “(II) CERTAIN PRIOR YEAR SUR-
10 PLUSES.—For purposes of applying
11 subclause (I) for any plan year, any
12 surplus determined under subpara-
13 graph (A)(i)(II) as of the close of the
14 preceding plan year, including any
15 portion used as provided in subpara-
16 graph (B), shall be treated as received
17 in the Combined Fund as of the be-
18 ginning of the plan year.

19 “(iii) DISREGARD OF TRANSFERRED
20 AMOUNTS.—For purposes of this subpara-
21 graph—

22 “(I) no amount transferred to
23 the Combined Fund under section
24 9705, and no disbursements made
25 from such amount, shall be taken into

1 account in making any determination
2 under subparagraph (A) for the plan
3 year of the transfer or any subsequent
4 plan year, and

5 “(II) any amount in a premium
6 account which was transferred to the
7 Combined Fund under section 9705
8 may not be transferred to another ac-
9 count under clause (i)(I).

10 “(B) TREATMENT OF SURPLUS.—

11 “(i) NONPREMIUM ADJUSTMENTS.—
12 Any surplus determined under subpara-
13 graph (A)(i)(II) for any plan year shall be
14 used first for purposes of the carryover
15 under section 9703(b)(2)(C), but only to
16 the extent the amount of such carryover
17 does not exceed 10 percent of the benefits
18 and administrative costs paid by the Com-
19 bined Fund during the plan year (deter-
20 mined without regard to benefits paid from
21 transfers under section 9705).

22 “(ii) PREMIUM ADJUSTMENTS.—In
23 the case of the plan year beginning Octo-
24 ber 1, 1995, or October 1, 1996, the an-
25 nual premium for such plan year for each

1 assigned operator which is not a 1988
2 agreement operator shall be reduced by an
3 amount which bears the same ratio to the
4 surplus determined under subparagraph
5 (A)(i)(II) as of the close of the preceding
6 plan year (reduced as provided under
7 clause (i)) as—

8 “(I) such assigned operator’s ap-
9 plicable percentage (expressed as a
10 whole number), bears to

11 “(II) the sum of the applicable
12 percentages (expressed as whole num-
13 bers) of all assigned operators which
14 are not 1988 agreement operators.

15 The reduction in any annual premium
16 under this clause shall be allocated to the
17 premium accounts established under para-
18 graph (1) in the same manner as the an-
19 nual premium would have been allocated
20 without regard to this clause, and in the
21 case of assigned operators which sought
22 protection under title 11 of the United
23 States Code before October 24, 1992, with-
24 out regard to section 9706(b)(1)(A).

1 “(C) SHORTFALLS.—If a shortfall is deter-
2 mined under subparagraph (A)(i)(II) for any
3 plan year, the annual premium for each as-
4 signed operator shall be increased by an
5 amount equal to such assigned operator’s appli-
6 cable percentage of the shortfall. Any increase
7 under this subparagraph shall be allocated to
8 each premium account with a shortfall.

9 “(D) NO AUTHORITY FOR INCREASE.—
10 Nothing in this paragraph shall be construed to
11 allow expenditures for health care benefits in
12 any plan year in excess of the limit under sec-
13 tion 9703(b)(2).”

14 (b) AMOUNT OF PER BENEFICIARY PREMIUM.—
15 Paragraph (2) of section 9704(b) (defining per beneficiary
16 premium) is amended—

17 (1) by striking subparagraph (A) and inserting:

18 “(A) \$2,116.67, plus”, and

19 (2) by striking “the amount determined under
20 subparagraph (A)” in subparagraph (B) and insert-
21 ing “\$2,116.67,”.

22 (c) DISCLOSURE REQUIREMENTS.—

23 (1) IN GENERAL.—Section 9704(h) (relating to
24 information) is amended by adding at the end the
25 following new paragraph:

1 “(2) INFORMATION TO CONTRIBUTORS.—

2 “(A) IN GENERAL.—The trustees of the
3 Combined Fund shall, within 30 days of a writ-
4 ten request, make available to any person re-
5 quired to make contributions to the Combined
6 Fund or their agent—

7 “(i) all documents which reflect its fi-
8 nancial and operational status, including
9 documents under which it is operated, and

10 “(ii) all documents prepared at the re-
11 quest of the trustees or staff of the Com-
12 bined Fund which form the basis for any
13 of its actions or reports, including the eli-
14 gibility of participants in predecessor
15 plans.

16 “(B) FEES.—The trustees may charge rea-
17 sonable fees (not in excess of actual expenses)
18 for providing documents under this paragraph.”

19 (2) CONFORMING AMENDMENT.—Section
20 9704(h) is amended by striking “(h) INFORMA-
21 TION.—The” and inserting:

22 “(h) INFORMATION.—

23 “(1) INFORMATION TO SECRETARY.—The”.

24 (d) CONFORMING AMENDMENT.—Clause (ii) of sec-
25 tion 9703(b)(2)(A) is amended by inserting “(without re-

1 gard to any reduction under section 9704(e)(3)(B)(ii))”
 2 after “for the plan year”.

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to plan years beginning after Sep-
 5 tember 30, 1995.

6 **SEC. 12875. NEWSPAPER DISTRIBUTORS TREATED AS DI-**
 7 **RECT SELLERS.**

8 (a) IN GENERAL.—Section 3508(b)(2)(A) in amend-
 9 ed by striking “or” at the end of clause (i), by inserting
 10 “or” at the end of clause (ii), and by inserting after clause
 11 (ii) the following new clause:

12 “(iii) is engaged in the trade or busi-
 13 ness of the delivering or distribution of
 14 newspapers or shopping news (including
 15 any services directly related to such trade
 16 or business),”.

17 (b) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to services performed after Decem-
 19 ber 31, 1995.

20 **SEC. 12876. NONRECOGNITION TREATMENT FOR CERTAIN**
 21 **TRANSFERS BY COMMON TRUST FUNDS TO**
 22 **REGULATED INVESTMENT COMPANIES.**

23 (a) GENERAL RULE.—Section 584 (relating to com-
 24 mon trust funds) is amended by redesignating subsection

1 (h) as subsection (i) and by inserting after subsection (g)
2 the following new subsection:

3 “(h) NONRECOGNITION TREATMENT FOR CERTAIN
4 TRANSFERS TO REGULATED INVESTMENT COMPANIES.—

5 “(1) IN GENERAL.—If—

6 “(A) pursuant to a single plan, a common
7 trust fund transfers substantially all of its as-
8 sets to one or more regulated investment com-
9 panies in exchange solely for stock in the com-
10 pany or companies to which such assets are so
11 transferred, and

12 “(B) such stock is distributed by such
13 common trust fund to participants in such com-
14 mon trust fund in exchange solely for their in-
15 terests in such common trust fund,

16 no gain or loss shall be recognized by such common
17 trust fund by reason of such transfer or distribution,
18 and no gain or loss shall be recognized by any par-
19 ticipant in such common trust fund by reason of
20 such exchange.

21 “(2) BASIS RULES.—

22 “(A) REGULATED INVESTMENT COM-
23 PANY.—The basis of any asset received by a
24 regulated investment company in a transfer re-
25 ferred to in paragraph (1)(A) shall be the same

1 as it would be in the hands of the common
2 trust fund.

3 “(B) PARTICIPANTS.—The basis of the
4 stock which is received in an exchange referred
5 to in paragraph (1)(B) shall be the same as
6 that of the property exchanged. If stock in more
7 than one regulated investment company is re-
8 ceived in such exchange, the basis determined
9 under the preceding sentence shall be allocated
10 among the stock in each such company on the
11 basis of respective fair market values.

12 “(3) TREATMENT OF ASSUMPTIONS OF LIABIL-
13 ITY.—

14 “(A) IN GENERAL.—In determining wheth-
15 er the transfer referred to in paragraph (1)(A)
16 is in exchange solely for stock in one or more
17 regulated investment companies, the assump-
18 tion by any such company of a liability of the
19 common trust fund, and the fact that any prop-
20 erty transferred by the common trust fund is
21 subject to a liability, shall be disregarded.

22 “(B) SPECIAL RULE WHERE ASSUMED LI-
23 ABILITIES EXCEED BASIS.—

24 “(i) IN GENERAL.—If, in any transfer
25 referred to in paragraph (1)(A), the as-

1 sumed liabilities exceed the aggregate ad-
2 justed bases (in the hands of the common
3 trust fund) of the assets transferred to the
4 regulated investment company or compa-
5 nies—

6 “(I) notwithstanding paragraph
7 (1), gain shall be recognized to the
8 common trust fund on such transfer
9 in an amount equal to such excess,

10 “(II) the basis of the assets re-
11 ceived by the regulated investment
12 company or companies in such trans-
13 fer shall be increased by the amount
14 so recognized, and

15 “(III) any adjustment to the
16 basis of a participant’s interest in the
17 common trust fund as a result of the
18 gain so recognized shall be treated as
19 occurring immediately before the ex-
20 change referred to in paragraph
21 (1)(B).

22 If the transfer referred to in paragraph
23 (1)(A) is to two or more regulated invest-
24 ment companies, the basis increase under
25 subclause (II) shall be allocated among

1 such companies on the basis of the respec-
2 tive fair market values of the assets re-
3 ceived by each of such companies.

4 “(ii) ASSUMED LIABILITIES.—For
5 purposes of clause (i), the term ‘assumed
6 liabilities’ means the aggregate of—

7 “(I) any liability of the common
8 trust fund assumed by any regulated
9 investment company in connection
10 with the transfer referred to in para-
11 graph (1)(A), and

12 “(II) any liability to which prop-
13 erty so transferred is subject.

14 “(4) COMMON TRUST FUND MUST MEET DIVER-
15 SIFICATION RULES.—This subsection shall not apply
16 to any common trust fund which would not meet the
17 requirements of section 368(a)(2)(F)(ii) if it were a
18 corporation. For purposes of the preceding sentence,
19 Government securities shall not be treated as securi-
20 ties of an issuer in applying the 25-percent and 50-
21 percent test and such securities shall not be excluded
22 for purposes of determining total assets under clause
23 (iv) of section 368(a)(2)(F).”

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to transfers after December 31,
3 1995.

4 **SEC. 12877. TREATMENT OF CERTAIN INSURANCE CON-**
5 **TRACTS ON RETIRED LIVES.**

6 (a) GENERAL RULE.—

7 (1) Paragraph (2) of section 817(d) (defining
8 variable contract) is amended by striking “or” at the
9 end of subparagraph (A), by striking “and” at the
10 end of subparagraph (B) and inserting “or”, and by
11 inserting after subparagraph (B) the following new
12 subparagraph:

13 “(C) provides for funding of insurance on
14 retired lives as described in section 807(c)(6),
15 and”.

16 (2) Paragraph (3) of section 817(d) is amended
17 by striking “or” at the end of subparagraph (A), by
18 striking the period at the end of subparagraph (B)
19 and inserting “, or”, and by inserting after subpara-
20 graph (B) the following new subparagraph:

21 “(C) in the case of funds held under a con-
22 tract described in paragraph (2)(C), the
23 amounts paid in, or the amounts paid out, re-
24 flect the investment return and the market
25 value of the segregated asset account.”

1 (b) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to taxable years beginning after
 3 December 31, 1995.

4 **SEC. 12878. TREATMENT OF MODIFIED GUARANTEED CON-**
 5 **TRACTS.**

6 (a) GENERAL RULE.—Subpart E of part I of sub-
 7 chapter L of chapter 1 (relating to definitions and special
 8 rules) is amended by inserting after section 817 the follow-
 9 ing new section:

10 **“SEC. 817A. SPECIAL RULES FOR MODIFIED GUARANTEED**
 11 **CONTRACTS.**

12 “(a) COMPUTATION OF RESERVES.—In the case of
 13 a modified guaranteed contract, clause (ii) of section
 14 807(e)(1)(A) shall not apply.

15 “(b) SEGREGATED ASSETS UNDER MODIFIED GUAR-
 16 ANTEED CONTRACTS MARKED TO MARKET.—

17 “(1) IN GENERAL.—In the case of any life in-
 18 surance company, for purposes of this subtitle—

19 “(A) Any gain or loss with respect to a
 20 segregated asset shall be treated as ordinary in-
 21 come or loss, as the case may be.

22 “(B) If any segregated asset is held by
 23 such company as of the close of any taxable
 24 year—

1 “(i) such company shall recognize
2 gain or loss as if such asset were sold for
3 its fair market value on the last business
4 day of such taxable year, and

5 “(ii) any such gain or loss shall be
6 taken into account for such taxable year.

7 Proper adjustment shall be made in the amount
8 of any gain or loss subsequently realized for
9 gain or loss taken into account under the pre-
10 ceding sentence. The Secretary may provide by
11 regulations for the application of this subpara-
12 graph at times other than the times provided in
13 this subparagraph.

14 “(2) SEGREGATED ASSET.—For purposes of
15 paragraph (1), the term ‘segregated asset’ means
16 any asset held as part of a segregated account re-
17 ferred to in subsection (d)(1) under a modified guar-
18 anteed contract.

19 “(c) SPECIAL RULE IN COMPUTING LIFE INSURANCE
20 RESERVES.—For purposes of applying section
21 816(b)(1)(A) to any modified guaranteed contract, an as-
22 sumed rate of interest shall include a rate of interest de-
23 termined, from time to time, with reference to a market
24 rate of interest.

1 “(d) MODIFIED GUARANTEED CONTRACT DE-
2 FINED.—For purposes of this section, the term ‘modified
3 guaranteed contract’ means a contract not described in
4 section 817—

5 “(1) all or part of the amounts received under
6 which are allocated to an account which, pursuant to
7 State law or regulation, is segregated from the gen-
8 eral asset accounts of the company and is valued
9 from time to time with reference to market values,

10 “(2) which—

11 “(A) provides for the payment of annuities,

12 “(B) is a life insurance contract, or

13 “(C) is a pension plan contract which is
14 not a life, accident, or health, property, cas-
15 ualty, or liability contract,

16 “(3) for which reserves are valued at market for
17 annual statement purposes, and

18 “(4) which provides for a net surrender value or
19 a policyholder’s fund (as defined in section
20 807(e)(1)).

21 If only a portion of a contract is not described in section
22 817, such portion shall be treated for purposes of this sec-
23 tion as a separate contract.

24 “(e) REGULATIONS.—The Secretary may prescribe
25 regulations—

1 “(1) to provide for the treatment of market
2 value adjustments under sections 72, 7702, 7702A,
3 and 807(e)(1)(B),

4 “(2) to determine the interest rates applicable
5 under sections 807(e)(3), 807(d)(2)(B), and 812
6 with respect to a modified guaranteed contract an-
7 nually, in a manner appropriate for modified guar-
8 anteed contracts and, to the extent appropriate for
9 such a contract, to modify or waive the applicability
10 of section 811(d),

11 “(3) to provide rules to limit ordinary gain or
12 loss treatment to assets constituting reserves for
13 modified guaranteed contracts (and not other assets)
14 of the company,

15 “(4) to provide appropriate treatment of trans-
16 fers of assets to and from the segregated account,
17 and

18 “(5) as may be necessary or appropriate to
19 carry out the purposes of this section.”

20 (b) CLERICAL AMENDMENT.—The table of sections
21 for subpart E of part I of subchapter L of chapter 1 is
22 amended by inserting after the item relating to section
23 817 the following new item:

 “Sec. 817A. Special rules for modified guaranteed contracts.”

24 (c) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to taxable years beginning
3 after December 31, 1995.

4 (2) TREATMENT OF NET ADJUSTMENTS.—In
5 the case of any taxpayer required by the amend-
6 ments made by this section to change its calculation
7 of reserves to take into account market value adjust-
8 ments and to mark segregated assets to market for
9 any taxable year—

10 (A) such changes shall be treated as a
11 change in method of accounting initiated by the
12 taxpayer,

13 (B) such changes shall be treated as made
14 with the consent of the Secretary, and

15 (C) the adjustments required by reason of
16 section 481 of the Internal Revenue Code of
17 1986 shall be taken into account as ordinary in-
18 come or loss by the taxpayer for the taxpayer's
19 first taxable year beginning after December 31,
20 1995.

1 **Subtitle J—Pension Simplification**

2 **CHAPTER 1—GENERAL PROVISIONS**

3 **Subchapter A—Simplification of**

4 **Nondiscrimination Provisions**

5 **SEC. 12901. DEFINITION OF HIGHLY COMPENSATED EM-**
6 **PLOYEES; REPEAL OF FAMILY AGGREGATION.**

7 (a) IN GENERAL.—Paragraph (1) of section 414(q)
8 (defining highly compensated employee) is amended to
9 read as follows:

10 “(1) IN GENERAL.—The term ‘highly com-
11 pensated employee’ means any employee who—

12 “(A) was a 5-percent owner at any time
13 during the year or the preceding year,

14 “(B) had compensation for the preceding
15 year from the employer in excess of \$80,000, or

16 “(C) was the most highly compensated of-
17 ficer of the employer for the preceding year.

18 The Secretary shall adjust the \$80,000 amount
19 under subparagraph (B) at the same time and in the
20 same manner as under section 415(d), except that
21 the base period shall be the calendar quarter ending
22 September 30, 1996.”

23 (b) SPECIAL RULE FOR TAX EXEMPT AND GOVERN-
24 MENTAL PLANS.—Paragraph (2) of section 414(q) is
25 amended to read as follows:

1 “(2) SPECIAL RULE FOR TAX EXEMPT AND
2 GOVERNMENTAL PLANS.—Solely for purposes of ap-
3 plying subsections (k) and (m) of section 401, para-
4 graph (1)(C) shall not apply to a plan maintained
5 by—

6 “(A) a State or local government or politi-
7 cal subdivision thereof, or any agency or instru-
8 mentality thereof, or

9 “(B) any organization exempt from tax
10 under this subtitle.”

11 (c) REPEAL OF FAMILY AGGREGATION RULES.—

12 (1) IN GENERAL.—Paragraph (6) of section
13 414(q) is hereby repealed.

14 (2) COMPENSATION LIMIT.—Paragraph (17)(A)
15 of section 401(a) is amended by striking the last
16 sentence.

17 (3) DEDUCTION.—Subsection (l) of section 404
18 is amended by striking the last sentence.

19 (d) CONFORMING AMENDMENTS.—

20 (1) Paragraphs (4), (5), (8), and (12) of section
21 414(q) are hereby repealed.

22 (2)(A) Section 414(r) is amended by adding at
23 the end the following new paragraph:

1 “(9) EXCLUDED EMPLOYEES.—For purposes of
2 this subsection, the following employees shall be ex-
3 cluded:

4 “(A) Employees who have not completed 6
5 months of service.

6 “(B) Employees who normally work less
7 than 17½ hours per week.

8 “(C) Employees who normally work not
9 more than 6 months during any year.

10 “(D) Employees who have not attained the
11 age of 21.

12 “(E) Except to the extent provided in reg-
13 ulations, employees who are included in a unit
14 of employees covered by an agreement which
15 the Secretary of Labor finds to be a collective
16 bargaining agreement between employee rep-
17 resentatives and the employer.

18 Except as provided by the Secretary, the employer
19 may elect to apply subparagraph (A), (B), (C), or
20 (D) by substituting a shorter period of service,
21 smaller number of hours or months, or lower age for
22 the period of service, number of hours or months, or
23 age (as the case may be) specified in such subpara-
24 graph.”

1 (B) Subparagraph (A) of section 414(r)(2) is
2 amended by striking “subsection (q)(8)” and insert-
3 ing “paragraph (9)”.

4 (3) Section 1114(c)(4) of the Tax Reform Act
5 of 1986 is amended by adding at the end the follow-
6 ing new sentence: “Any reference in this paragraph
7 to section 414(q) shall be treated as a reference to
8 such section as in effect before the Revenue Rec-
9 onciliation Act of 1995.”

10 (e) EFFECTIVE DATE.—

11 (1) IN GENERAL.—The amendments made by
12 this section shall apply to years beginning after
13 December 31, 1996, except that in determining
14 whether an employee is a highly compensated em-
15 ployee for years beginning in 1997, such amend-
16 ments shall be treated as having been in effect for
17 years beginning in 1996.

18 (2) FAMILY AGGREGATION.—The amendments
19 made by subsection (c) shall apply to years begin-
20 ning after December 31, 1995.

21 **SEC. 12902. DEFINITION OF COMPENSATION FOR SECTION**

22 **415 PURPOSES.**

23 (a) GENERAL RULE.—Section 415(c)(3) (defining
24 participant’s compensation) is amended by adding at the
25 end the following new subparagraph:

1 “(D) CERTAIN DEFERRALS INCLUDED.—

2 The term ‘participant’s compensation’ shall in-
3 clude—

4 “(i) any elective deferral (as defined
5 in section 402(g)(3)), and

6 “(ii) any amount which is contributed
7 by the employer of the election of the em-
8 ployee and which is not includible in the
9 gross income of the employee under section
10 125 or 457.”

11 (b) CONFORMING AMENDMENTS.—

12 (1) Section 414(q)(7) is amended to read as fol-
13 lows:

14 “(7) COMPENSATION.—For purposes of this
15 subsection, the term ‘compensation’ has the meaning
16 given such term by section 415(c)(3).”

17 (2) Section 414(s)(2) is amended by inserting
18 “not” after “elect” in the text and heading thereof.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to years beginning after December
21 31, 1997.

1 **SEC. 12903. MODIFICATION OF ADDITIONAL PARTICIPA-**
2 **TION REQUIREMENTS.**

3 (a) GENERAL RULE.—Section 401(a)(26)(A) (relat-
4 ing to additional participation requirements) is amended
5 to read as follows:

6 “(A) IN GENERAL.—In the case of a trust
7 which is a part of a defined benefit plan, such trust
8 shall not constitute a qualified trust under this sub-
9 section unless on each day of the plan year such
10 trust benefits at least the lesser of—

11 “(i) 50 employees of the employer, or

12 “(ii) the greater of—

13 “(I) 40 percent of all employees of the
14 employer, or

15 “(II) 2 employees (or if there is only
16 1 employee, such employee).”

17 (b) SEPARATE LINE OF BUSINESS TEST.—Section
18 401(a)(26)(G) (relating to separate line of business) is
19 amended by striking “paragraph (7)” and inserting “para-
20 graph (2)(A) or (7)”.

21 (c) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to years beginning after Decem-
23 ber 31, 1995.

1 **SEC. 12904. NONDISCRIMINATION RULES FOR QUALIFIED**
2 **CASH OR DEFERRED ARRANGEMENTS AND**
3 **MATCHING CONTRIBUTIONS.**

4 (a) ALTERNATIVE METHODS OF SATISFYING SEC-
5 TION 401(k) NONDISCRIMINATION TESTS.—Section
6 401(k) (relating to cash or deferred arrangements), as
7 amended by this Act, is amended by adding at the end
8 the following new paragraph:

9 “(12) ALTERNATIVE METHODS OF MEETING
10 NONDISCRIMINATION REQUIREMENTS.—

11 “(A) IN GENERAL.—A cash or deferred ar-
12 rangement shall be treated as meeting the re-
13 quirements of paragraph (3)(A)(ii) if such ar-
14 rangement—

15 “(i) meets the contribution require-
16 ments of subparagraph (B) or (C), and

17 “(ii) meets the notice requirements of
18 subparagraph (D).

19 “(B) MATCHING CONTRIBUTIONS.—

20 “(i) IN GENERAL.—The requirements
21 of this subparagraph are met if, under the
22 arrangement, the employer makes match-
23 ing contributions on behalf of each em-
24 ployee who is not a highly compensated
25 employee in an amount equal to—

1 “(I) 100 percent of the elective
2 contributions of the employee to the
3 extent such elective contributions do
4 not exceed 3 percent of the employee’s
5 compensation, and

6 “(II) 50 percent of the elective
7 contributions of the employee to the
8 extent that such elective contributions
9 exceed 3 percent but do not exceed 5
10 percent of the employee’s compensa-
11 tion.

12 “(ii) RATE FOR HIGHLY COM-
13 PENSATED EMPLOYEES.—The require-
14 ments of this subparagraph are not met if,
15 under the arrangement, the matching con-
16 tribution with respect to any elective con-
17 tribution of a highly compensated employee
18 at any level of compensation is greater
19 than that with respect to an employee who
20 is not a highly compensated employee.

21 “(iii) ALTERNATIVE PLAN DESIGNS.—
22 If the matching contribution with respect
23 to any elective contribution at any specific
24 level of compensation is not equal to the
25 percentage required under clause (i), an

1 arrangement shall not be treated as failing
2 to meet the requirements of clause (i) if—

3 “(I) the level of an employer’s
4 matching contribution does not in-
5 crease as an employee’s elective con-
6 tributions increase, and

7 “(II) the aggregate amount of
8 matching contributions with respect to
9 elective contributions not in excess of
10 such level of compensation is at least
11 equal to the amount of matching con-
12 tributions which would be made if
13 matching contributions were made on
14 the basis of the percentages described
15 in clause (i).

16 “(C) NONELECTIVE CONTRIBUTIONS.—

17 The requirements of this subparagraph are met
18 if, under the arrangement, the employer is re-
19 quired, without regard to whether the employee
20 makes an elective contribution or employee con-
21 tribution, to make a contribution to a defined
22 contribution plan on behalf of each employee
23 who is not a highly compensated employee and
24 who is eligible to participate in the arrangement

1 in an amount equal to at least 3 percent of the
2 employee's compensation.

3 “(D) NOTICE REQUIREMENT.—An ar-
4 rangement meets the requirements of this para-
5 graph if, under the arrangement, each employee
6 eligible to participate is, within a reasonable pe-
7 riod before any year, given written notice of the
8 employee's rights and obligations under the ar-
9 rangement which—

10 “(i) is sufficiently accurate and com-
11 prehensive to appraise the employee of
12 such rights and obligations, and

13 “(ii) is written in a manner calculated
14 to be understood by the average employee
15 eligible to participate.

16 “(E) OTHER REQUIREMENTS.—

17 “(i) WITHDRAWAL AND VESTING RE-
18 STRICTIONS.—An arrangement shall not be
19 treated as meeting the requirements of
20 subparagraph (B) or (C) unless the re-
21 quirements of subparagraphs (B) and (C)
22 of paragraph (2) are met with respect to
23 all employer contributions (including
24 matching contributions).

1 “(ii) SOCIAL SECURITY AND SIMILAR
2 CONTRIBUTIONS NOT TAKEN INTO AC-
3 COUNT.—An arrangement shall not be
4 treated as meeting the requirements of
5 subparagraph (B) or (C) unless such re-
6 quirements are met without regard to sub-
7 section (l), and, for purposes of subsection
8 (l), employer contributions under subpara-
9 graph (B) or (C) shall not be taken into
10 account.

11 “(F) OTHER PLANS.—An arrangement
12 shall be treated as meeting the requirements
13 under subparagraph (A)(i) if any other plan
14 maintained by the employer meets such require-
15 ments with respect to employees eligible under
16 the arrangement.”

17 (b) ALTERNATIVE METHODS OF SATISFYING SEC-
18 TION 401(m) NONDISCRIMINATION TESTS.—Section
19 401(m) (relating to nondiscrimination test for matching
20 contributions and employee contributions), as amended by
21 this Act, is amended by redesignating paragraph (10) as
22 paragraph (11) and by adding after paragraph (9) the fol-
23 lowing new paragraph:

24 “(11) ALTERNATIVE METHOD OF SATISFYING
25 TESTS.—

1 “(A) IN GENERAL.—A defined contribution
2 plan shall be treated as meeting the require-
3 ments of paragraph (2) with respect to match-
4 ing contributions if the plan—

5 “(i) meets the contribution require-
6 ments of subparagraph (B) or (C) of sub-
7 section (k)(12),

8 “(ii) meets the notice requirements of
9 subsection (k)(12)(D), and

10 “(iii) meets the requirements of sub-
11 paragraph (B).

12 “(B) LIMITATION ON MATCHING CON-
13 TRIBUTIONS.—The requirements of this sub-
14 paragraph are met if—

15 “(i) matching contributions on behalf
16 of any employee may not be made with re-
17 spect to an employee’s contributions or
18 elective deferrals in excess of 6 percent of
19 the employee’s compensation,

20 “(ii) the level of an employer’s match-
21 ing contribution does not increase as an
22 employee’s contributions or elective defer-
23 rals increase, and

24 “(iii) the matching contribution with
25 respect to any highly compensated em-

1 ployee at a specific level of compensation is
2 not greater than that with respect to an
3 employee who is not a highly compensated
4 employee.”

5 (c) YEAR FOR COMPUTING NONHIGHLY COM-
6 PENSATED EMPLOYEE PERCENTAGE.—

7 (1) CASH OR DEFERRED ARRANGEMENTS.—

8 Clause (ii) of section 401(k)(3)(A) is amended—

9 (A) by striking “such year” and inserting
10 “the plan year”,

11 (B) by striking “for such plan year” and
12 inserting “the preceding plan year”, and

13 (C) by adding at the end the following new
14 sentence: “An arrangement may apply this
15 clause by using the plan year rather than the
16 preceding plan year if the employer so elects,
17 except that if such an election is made, it may
18 not be changed except as provided by the Sec-
19 retary.”

20 (2) MATCHING AND EMPLOYEE CONTRIBU-
21 TIONS.—Section 401(m)(2)(A) is amended—

22 (A) by inserting “for such plan year” after
23 “highly compensated employee”,

1 (B) by inserting “for the preceding plan
2 year” after “eligible employees” each place it
3 appears in clause (i) and clause (ii), and

4 (C) by adding at the end the following
5 flush sentence: “This subparagraph may be ap-
6 plied by using the plan year rather than the
7 preceding plan year if the employer so elects,
8 except that if such an election is made, it may
9 not be changed except as provided the Sec-
10 retary.”

11 (d) SPECIAL RULE FOR DETERMINING AVERAGE DE-
12 FERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

13 (1) Paragraph (3) of section 401(k) is amended
14 by adding at the end the following new subpara-
15 graph:

16 “(E) For purposes of this paragraph, in
17 the case of the first plan year of any plan, the
18 amount taken into account as the actual defer-
19 ral percentage of nonhighly compensated em-
20 ployees for the preceding plan year shall be—

21 “(i) 3 percent, or

22 “(ii) if the employer makes an election
23 under this subclause, the actual deferral
24 percentage of nonhighly compensated em-

1 ployees determined for such first plan
2 year.”

3 (2) Paragraph (3) of section 401(m) is amend-
4 ed by adding at the end thereof the following:
5 “Rules similar to the rules of subsection (k)(3)(E)
6 shall apply for purposes of this subsection.”

7 (e) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to years beginning after December
9 31, 1998.

10 **Subchapter B—Simplified Distribution Rules**

11 **SEC. 12911. REPEAL OF 5-YEAR INCOME AVERAGING FOR** 12 **LUMP-SUM DISTRIBUTIONS.**

13 (a) IN GENERAL.—Subsection (d) of section 402 (re-
14 lating to taxability of beneficiary of employees’ trust) is
15 amended to read as follows:

16 “(d) TAXABILITY OF BENEFICIARY OF CERTAIN
17 FOREIGN SITUS TRUSTS.—For purposes of subsections
18 (a), (b), and (c), a stock bonus, pension, or profit-sharing
19 trust which would qualify for exemption from tax under
20 section 501(a) except for the fact that it is a trust created
21 or organized outside the United States shall be treated
22 as if it were a trust exempt from tax under section
23 501(a).”

24 (b) CONFORMING AMENDMENTS.—

1 (1) Subparagraph (D) of section 402(e)(4) (re-
2 relating to other rules applicable to exempt trusts) is
3 amended to read as follows:

4 “(D) LUMP-SUM DISTRIBUTION.—For pur-
5 poses of this paragraph—

6 “(i) IN GENERAL.—The term ‘lump
7 sum distribution’ means the distribution or
8 payment within one taxable year of the re-
9 cipient of the balance to the credit of an
10 employee which becomes payable to the re-
11 cipient—

12 “(I) on account of the employee’s
13 death,

14 “(II) after the employee attains
15 age 59½,

16 “(III) on account of the employ-
17 ee’s separation from service, or

18 “(IV) after the employee has be-
19 come disabled (within the meaning of
20 section 72(m)(7)),

21 from a trust which forms a part of a plan
22 described in section 401(a) and which is
23 exempt from tax under section 501 or from
24 a plan described in section 403(a).
25 Subclause (III) of this clause shall be ap-

1 plied only with respect to an individual
2 who is an employee without regard to sec-
3 tion 401(c)(1), and subclause (IV) shall be
4 applied only with respect to an employee
5 within the meaning of section 401(c)(1).
6 For purposes of this clause, a distribution
7 to two or more trusts shall be treated as
8 a distribution to one recipient. For pur-
9 poses of this paragraph, the balance to the
10 credit of the employee does not include the
11 accumulated deductible employee contribu-
12 tions under the plan (within the meaning
13 of section 72(o)(5)).

14 “(ii) AGGREGATION OF CERTAIN
15 TRUSTS AND PLANS.—For purposes of de-
16 termining the balance to the credit of an
17 employee under clause (i)—

18 “(I) all trusts which are part of
19 a plan shall be treated as a single
20 trust, all pension plans maintained by
21 the employer shall be treated as a sin-
22 gle plan, all profit-sharing plans main-
23 tained by the employer shall be treat-
24 ed as a single plan, and all stock
25 bonus plans maintained by the em-

1 ployer shall be treated as a single
2 plan, and

3 “(II) trusts which are not quali-
4 fied trusts under section 401(a) and
5 annuity contracts which do not satisfy
6 the requirements of section 404(a)(2)
7 shall not be taken into account.

8 “(iii) COMMUNITY PROPERTY LAWS.—
9 The provisions of this paragraph shall be
10 applied without regard to community prop-
11 erty laws.

12 “(iv) AMOUNTS SUBJECT TO PEN-
13 ALTY.—This paragraph shall not apply to
14 amounts described in subparagraph (A) of
15 section 72(m)(5) to the extent that section
16 72(m)(5) applies to such amounts.

17 “(v) BALANCE TO CREDIT OF EM-
18 PLOYEE NOT TO INCLUDE AMOUNTS PAY-
19 ABLE UNDER QUALIFIED DOMESTIC RELA-
20 TIONS ORDER.—For purposes of this para-
21 graph, the balance to the credit of an em-
22 ployee shall not include any amount pay-
23 able to an alternate payee under a quali-
24 fied domestic relations order (within the
25 meaning of section 414(p)).

1 “(vi) TRANSFERS TO COST-OF-LIVING
2 ARRANGEMENT NOT TREATED AS DIS-
3 TRIBUTION.—For purposes of this para-
4 graph, the balance to the credit of an em-
5 ployee under a defined contribution plan
6 shall not include any amount transferred
7 from such defined contribution plan to a
8 qualified cost-of-living arrangement (within
9 the meaning of section 415(k)(2)) under a
10 defined benefit plan.

11 “(vii) LUMP-SUM DISTRIBUTIONS OF
12 ALTERNATE PAYEES.—If any distribution
13 or payment of the balance to the credit of
14 an employee would be treated as a lump-
15 sum distribution, then, for purposes of this
16 paragraph, the payment under a qualified
17 domestic relations order (within the mean-
18 ing of section 414(p)) of the balance to the
19 credit of an alternate payee who is the
20 spouse or former spouse of the employee
21 shall be treated as a lump-sum distribu-
22 tion. For purposes of this clause, the bal-
23 ance to the credit of the alternate payee
24 shall not include any amount payable to
25 the employee.”

1 (2) Section 402(c) (relating to rules applicable
2 to rollovers from exempt trusts) is amended by strik-
3 ing paragraph (10).

4 (3) Paragraph (1) of section 55(c) (defining
5 regular tax) is amended by striking “shall not in-
6 clude any tax imposed by section 402(d) and”.

7 (4) Paragraph (8) of section 62(a) (relating to
8 certain portion of lump-sum distributions from pen-
9 sion plans taxed under section 402(d)) is hereby re-
10 pealed.

11 (5) Section 401(a)(28)(B) (relating to coordina-
12 tion with distribution rules) is amended by striking
13 clause (v).

14 (6) Subparagraph (B)(ii) of section 401(k)(10)
15 (relating to distributions that must be lump-sum dis-
16 tributions) is amended to read as follows:

17 “(ii) LUMP-SUM DISTRIBUTION.—For pur-
18 poses of this subparagraph, the term ‘lump-sum
19 distribution’ means any distribution of the bal-
20 ance to the credit of an employee immediately
21 before the distribution.”

22 (7) Section 406(c) (relating to termination of
23 status as deemed employee not to be treated as sep-
24 aration from service for purposes of limitation of
25 tax) is hereby repealed.

1 (8) Section 407(c) (relating to termination of
2 status as deemed employee not to be treated as sep-
3 aration from service for purposes of limitation of
4 tax) is hereby repealed.

5 (9) Section 691(e) (relating to deduction for es-
6 tate tax) is amended by striking paragraph (5).

7 (10) Paragraph (1) of section 871(b) (relating
8 to imposition of tax) is amended by striking “section
9 1, 55, or 402(d)(1)” and inserting “section 1 or
10 55”.

11 (11) Subsection (b) of section 877 (relating to
12 alternative tax) is amended by striking “section 1,
13 55, or 402(d)(1)” and inserting “section 1 or 55”.

14 (12) Section 4980A(c)(4) is amended—

15 (A) by striking “to which an election under
16 section 402(d)(4)(B) applies” and inserting
17 “(as defined in section 402(e)(4)(D)) with re-
18 spect to which the individual elects to have this
19 paragraph apply”,

20 (B) by adding at the end the following new
21 flush sentence:

22 “An individual may elect to have this paragraph
23 apply to only one lump-sum distribution.”, and

24 (C) by striking the heading and inserting:

25 “(4) SPECIAL ONE-TIME ELECTION.—”.

1 (13) Section 402(e) is amended by striking
2 paragraph (5).

3 (c) EFFECTIVE DATES.—

4 (1) IN GENERAL.—The amendments made by
5 this section shall apply to taxable years beginning
6 after December 31, 1998.

7 (2) RETENTION OF CERTAIN TRANSITION
8 RULES.—Notwithstanding any other provision of
9 this section, the amendments made by this section
10 shall not apply to any distribution for which the tax-
11 payer elects the benefits of section 1122 (h)(3) or
12 (h)(5) of the Tax Reform Act of 1986. For purposes
13 of the preceding sentence, the rules of sections
14 402(c)(10) and 402(d) of the Internal Revenue Code
15 of 1986 (as in effect before the amendments made
16 by this Act) shall apply.

17 **SEC. 12912. REPEAL OF \$5,000 EXCLUSION OF EMPLOYEES'**
18 **DEATH BENEFITS.**

19 (a) IN GENERAL.—Subsection (b) of section 101 is
20 hereby repealed.

21 (b) CONFORMING AMENDMENT.—Subsection (c) of
22 section 101 is amended by striking “subsection (a) or (b)”
23 and inserting “subsection (a)”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to taxable years beginning after
 3 December 31, 1995.

4 **SEC. 12913. SIMPLIFIED METHOD FOR TAXING ANNUITY**
 5 **DISTRIBUTIONS UNDER CERTAIN EMPLOYER**
 6 **PLANS.**

7 (a) GENERAL RULE.—Subsection (d) of section 72
 8 (relating to annuities; certain proceeds of endowment and
 9 life insurance contracts) is amended to read as follows:

10 “(d) SPECIAL RULES FOR QUALIFIED EMPLOYER
 11 RETIREMENT PLANS.—

12 “(1) SIMPLIFIED METHOD OF TAXING ANNUITY
 13 PAYMENTS.—

14 “(A) IN GENERAL.—In the case of any
 15 amount received as an annuity under a quali-
 16 fied employer retirement plan—

17 “(i) subsection (b) shall not apply,
 18 and

19 “(ii) the investment in the contract
 20 shall be recovered as provided in this para-
 21 graph.

22 “(B) METHOD OF RECOVERING INVEST-
 23 MENT IN CONTRACT.—

24 “(i) IN GENERAL.—Gross income
 25 shall not include so much of any monthly

1 annuity payment under a qualified em-
2 ployer retirement plan as does not exceed
3 the amount obtained by dividing—

4 “(I) the investment in the con-
5 tract (as of the annuity starting date),
6 by

7 “(II) the number of anticipated
8 payments determined under the table
9 contained in clause (iii) (or, in the
10 case of a contract to which subsection
11 (c)(3)(B) applies, the number of
12 monthly annuity payments under such
13 contract).

14 “(ii) CERTAIN RULES MADE APPLICA-
15 BLE.—Rules similar to the rules of para-
16 graphs (2) and (3) of subsection (b) shall
17 apply for purposes of this paragraph.

18 “(iii) NUMBER OF ANTICIPATED PAY-
19 MENTS.—

“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

20 “(C) ADJUSTMENT FOR REFUND FEATURE
21 NOT APPLICABLE.—For purposes of this para-

1 graph, investment in the contract shall be de-
2 termined under subsection (c)(1) without re-
3 gard to subsection (c)(2).

4 “(D) SPECIAL RULE WHERE LUMP SUM
5 PAID IN CONNECTION WITH COMMENCEMENT
6 OF ANNUITY PAYMENTS.—If, in connection with
7 the commencement of annuity payments under
8 any qualified employer retirement plan, the tax-
9 payer receives a lump sum payment—

10 “(i) such payment shall be taxable
11 under subsection (e) as if received before
12 the annuity starting date, and

13 “(ii) the investment in the contract
14 for purposes of this paragraph shall be de-
15 termined as if such payment had been so
16 received.

17 “(E) EXCEPTION.—This paragraph shall
18 not apply in any case where the primary annu-
19 itant has attained age 75 on the annuity start-
20 ing date unless there are fewer than 5 years of
21 guaranteed payments under the annuity.

22 “(F) ADJUSTMENT WHERE ANNUITY PAY-
23 MENTS NOT ON MONTHLY BASIS.—In any case
24 where the annuity payments are not made on a
25 monthly basis, appropriate adjustments in the

1 application of this paragraph shall be made to
 2 take into account the period on the basis of
 3 which such payments are made.

4 “(G) QUALIFIED EMPLOYER RETIREMENT
 5 PLAN.—For purposes of this paragraph, the
 6 term ‘qualified employer retirement plan’ means
 7 any plan or contract described in paragraph
 8 (1), (2), or (3) of section 4974(c).

9 “(2) TREATMENT OF EMPLOYEE CONTRIBU-
 10 TIONS UNDER DEFINED CONTRIBUTION PLANS.—
 11 For purposes of this section, employee contributions
 12 (and any income allocable thereto) under a defined
 13 contribution plan may be treated as a separate con-
 14 tract.”

15 (b) EFFECTIVE DATE.—The amendment made by
 16 this section shall apply in cases where the annuity starting
 17 date is after December 31, 1995.

18 **SEC. 12914. REQUIRED DISTRIBUTIONS.**

19 (a) IN GENERAL.—Section 401(a)(9)(C) (defining re-
 20 quired beginning date) is amended to read as follows:

21 “(C) REQUIRED BEGINNING DATE.—For
 22 purposes of this paragraph—

23 “(i) IN GENERAL.—The term ‘re-
 24 quired beginning date’ means April 1 of
 25 the calendar year following the later of—

1 “(I) the calendar year in which
2 the employee attains age 70½, or

3 “(II) the calendar year in which
4 the employee retires.

5 “(ii) EXCEPTION.—Subclause (II) of
6 clause (i) shall not apply—

7 “(I) except as provided in section
8 409(d), in the case of an employee
9 who is a 5-percent owner (as defined
10 in section 416) with respect to the
11 plan year ending in the calendar year
12 in which the employee attains age
13 70½, or

14 “(II) for purposes of section 408
15 (a)(6) or (b)(3).

16 “(iii) ACTUARIAL ADJUSTMENT.—In
17 the case of an employee to whom clause
18 (i)(II) applies who retires in a calendar
19 year after the calendar year in which the
20 employee attains age 70½, the employee’s
21 accrued benefit shall be actuarially in-
22 creased to take into account the period
23 after age 70½ in which the employee was
24 not receiving any benefits under the plan.

1 “(iv) EXCEPTION FOR GOVERN-
2 MENTAL AND CHURCH PLANS.—Clauses
3 (ii) and (iii) shall not apply in the case of
4 a governmental plan or church plan. For
5 purposes of this clause, the term ‘church
6 plan’ means a plan maintained by a church
7 for church employees, and the term
8 ‘church’ means any church (as defined in
9 section 3121(w)(3)(A)) or qualified church-
10 controlled organization (as defined in sec-
11 tion 3121(w)(3)(B)).”

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply to years beginning after Decem-
14 ber 31, 1995.

15 (c) DATE FOR ADOPTION OF PLAN AMENDMENTS.—
16 If any amendment made by this section or any other provi-
17 sion of this subtitle requires an amendment to any plan,
18 such plan amendment shall not be required to be made
19 before the first day of the first plan year beginning on
20 or after January 1, 1997, if—

21 (1) during the period after such amendment
22 takes effect and before such first plan year, the plan
23 is operated in accordance with the requirements of
24 such amendment, and

1 (2) such plan amendment applies retroactively
2 to such period.

3 In the case of a governmental plan (as defined in section
4 414(d) of the Internal Revenue Code of 1986), this sub-
5 section shall be applied by substituting “1999” for
6 “1997”.

7 **Subchapter C—Targeted Access to Pension**
8 **Plans For Small Employers**

9 **SEC. 12916. CREDIT FOR PENSION PLAN START-UP COSTS**
10 **OF SMALL EMPLOYERS.**

11 (a) ALLOWANCE OF CREDIT.—Section 38(b) (defin-
12 ing current year business credit), as amended by this Act,
13 is amended by striking “plus” at the end of paragraph
14 (11), by striking the period at the end of paragraph (12),
15 and inserting “, plus”, and by adding at the end the fol-
16 lowing new paragraph:

17 “(13) the small employer pension plan start-up
18 cost credit.”

19 (b) SMALL EMPLOYER PENSION PLAN START-UP
20 COST CREDIT.—Subpart D of part IV of subchapter A
21 of chapter 1 (relating to business related credits), as
22 amended by this Act, is amended by adding at the end
23 the following new section:

1 **“SEC. 45D. SMALL EMPLOYER PENSION PLAN START-UP**
 2 **COST CREDIT.**

3 “(a) AMOUNT OF CREDIT.—For purposes of section
 4 38—

5 “(1) IN GENERAL.—The small employer pen-
 6 sion plan start-up cost credit for any taxable year is
 7 an amount equal to 50 percent of the qualified start-
 8 up costs of an eligible employer in establishing a
 9 qualified pension plan.

10 “(2) AGGREGATE LIMITATION.—The amount of
 11 the credit under paragraph (1) for any taxable year
 12 shall not exceed \$500, reduced by the aggregate
 13 amount determined under this section for all preced-
 14 ing taxable years of the taxpayer.

15 “(b) QUALIFIED START-UP COSTS; QUALIFIED PEN-
 16 SION PLAN.—For purposes of this section—

17 “(1) QUALIFIED START-UP COSTS.—The term
 18 ‘qualified start-up costs’ means any ordinary and
 19 necessary expenses of an eligible employer which—

20 “(A) are paid or incurred in connection
 21 with the establishment of a qualified pension
 22 plan, and

23 “(B) are of a nonrecurring nature.

24 “(2) QUALIFIED PENSION PLAN.—The term
 25 ‘qualified pension plan’ means—

1 “(A) a qualified salary reduction arrange-
2 ment described in section 408(p) (relating to
3 simple retirement accounts), or

4 “(B) an arrangement described in section
5 401(k)(11).

6 “(c) ELIGIBLE EMPLOYER.—For purposes of this
7 section—

8 “(1) IN GENERAL.—The term ‘eligible em-
9 ployer’ means an employer which did not make any
10 contributions on behalf of any employee to—

11 “(A) a qualified pension plan,

12 “(B) a plan described in section 401(a)
13 which includes a trust exempt from tax under
14 section 501(a), or

15 “(C) a simplified employee pension (as de-
16 fined in section 408(k)),

17 during the 2 taxable years immediately preceding
18 the taxable year.

19 “(2) PROFESSIONAL SERVICE EMPLOYERS EX-
20 CLUDED.—Such term shall not include an employer
21 substantially all of the activities of which involve the
22 performance of services in the fields of health, law,
23 engineering, architecture, accounting, actuarial
24 science, performing arts, financial services, or con-
25 sulting.

1 “(d) SPECIAL RULES.—For purposes of this sec-
2 tion—

3 “(1) AGGREGATION RULES.—All persons treat-
4 ed as a single employer under subsection (a) or (b)
5 of section 52 or subsection (n) or (o) of section 414
6 shall be treated as one person.

7 “(2) DISALLOWANCE OF DEDUCTION.—No de-
8 duction shall be allowable under this chapter for any
9 qualified start-up costs for which a credit is allow-
10 able under subsection (a).”

11 (c) CONFORMING AMENDMENTS.—

12 (1) Section 39(d) is amended by adding at the
13 end the following new paragraph:

14 “(8) NO CARRYBACK OF PENSION CREDIT.—No
15 portion of the unused business credit for any taxable
16 year which is attributable to the small employer pen-
17 sion plan start-up cost credit determined under sec-
18 tion 45D may be carried back to a taxable year end-
19 ing before the date of the enactment of section
20 45D.”

21 (2) The table of sections for subpart D of part
22 IV of subchapter A of chapter 1 is amended by add-
23 ing at the end the following new item:

“Sec. 45D. Small employer pension plan start-up cost credit.”

24 (d) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to costs incurred after the date

1 of the enactment of this Act in taxable years ending after
2 such date.

3 **SEC. 12917. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER**
4 **SECTION 401(k).**

5 (a) GENERAL RULE.—Clause (ii) of section
6 401(k)(4)(B) is amended to read as follows:

7 “(ii) any organization described in
8 section 501(c)(3) which is exempt from tax
9 under section 501(a).”

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to plan years beginning after De-
12 cember 31, 1997, but shall not apply to any cash or de-
13 ferred arrangement to which clause (i) of section
14 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

15 **Subchapter D—Paperwork Reduction**

16 **SEC. 12921. LIMITATION ON COMBINED SECTION 415 LIMIT.**

17 (a) IN GENERAL.—Section 415(e) (relating to limita-
18 tion in case of defined benefit plan and defined contribu-
19 tion plan for same employee) is amended by adding at the
20 end the following new paragraph:

21 “(7) LIMITATION ON APPLICATION OF SUB-
22 SECTION.—In the case of years beginning after De-
23 cember 31, 1998, this subsection shall only apply to
24 plans maintained by an employer described in sec-
25 tion 45D(c)(2).”

1 (b) EXCESS DISTRIBUTIONS.—Section 4980A is
2 amended by adding at the end the following new sub-
3 section:

4 “(g) LIMITATION ON APPLICATION.—This section
5 shall not apply to distributions during years beginning
6 after December 31, 1995, and before January 1, 1999,
7 and such distributions shall be treated as made first from
8 amounts not described in subsection (f).”

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to years beginning after December
11 31, 1995.

12 **Subchapter E—Miscellaneous Simplification**

13 **SEC. 12931. TREATMENT OF LEASED EMPLOYEES.**

14 (a) GENERAL RULE.—Subparagraph (C) of section
15 414(n)(2) (defining leased employee) is amended to read
16 as follows:

17 “(C) such services are performed under
18 primary direction or control by the recipient.”

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall apply to years beginning after Decem-
21 ber 31, 1995, but shall not apply to any relationship deter-
22 mined under an Internal Revenue Service ruling issued be-
23 fore the date of the enactment of this Act pursuant to
24 section 414(n)(2)(C) of the Internal Revenue Code of

1 1986 (as in effect on the day before such date) not to
2 involve a leased employee.

3 **SEC. 12932. PLANS COVERING SELF-EMPLOYED INDIVID-**
4 **UALS.**

5 (a) AGGREGATION RULES.—Section 401(d) (relating
6 to additional requirements for qualification of trusts and
7 plans benefiting owner-employees) is amended to read as
8 follows:

9 “(d) CONTRIBUTION LIMIT ON OWNER-EMPLOY-
10 EES.—A trust forming part of a pension or profit-sharing
11 plan which provides contributions or benefits for employ-
12 ees some or all of whom are owner-employees shall con-
13 stitute a qualified trust under this section only if, in addi-
14 tion to meeting the requirements of subsection (a), the
15 plan provides that contributions on behalf of any owner-
16 employee may be made only with respect to the earned
17 income of such owner-employee which is derived from the
18 trade or business with respect to which such plan is estab-
19 lished.”

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to years beginning after December
22 31, 1995.

1 **SEC. 12933. ELIMINATION OF SPECIAL VESTING RULE FOR**
2 **MULTIEMPLOYER PLANS.**

3 (a) IN GENERAL.—Paragraph (2) of section 411(a)
4 (relating to minimum vesting standards) is amended—

5 (1) by striking “subparagraph (A), (B), or (C)”

6 and inserting “subparagraph (A) or (B)”; and

7 (2) by striking subparagraph (C).

8 (b) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to plan years beginning on or after
10 the earlier of—

11 (1) the later of—

12 (A) January 1, 1996, or

13 (B) the date on which the last of the col-
14 lective bargaining agreements pursuant to
15 which the plan is maintained terminates (deter-
16 mined without regard to any extension thereof
17 after the date of the enactment of this Act), or

18 (2) January 1, 1998.

19 Such amendments shall not apply to any individual who
20 does not have more than 1 hour of service under the plan
21 on or after the 1st day of the 1st plan year to which such
22 amendments apply.

1 **SEC. 12934. FULL-FUNDING LIMITATION OF MULTIEMPLOYER PLANS.**
2

3 (a) FULL-FUNDING LIMITATION.—Section
4 412(e)(7)(C) (relating to full-funding limitation) is
5 amended—

6 (1) by inserting “or in the case of a multiemp-
7 ployer plan,” after “paragraph (6)(B),”, and

8 (2) by inserting “AND MULTIEMPLOYER PLANS”
9 after “PARAGRAPH (6)(B)” in the heading thereof.

10 (b) VALUATION.—Section 412(e)(9) is amended—

11 (1) by inserting “(3 years in the case of a mul-
12 tiemployer plan)” after “year”, and

13 (2) by striking “ANNUAL VALUATION” in the
14 heading and inserting “VALUATION”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to years beginning after December
17 31, 1997.

18 **SEC. 12935. TREATMENT OF GOVERNMENTAL AND MULTIEMPLOYER PLANS UNDER SECTION 415.**
19

20 (a) COMPENSATION LIMIT.—Subsection (b) of sec-
21 tion 415 is amended by adding immediately after para-
22 graph (10) the following new paragraph:

23 “(11) SPECIAL LIMITATION RULE FOR GOVERN-
24 MENTAL AND MULTIEMPLOYER PLANS.—In the case
25 of a governmental plan (as defined in section
26 414(d)) or a multiemployer plan, subparagraph (B)

1 of paragraph (1) shall not apply. This paragraph
2 shall not apply to any benefit provided under the
3 plan to a State or local legislator.”

4 (b) TREATMENT OF CERTAIN EXCESS BENEFIT
5 PLANS.—

6 (1) IN GENERAL.—Section 415 is amended by
7 adding at the end the following new subsection:

8 “(m) TREATMENT OF QUALIFIED GOVERNMENTAL
9 EXCESS BENEFIT ARRANGEMENTS.—

10 “(1) GOVERNMENTAL PLAN NOT AFFECTED.—

11 In determining whether a governmental plan (as de-
12 fined in section 414(d)) meets the requirements of
13 this section, benefits provided under a qualified gov-
14 ernmental excess benefit arrangement shall not be
15 taken into account. Income accruing to a govern-
16 mental plan (or to a trust that is maintained solely
17 for the purpose of providing benefits under a quali-
18 fied governmental excess benefit arrangement) in re-
19 spect of a qualified governmental excess benefit ar-
20 rangement shall constitute income derived from the
21 exercise of an essential governmental function upon
22 which such governmental plan (or trust) shall be ex-
23 empt from tax under section 115.

24 “(2) TAXATION OF PARTICIPANT.—For pur-
25 poses of this chapter—

1 “(A) the taxable year or years for which
2 amounts in respect of a qualified governmental
3 excess benefit arrangement are includible in
4 gross income by a participant, and

5 “(B) the treatment of such amounts when
6 so includible by the participant,
7 shall be determined as if such qualified govern-
8 mental excess benefit arrangement were treated as a
9 plan for the deferral of compensation which is main-
10 tained by a corporation not exempt from tax under
11 this chapter and which does not meet the require-
12 ments for qualification under section 401.

13 “(3) QUALIFIED GOVERNMENTAL EXCESS BEN-
14 EFIT ARRANGEMENT.—For purposes of this sub-
15 section, the term ‘qualified governmental excess ben-
16 efit arrangement’ means a portion of a governmental
17 plan if—

18 “(A) such portion is maintained solely for
19 the purpose of providing to participants in the
20 plan that part of the participant’s annual bene-
21 fit otherwise payable under the terms of the
22 plan that exceeds the limitations on benefits im-
23 posed by this section,

1 “(B) under such portion no election is pro-
2 vided at any time to the participant (directly or
3 indirectly) to defer compensation, and

4 “(C) benefits described in subparagraph
5 (A) are not paid from a trust forming a part
6 of such governmental plan unless such trust is
7 maintained solely for the purpose of providing
8 such benefits.”

9 (2) COORDINATION WITH SECTION 457.—Sub-
10 section (e) of section 457 is amended by adding at
11 the end the following new paragraph:

12 “(14) TREATMENT OF QUALIFIED GOVERN-
13 MENTAL EXCESS BENEFIT ARRANGEMENTS.—Sub-
14 sections (b)(2) and (c)(1) shall not apply to any
15 qualified governmental excess benefit arrangement
16 (as defined in section 415(m)(3)), and benefits pro-
17 vided under such an arrangement shall not be taken
18 into account in determining whether any other plan
19 is an eligible deferred compensation plan.”

20 (3) CONFORMING AMENDMENT.—Paragraph (2)
21 of section 457(f) is amended by striking the word
22 “and” at the end of subparagraph (C), by striking
23 the period after subparagraph (D) and inserting “,
24 and”, and by adding at the end the following new
25 subparagraph:

1 “(E) a qualified governmental excess bene-
2 fit arrangement described in section 415(m).”

3 (c) EXEMPTION FOR SURVIVOR AND DISABILITY
4 BENEFITS.—Paragraph (2) of section 415(b) is amended
5 by adding at the end the following new subparagraph:

6 “(I) EXEMPTION FOR SURVIVOR AND DIS-
7 ABILITY BENEFITS PROVIDED UNDER GOVERN-
8 MENTAL AND ENVIRONMENTAL PLANS.—Sub-
9 paragraph (B) of paragraph (1), subparagraph
10 (C) of this paragraph, and paragraph (5) shall
11 not apply to—

12 “(i) income received from a govern-
13 mental plan (as defined in section 414(d))
14 or a multiemployer plan as a pension, an-
15 nuity, or similar allowance as the result of
16 the recipient becoming disabled by reason
17 of personal injuries or sickness, or

18 “(ii) amounts received from either
19 such plan by the beneficiaries, survivors, or
20 the estate of an employee as the result of
21 the death of the employee.”

22 (d) REVOCATION OF GRANDFATHER ELECTION.—

23 (1) IN GENERAL.—Subparagraph (C) of section
24 415(b)(10) is amended by adding at the end the fol-
25 lowing new clause:

1 “(ii) REVOCATION OF ELECTION.—An
2 election under clause (i) may be revoked
3 not later than the last day of the third
4 plan year beginning after the date of the
5 enactment of this clause. The revocation
6 shall apply to all plan years to which the
7 election applied and to all subsequent plan
8 years. Any amount paid by a plan in a tax-
9 able year ending after the revocation shall
10 be includible in income in such taxable
11 year under the rules of this chapter in ef-
12 fect for such taxable year, except that, for
13 purposes of applying the limitations im-
14 posed by this section, any portion of such
15 amount which is attributable to any tax-
16 able year during which the election was in
17 effect shall be treated as received in such
18 taxable year.”

19 (2) CONFORMING AMENDMENT.—Subparagraph
20 (C) of section 415(b)(10) is amended by striking
21 “‘This’” and inserting:

22 “(i) IN GENERAL.—‘This’”.

23 (e) EFFECTIVE DATE.—

24 (1) IN GENERAL.—The amendments made by
25 subsections (a), (b), and (c) shall apply to years be-

1 ginning after December 31, 1995. The amendments
 2 made by subsection (d) shall apply with respect to
 3 revocations adopted after the date of the enactment
 4 of this Act.

5 (2) TREATMENT FOR YEARS BEGINNING BE-
 6 FORE DATE OF ENACTMENT.—Nothing in the
 7 amendments made by this section shall be construed
 8 to infer that a governmental plan (as defined in sec-
 9 tion 414(d) of the Internal Revenue Code of 1986)
 10 fails to satisfy the requirements of section 415 of
 11 such Code for any taxable year beginning before the
 12 date of the enactment of this Act.

13 (3) MULTIEMPLOYER PLANS.—In the case of a
 14 multiemployer plan, the amendments made by sub-
 15 sections (a) and (c) shall apply to years beginning
 16 after December 31, 1995.

17 **SEC. 12936. TREATMENT OF DEFERRED COMPENSATION**
 18 **PLANS OF STATE AND LOCAL GOVERNMENTS**
 19 **AND TAX-EXEMPT ORGANIZATIONS.**

20 (a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—
 21 Paragraph (9) of section 457(e) (relating to other defini-
 22 tions and special rules) is amended to read as follows:

23 “(9) BENEFITS NOT TREATED AS MADE AVAIL-
 24 ABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

1 “(A) TOTAL AMOUNT PAYABLE IS \$3,500
2 OR LESS.—The total amount payable to a par-
3 ticipant under the plan shall not be treated as
4 made available merely because the participant
5 may elect to receive such amount (or the plan
6 may distribute such amount without the partici-
7 pant’s consent) if—

8 “(i) such amount does not exceed
9 \$3,500, and

10 “(ii) such amount may be distributed
11 only if—

12 “(I) no amount has been deferred
13 under the plan with respect to such
14 participant during the 2-year period
15 ending on the date of the distribution,
16 and

17 “(II) there has been no prior dis-
18 tribution under the plan to such par-
19 ticipant to which this subparagraph
20 applied.

21 A plan shall not be treated as failing to meet
22 the distribution requirements of subsection (d)
23 by reason of a distribution to which this sub-
24 paragraph applies.

1 “(B) ELECTION TO DEFER COMMENCE-
2 MENT OF DISTRIBUTIONS.—The total amount
3 payable to a participant under the plan shall
4 not be treated as made available merely because
5 the participant may elect to defer commence-
6 ment of distributions under the plan if—

7 “(i) such election is made after
8 amounts may be available under the plan
9 in accordance with subsection (d)(1)(A)
10 and before commencement of such dis-
11 tributions, and

12 “(ii) the participant may make only 1
13 such election.”

14 (b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DE-
15 FERRAL AMOUNT.—Subsection (e) of section 457, as
16 amended by section 12935(b)(2), is amended by adding
17 at the end the following new paragraph:

18 “(15) COST-OF-LIVING ADJUSTMENT OF MAXI-
19 MUM DEFERRAL AMOUNT.—The Secretary shall ad-
20 just the \$7,500 amount specified in subsections
21 (b)(2) and (c)(1) at the same time and in the same
22 manner as under section 415(d), except that the
23 base period shall be the calendar quarter ending
24 September 30, 1994.”

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 1995.

4 **SEC. 12937. CONTRIBUTIONS ON BEHALF OF DISABLED EM-**
5 **PLOYEES.**

6 (a) ALL DISABLED PARTICIPANTS RECEIVING CON-
7 TRIBUTIONS.—Section 415(c)(3)(C) is amended by adding
8 at the end the following: “If a defined contribution plan
9 provides for the continuation of contributions on behalf
10 of all participants described in clause (i) for a fixed or
11 determinable period, this subparagraph shall be applied
12 without regard to clauses (ii) and (iii).”

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to years beginning after December
15 31, 1995.

16 **SEC. 12938. DISTRIBUTIONS UNDER RURAL COOPERATIVE**
17 **PLANS.**

18 (a) DISTRIBUTIONS FOR HARDSHIP OR AFTER A
19 CERTAIN AGE.—Section 401(k)(7) is amended by adding
20 at the end the following new subparagraph:

21 “(C) SPECIAL RULE FOR CERTAIN DIS-
22 TRIBUTIONS.—A rural cooperative plan which
23 includes a qualified cash or deferred arrange-
24 ment shall not be treated as violating the re-
25 quirements of section 401(a) or of paragraph

1 (2) merely by reason of a hardship distribution
2 or a distribution to a participant after attain-
3 ment of age 59½. For purposes of this section,
4 the term ‘hardship distribution’ means a dis-
5 tribution described in paragraph (2)(B)(i)(IV)
6 (without regard to the limit of its application to
7 profit-sharing or stock bonus plans).”

8 (b) DEFINITION OF RURAL COOPERATIVE PLANS.—

9 (1) PUBLIC UTILITY DISTRICTS.—Clause (i) of
10 section 401(k)(7)(B) (defining rural cooperative) is
11 amended to read as follows:

12 “(i) any organization which—

13 “(I) is engaged primarily in pro-
14 viding electric service on a mutual or
15 cooperative basis, or

16 “(II) is engaged primarily in pro-
17 viding electric service to the public in
18 its area of service and which is ex-
19 empt from tax under this subtitle or
20 which is a State or local government
21 (or an agency or instrumentality
22 thereof), other than a municipality (or
23 an agency or instrumentality there-
24 of).”

1 (2) RELATED ORGANIZATIONS.—Subparagraph
2 (B) of section 401(k)(7), as amended by paragraph
3 (1), is amended by striking clause (iv) and inserting
4 the following new clauses:

5 “(iv) an organization which is a na-
6 tional association of organizations de-
7 scribed in any other clause of this subpara-
8 graph, or

9 “(v) any other organization which pro-
10 vides services which are related to the ac-
11 tivities of an organization described in
12 clause (i), (ii), (iii), or (iv), but only in the
13 case of a plan with respect to which sub-
14 stantially all of the organizations maintain-
15 ing it are described in clause (i), (ii), (iii),
16 or (iv).”

17 (c) EFFECTIVE DATES.—

18 (1) DISTRIBUTIONS.—The amendments made
19 by subsection (a) shall apply to distributions after
20 the date of the enactment of this Act.

21 (2) RURAL COOPERATIVE.—The amendments
22 made by subsection (b) shall apply to plan years be-
23 ginning after December 31, 1994.

1 **SEC. 12939. TENURED FACULTY.**

2 (a) IN GENERAL.—Section 457(e)(11) is amended by
3 inserting “eligible faculty voluntary retirement incentive
4 pay,” after “disability pay,”.

5 (b) DEFINITION.—Section 457(e), as amended by
6 sections 12935(b)(2) and 12936(b), is amended by adding
7 at the end the following new paragraph:

8 “(16) DEFINITION OF ELIGIBLE FACULTY VOL-
9 UNTARY RETIREMENT INCENTIVE PAY.—For pur-
10 poses of this section, the term ‘eligible faculty vol-
11 untary retirement incentive pay’ means payments
12 under a plan established for employees serving under
13 contracts of unlimited tenure (or similar arrange-
14 ments providing for unlimited tenure) at an institu-
15 tion of higher education (as defined in section
16 1201(a) of the Higher Education Act of 1965 (20
17 U.S.C. 1141(a))) which—

18 “(A) provides—

19 “(i) payment to employees electing to
20 retire during a specified period of time of
21 limited duration, or

22 “(ii) payment to employees who elect
23 to retire prior to normal retirement age,

24 “(B) provides that the total amount of
25 payments to an employee does not exceed the
26 equivalent of twice the employee’s annual com-

1 pensation (within the meaning of section
2 415(c)(3)) during the year immediately preced-
3 ing the employee's termination of service, and

4 “(C) provides that all payments to an em-
5 ployee must be completed within 5 years after
6 the employee's termination of service.”

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to years beginning after December
9 31, 1995.

10 **SEC. 12940. UNIFORM RETIREMENT AGE.**

11 (a) DISCRIMINATION TESTING.—Paragraph (5) of
12 section 401(a) (relating to special rules relating to non-
13 discrimination requirements) is amended by adding at the
14 end the following new subparagraph:

15 “(F) SOCIAL SECURITY RETIREMENT
16 AGE.—For purposes of testing for discrimina-
17 tion under paragraph (4)—

18 “(i) the social security retirement age
19 (as defined in section 415(b)(8)) shall be
20 treated as a uniform retirement age, and

21 “(ii) subsidized early retirement bene-
22 fits and joint and survivor annuities shall
23 not be treated as being unavailable to em-
24 ployees on the same terms merely because
25 such benefits or annuities are based in

1 whole or in part on an employee's social
2 security retirement age (as so defined).”

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to years beginning after December
5 31, 1995.

6 **SEC. 12941. MODIFICATIONS OF SECTION 403(b).**

7 (a) MULTIPLE SALARY REDUCTION AGREEMENTS
8 PERMITTED.—

9 (1) GENERAL RULE.—For purposes of section
10 403(b) of the Internal Revenue Code of 1986, the
11 frequency that an employee is permitted to enter
12 into a salary reduction agreement, the salary to
13 which such an agreement may apply, and the ability
14 to revoke such an agreement shall be determined
15 under the rules applicable to cash or deferred elec-
16 tions under section 401(k) of such Code.

17 (2) EFFECTIVE DATE.—This subsection shall
18 apply to taxable years beginning after December 31,
19 1995.

20 (b) TREATMENT OF INDIAN TRIBAL GOVERN-
21 MENTS.—In the case of any contract purchased in a plan
22 year beginning before January 1, 1995, section 403(b) of
23 the Internal Revenue Code of 1986 shall be applied as if
24 any reference to an employer described in section
25 501(c)(3) of the Internal Revenue Code of 1986 which is

1 exempt from tax under section 501 of such Code included
2 a reference to an employer which is an Indian tribal gov-
3 ernment (as defined by section 7701(a)(40) of such Code),
4 a subdivision of an Indian tribal government (determined
5 in accordance with section 7871(d) of such Code), an
6 agency or instrumentality of an Indian tribal government
7 or subdivision thereof, or a corporation chartered under
8 Federal, State, or tribal law which is owned in whole or
9 in part by any of the foregoing.

10 (c) ELECTIVE DEFERRALS.—

11 (1) IN GENERAL.—Section 403(b)(1) is amend-
12 ed by inserting “and” at the end of subparagraph
13 (C), by striking “and” at the end of subparagraph
14 (D), and by striking subparagraph (E).

15 (2) EFFECTIVE DATE.—The amendment made
16 by this subsection shall apply to years beginning
17 after December 31, 1995.

18 **SEC. 12942. TAX ON PROHIBITED TRANSACTIONS.**

19 (a) IN GENERAL.—Section 4975(a) is amended by
20 striking “5 percent” and inserting “10 percent”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to prohibited transactions occur-
23 ring after December 31, 1995.

1 **SEC. 12943. EXTENSION OF INTERNAL REVENUE SERVICE**

2 **USER FEES.**

3 Subsection (c) of section 10511 of the Revenue Act
4 of 1987 is amended by striking “October 1, 2000” and
5 by inserting “October 1, 2002”.

6 **CHAPTER 2—CHURCH PLANS**

7 **SEC. 12951. NEW QUALIFICATION PROVISION FOR CHURCH**

8 **PLANS.**

9 (a) IN GENERAL.—Subpart A of part I of subchapter
10 D of chapter 1 (relating to pension, profit-sharing, stock
11 bonus plans, etc.) is amended by adding after section 401
12 the following new section:

13 **“SEC. 401A. QUALIFIED CHURCH PLAN.**

14 “(a) GENERAL RULE.—For purposes of all Federal
15 laws, including this title, a qualified church plan shall be
16 treated as satisfying the requirements of section 401(a),
17 and all references in (or pertaining to) this title and such
18 laws to a plan described in section 401(a) shall include
19 a qualified church plan. Except as otherwise provided in
20 this section, no paragraph of section 401(a) shall apply
21 to a qualified church plan.

22 “(b) DEFINITION OF QUALIFIED CHURCH PLAN.—

23 A plan is a qualified church plan if such plan meets the
24 following requirements:

25 “(1) CHURCH PLAN REQUIREMENT.—The plan
26 is a church plan (within the meaning of section

1 414(e)), and the election provided by section 410(d)
 2 has not been made with respect to such plan.

3 “(2) EMPLOYEE CONTRIBUTIONS ARE NON-
 4 FORFEITABLE.—An employee’s rights in the employ-
 5 ee’s accrued benefit derived from the employee’s own
 6 contributions are nonforfeitable.

7 “(3) VESTING REQUIREMENTS.—The plan sat-
 8 isfies the requirements of subparagraph (A) or (B).

9 “(A) 10-YEAR VESTING.—A plan satisfies
 10 the requirements of this paragraph if an em-
 11 ployee who has at least 10 years of service has
 12 a nonforfeitable right to 100 percent of the em-
 13 ployee’s accrued benefit derived from employer
 14 contributions.

15 “(B) 5- TO 15-YEAR VESTING.—A plan sat-
 16 isfies the requirements of this paragraph if an
 17 employee who has completed at least 5 years of
 18 service has a nonforfeitable right to a percent-
 19 age of the employee’s accrued benefit derived
 20 from employer contributions which is not less
 21 than the percentage determined under the fol-
 22 lowing 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.

1 “(C) YEARS OF SERVICE.—For purposes of
 2 this paragraph, an employee’s years of service
 3 shall be determined in accordance with any rea-
 4 sonable method selected by the plan adminis-
 5 trator.

6 “(4) FUNDING REQUIREMENTS.—The plan
 7 meets the funding requirements of section 401(a)(7)
 8 as in effect on September 1, 1974.

9 “(5) ADDITIONAL REQUIREMENTS.—

10 “(A) The plan meets the requirements of
 11 paragraphs (1), (2), (8), (9), (16), (17), (25),
 12 (27), and (30) of section 401(a).

13 “(B) If the plan includes employees of an
 14 organization which is not a church, the plan
 15 meets the requirements of sections 401(a)(3)
 16 and 401(a)(6) (as in effect on September 1,
 17 1974) and sections 401(a)(4), 401(a)(5), and
 18 401(m).

19 For purposes of subparagraph (B), the plan admin-
 20 istrator may elect to treat the portion of the plan
 21 maintained by any organization (or organizations)
 22 described in subparagraph (B) as a separate plan
 23 (or plans).

1 “(c) DEFINITIONS AND SPECIAL RULES.—

2 “(1) CHURCH.—For purposes of this section,
3 the term ‘church’ means a church or a convention or
4 association of churches, including an organization
5 described in section 414(e)(3)(A) and an organiza-
6 tion described in section 414(e)(3)(B)(ii), other
7 than—

8 “(A) an organization described in section
9 170(b)(1)(A)(ii) above the secondary school
10 level (other than a school for religious training),
11 or

12 “(B) an organization described in section
13 170(b)(1)(A)(iii)—

14 “(i) which provides community service
15 for inpatient medical care of the sick or in-
16 jured (including obstetrical care); and

17 “(ii) not more than 50 percent of the
18 total patient days of which during any year
19 are customarily assignable to the cat-
20 egories of chronic convalescent and rest,
21 drug and alcoholic, epileptic, mentally defi-
22 cient, mental, nervous and mental, and tu-
23 berculosis, and care for the aged.

24 “(2) SATISFACTION OF TRUST PROVISION.—A
25 plan shall not fail to be described in this section

1 merely because such plan is funded through an orga-
2 nization described in section 414(e)(3)(A) if—

3 “(A) such organization is subject to fidu-
4 ciary requirements under applicable State law;

5 “(B) such organization is separately incor-
6 porated from the church or convention or asso-
7 ciation of churches which controls it or with
8 which it is associated;

9 “(C) the assets which equitably belong to
10 the plan are separately accounted for; and

11 “(D) under the plan, at any time prior to
12 the satisfaction of all liabilities with respect to
13 participants and their beneficiaries, such assets
14 cannot be used for, or diverted to, purposes
15 other than for the exclusive benefit of partici-
16 pants and their beneficiaries (except that this
17 paragraph shall not be construed to preclude
18 the use of plan assets to defray the reasonable
19 costs associated with administering the plan
20 and informing employees and employers of the
21 availability of the plan).

22 “(3) CERTAIN SECTIONS APPLY.—Section 401
23 (b), (c), and (h) shall apply to a qualified church
24 plan.

1 “(4) FAILURE OF ONE ORGANIZATION MAIN-
2 TAINING PLAN NOT TO DISQUALIFY PLAN.—If one or
3 more organizations maintaining a church plan fail to
4 satisfy the requirements of subsection (b), such plan
5 shall not be treated as failing to satisfy the require-
6 ments of this section with respect to other organiza-
7 tions maintaining such plan.

8 “(5) CERTAIN EMPLOYEES NOT CONSIDERED
9 HIGHLY COMPENSATED AND EXCLUDED EMPLOY-
10 EES.—For purposes of this section, no employee
11 shall be considered an officer, person whose principal
12 duties consist in supervising the work of other em-
13 ployees, or highly compensated employee if such em-
14 ployee during the year or the preceding year received
15 compensation from the employer of less than
16 \$50,000. For purposes of this section, there shall be
17 excluded from consideration employees described in
18 section 410(b)(3)(A). The Secretary shall adjust the
19 \$50,000 amount under this paragraph at the same
20 time and in the same manner as under section
21 415(d).

22 “(6) TIME FOR DETERMINATION OF APPLICA-
23 BLE LAW.—Except where otherwise specified, the
24 determination of whether a plan meets the require-
25 ments of subsection (b) shall be made in accordance

1 with the provisions of this title as in effect imme-
2 diately following enactment of the Revenue Rec-
3 onciliation Act of 1995.”.

4 (b) EFFECT ON EXISTING PLANS.—A church plan
5 (within the meaning of section 414(e) of the Internal Rev-
6 enue Code of 1986) which is otherwise subject to the appli-
7 cable requirements of section 401(a) of such Code and
8 which has not made the election provided by section
9 410(d) of such Code shall not be subject to section 401A
10 of such Code, and shall remain subject to the applicable
11 requirements of section 401(a) of such Code, unless the
12 board of directors or trustees of an organization described
13 in section 414(e)(3)(A) of such Code, or other appropriate
14 governing body responsible for maintaining the plan,
15 adopts a resolution under which the church plan is made
16 subject to section 401A of such Code.

17 (c) EFFECTIVE DATES.—

18 (1) IN GENERAL.—The amendment made by
19 this section shall be effective for years beginning
20 after December 31, 1994, except that the provisions
21 of section 401A(b)(3) of the Internal Revenue Code
22 of 1986 shall be effective for years beginning after
23 December 31, 1996. No regulation or ruling under
24 section 401(a) of such Code issued after December
25 31, 1994, shall apply to a qualified church plan de-

1 scribed in section 401A of such Code unless such
 2 regulation or ruling is specifically made applicable
 3 by its terms to qualified church plans.

4 (2) PRIOR YEARS.—Nothing in the amendment
 5 made by this section shall be construed to infer that
 6 a church plan (within the meaning of section 414(e)
 7 of such Code) fails to satisfy the applicable require-
 8 ments of section 401(a) of such Code for any year
 9 beginning prior to January 1, 1995.

10 **SEC. 12952. RETIREMENT INCOME ACCOUNTS OF CHURCH-**
 11 **ES.**

12 (a) IN GENERAL.—Section 403(b)(9) is amended to
 13 read as follows:

14 “(9) RETIREMENT INCOME ACCOUNTS PRO-
 15 VIDED BY CHURCHES, ETC.—

16 “(A) AMOUNTS PAID TREATED AS CON-
 17 TRIBUTIONS.—For purposes of this title—

18 “(i) a retirement income account shall
 19 be treated as an annuity contract described
 20 in this subsection, and

21 “(ii) amounts paid by an employer de-
 22 scribed in paragraph (1)(A) or by a church
 23 or a convention or association of churches,
 24 including an organization described in sec-
 25 tion 414(e)(3)(A) or 414(e)(3)(B)(ii), to a

1 retirement income account shall be treated
2 as amounts contributed by the employer
3 for an annuity contract for the employee
4 on whose behalf such account is main-
5 tained.

6 “(B) RETIREMENT INCOME ACCOUNT.—
7 For purposes of this paragraph, the term ‘re-
8 tirement income account’ means a program es-
9 tablished or maintained by a church, a conven-
10 tion or association of churches, including an or-
11 ganization described in section 414(e)(3)(A), to
12 provide benefits under this subsection for an
13 employee described in paragraph (1) or an indi-
14 vidual described in paragraph (13)(F), or their
15 beneficiaries.”.

16 (b) EFFECTIVE DATES.—

17 (1) IN GENERAL.—The amendment made by
18 this section shall be effective for years beginning
19 after December 31, 1994.

20 (2) PRIOR YEARS.—Nothing in the amendment
21 made by this section shall be construed to infer that
22 a church plan (within the meaning of section 414(e))
23 fails to satisfy the applicable requirements of section
24 403(b) for any year beginning prior to January 1,
25 1995.

1 **SEC. 12953. CONTRACTS PURCHASED BY A CHURCH.**

2 (a) CLARIFICATION OF APPLICABLE NON-
3 DISCRIMINATION REQUIREMENTS.—Subparagraph (D) of
4 section 403(b)(1) is amended to read as follows:

5 “(D) except in the case of a contract pur-
6 chased by a church, such contract is purchased
7 under a plan which meets the nondiscrimination
8 requirements of paragraph (12)(A), and”.

9 (b) CERTAIN COVERAGE RULES APPLY.—Subpara-
10 graph (B) of section 403(b)(12) is amended to read as
11 follows:

12 “(B) CERTAIN REQUIREMENTS.—If a con-
13 tract purchased by a church is purchased under
14 a church plan (within the meaning of section
15 414(e)) by—

16 “(i) an organization described in sec-
17 tion 170(b)(1)(A)(ii) above the secondary
18 school level (other than a school for reli-
19 gious training), or

20 “(ii) an organization described in sec-
21 tion 170(b)(1)(A)(iii)—

22 “(I) which provides community
23 service for inpatient medical care of
24 the sick or injured (including obstetri-
25 cal care), and

1 “(II) no more than 50 percent of
2 the total patient days of which during
3 any year are customarily assignable to
4 the categories of chronic convalescent
5 and rest, drug and alcoholic, epileptic,
6 mentally deficient, mental, nervous
7 and mental, and tuberculosis, and
8 care for the aged,
9 the plan meets the requirements of sec-
10 tions 401(a)(3) and 401(a)(6), as in effect
11 on September 1, 1974, and sections
12 401(a)(4), 401(a)(5), 401(a)(17), and
13 401(m).

14 For purposes of this subparagraph, the plan ad-
15 ministrators may elect to treat the portion of the
16 plan maintained by any organization (or organi-
17 zations) described in this subparagraph as a
18 separate plan (or plans).”.

19 (c) SPECIAL RULES FOR CHURCHES.—Section
20 403(b) is amended by adding at the end the following new
21 paragraph:

22 “(13) DEFINITIONS AND SPECIAL RULES.—

23 “(A) CONTRACT PURCHASED BY A
24 CHURCH.—For purposes of this subsection, the
25 term ‘contract purchased by a church’ includes

1 an annuity described in section 403(b)(1), a
2 custodial account described in section
3 403(b)(7), and a retirement income account de-
4 scribed in section 403(b)(9).

5 “(B) CHURCH.—For purposes of this sub-
6 section, the term ‘church’ means a church or a
7 convention or association of churches, including
8 an organization described in section
9 414(e)(3)(A) or section 414(e)(3)(B)(ii).

10 “(C) VESTING.—In the case of a contract
11 purchased by a church under a church plan
12 (within the meaning of section 414(e))—

13 “(i) sections 403(b)(1)(C) and
14 403(b)(6) shall not apply;

15 “(ii) such contract is not described in
16 this subsection unless an employee’s rights
17 in the employee’s accrued benefit under
18 such contract which is attributable to con-
19 tributions made pursuant to a salary re-
20 duction agreement are nonforfeitable; and

21 “(iii) such contract is not described in
22 this subsection unless the plan satisfies the
23 requirements of either of the following:

24 “(I) The plan provides that an
25 employee who has at least 10 years of

1 service has a nonforfeitable right to
 2 100 percent of the employee’s accrued
 3 benefit derived from employer con-
 4 tributions.

5 “(II) The plan provides that an
 6 employee who has completed at least
 7 5 years of service has a nonforfeitable
 8 right to a percentage of the employ-
 9 ee’s accrued benefit derived from em-
 10 ployer contributions which percentage
 11 is not less than the percentage deter-
 12 mined 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.

13 For purposes of clause (iii), an employee’s years
 14 of service shall be determined in accordance
 15 with any reasonable method selected by the
 16 plan administrator.

17 “(D) FAILURE OF ONE ORGANIZATION
 18 MAINTAINING PLAN NOT TO DISQUALIFY
 19 PLAN.—In the case of a contract purchased by

1 a church under a church plan (within the mean-
2 ing of section 414(e)), if one or more organiza-
3 tions maintaining the church plan fails to sat-
4 isfy the requirements of this section, such plan
5 shall not be treated as failing to satisfy the re-
6 quirements of this section with respect to other
7 organizations maintaining such plan.

8 “(E) CERTAIN EMPLOYEES NOT CONSID-
9 ERED HIGHLY COMPENSATED AND EXCLUDED
10 EMPLOYEES.—For purposes of this subsection,
11 no employee for whom a contract is purchased
12 by a church shall be considered an officer, per-
13 son whose principal duties consist in super-
14 vising the work of other employees, or highly
15 compensated employee if such employee during
16 the year or the preceding year received com-
17 pensation from the employer of less than
18 \$50,000. For purposes of this subsection, there
19 shall be excluded employees described in section
20 410(b)(3)(A). The Secretary shall adjust the
21 \$50,000 amount under this subparagraph at
22 the same time and in the same manner as
23 under section 415(d).

24 “(F) CERTAIN MINISTERS MAY PARTICI-
25 PATE.—For purposes of this subsection—

1 “(i) IN GENERAL.—The term ‘em-
2 ployee’ shall include a duly ordained, com-
3 missioned, or licensed minister of a church
4 in the exercise of his or her ministry who
5 is a self-employed individual (within the
6 meaning of section 401(c)(1)(B)) or any
7 duly ordained, commissioned, or licensed
8 minister of a church in the exercise of his
9 or her ministry who is employed by an or-
10 ganization other than an organization de-
11 scribed in section 501(c)(3).

12 “(ii) TREATMENT AS EMPLOYER AND
13 EMPLOYEE.—A self-employed minister de-
14 scribed in clause (i) shall be treated as his
15 or her own employer which is an organiza-
16 tion described in section 501(c)(3) and
17 which is exempt from tax under section
18 501(a). Such an employee who is employed
19 by an organization other than an organiza-
20 tion described in section 501(c)(3) shall be
21 treated as employed by an organization de-
22 scribed in section 501(c)(3) and which is
23 exempt from tax under section 501(a).

24 “(iii) COMPENSATION.—In determin-
25 ing the compensation of a self-employed

1 minister described in clause (i), the earned
2 income (within the meaning of section
3 401(c)(2)) of such minister shall be sub-
4 stituted for ‘the amount of compensation
5 which is received from the employer’ under
6 paragraph (3).

7 In determining the years of service of a self-em-
8 ployed minister described in clause (i), the
9 years (and portions of years) in which such
10 minister was a self-employed individual (within
11 the meaning of section 401(c)(1)(B)) shall be
12 included for purposes of paragraph (4).

13 “(G) TIME FOR DETERMINATION OF AP-
14 PPLICABLE LAW.—Except where otherwise speci-
15 fied, the determination of whether a contract
16 purchased by a church meets the requirements
17 of this subsection shall be made in accordance
18 with the provisions of this title as in effect im-
19 mediately following enactment of the Revenue
20 Reconciliation Act of 1993.”

21 (d) EFFECTIVE DATES.—

22 (1) IN GENERAL.—The amendments made by
23 this section shall be effective for years beginning
24 after December 31, 1994, except that the provisions
25 of section 403(b)(13)(C)(iii) of the Internal Revenue

1 Code of 1986 shall be effective for years beginning
2 after December 31, 1996. No regulation or ruling is-
3 sued under section 401(a) or 403(b) of such Code
4 after December 31, 1994, shall apply to a contract
5 purchased by a church unless such regulation or rul-
6 ing is specifically made applicable by its terms to
7 such contracts. For purposes of applying the exclu-
8 sion allowance of section 403(b)(2) of such Code and
9 the limitations of section 415 of such Code, any con-
10 tribution made after December 31, 1996, which is
11 forfeitable pursuant to section 403(b)(13)(C) of such
12 Code shall be treated as an amount contributed to
13 the contract in the year for which such contribution
14 is made and not in the year the contribution be-
15 comes nonforfeitable.

16 (2) PRIOR YEARS.—Nothing in the amendments
17 made by this section shall be construed to infer that
18 a church plan (within the meaning of section 414(e)
19 of such Code) fails to satisfy the applicable require-
20 ments of section 403(b) of such Code for any year
21 beginning prior to January 1, 1995.

22 **SEC. 12954. CHANGE IN DISTRIBUTION REQUIREMENT FOR**
23 **RETIREMENT INCOME ACCOUNTS.**

24 (a) IN GENERAL.—Subparagraph (A) of section
25 403(b)(11) is amended by inserting “or, in the case of a

1 retirement income account described in paragraph (9),
 2 within the meaning of section 401(k)(2)” after “section
 3 72(m)(7)”.

4 (b) EFFECTIVE DATE.—The amendment made by
 5 this section shall be effective for years beginning after De-
 6 cember 31, 1994.

7 **SEC. 12955. REQUIRED BEGINNING DATE FOR DISTRIBUTIONS UNDER CHURCH PLANS.**

8
 9 (a) IN GENERAL.—Subparagraph (C) of section
 10 401(a)(9) is amended by striking the last sentence and
 11 inserting the following new sentence: “For purposes of this
 12 subparagraph, the term ‘church plan’ has the meaning
 13 given such term by section 414(e).”

14 (b) EFFECTIVE DATE.—The amendment made by
 15 this section shall apply to years after December 31, 1994.

16 **SEC. 12956. PARTICIPATION OF MINISTERS IN CHURCH PLANS.**

17
 18 (a) IN GENERAL.—Section 414 is amended by adding
 19 the following new subsection:

20 “(u) SPECIAL RULES FOR MINISTERS.—Notwith-
 21 standing any other provision of this title, if a duly or-
 22 dained, commissioned, or licensed minister of a church in
 23 the exercise of his or her ministry participates in a church
 24 plan (within the meaning of section 414(e)), then—

1 “(1) such minister shall be excluded from con-
2 sideration for purposes of applying sections
3 401(a)(3), 401(a)(4), and 401(a)(5), as in effect on
4 September 1, 1974, and sections 401(a)(4),
5 401(a)(5), 401(a)(26), 401(k)(3), 401(m),
6 403(b)(1)(D) (including section 403(b)(12)), and
7 410 to any stock bonus, pension, profit-sharing, or
8 annuity plan (including an annuity described in sec-
9 tion 403(b) or a retirement income account de-
10 scribed in section 403(b)(9)) described in this part.
11 For purposes of this part, the church plan in which
12 such minister participates shall be treated as a plan
13 or contract meeting the requirements of section
14 401(a), 401A, or 403(b) (including section
15 403(b)(9)) with respect to such minister’s participa-
16 tion; and

17 “(2) such minister shall be excluded from con-
18 sideration for purposes of applying an applicable sec-
19 tion to any plan providing benefits described in an
20 applicable section.

21 For purposes of paragraph (2), the term ‘applicable sec-
22 tion’ means section 79(d), section 105(h), paragraphs (1),
23 (2), and (3) of section 120(e), section 125(b), section
24 127(b)(2), and paragraphs (2), (3), and (8) of section
25 129(d).”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall be effective for years beginning after De-
3 cember 31, 1995.

4 **SEC. 12957. CERTAIN RULES AGGREGATING EMPLOYEES**
5 **NOT TO APPLY TO CHURCHES, ETC.**

6 (a) IN GENERAL.—Section 414 is amended by adding
7 at the end the following new subsection:

8 “(v) CERTAIN RULES AGGREGATING EMPLOYEES
9 NOT TO APPLY TO CHURCHES, ETC.—

10 “(1) IN GENERAL.—If the election provided by
11 paragraph (3) is made, for purposes of sections
12 401(a)(3), 401(a)(4), and 401(a)(5), as in effect on
13 September 1, 1974, and sections 401(a)(4),
14 401(a)(5), 401(a)(17), 401(a)(26), 401(h), 401(m),
15 410(b), 411(d)(1), and 416, subsections (b), (c),
16 (m), (o), and (t) of this section shall not apply to
17 treat the employees of church-related organizations
18 as employed by a single employer, except in the case
19 of employees of church-related organizations which
20 are not exempt from tax under section 501(a) and
21 which have a common, immediate parent.

22 “(2) DEFINITION OF CHURCH-RELATED ORGA-
23 NIZATION.—For purposes of this subsection, the
24 term ‘church-related organization’ means a church
25 or a convention or association of churches, an orga-

1 nization described in section 414(e)(3)(A), an orga-
2 nization described in section 414(e)(3)(B)(ii), or an
3 organization the employees of which would be aggre-
4 gated with the employees of such organizations but
5 for the election provided by paragraph (3).

6 “(3) ELECTION TO DISAGGREGATE.—The provi-
7 sions of this subsection shall apply if a church-relat-
8 ed organization makes an election for itself and
9 other church-related organizations (in such form and
10 manner as the Secretary may by regulations pre-
11 scribe) on or before the last day of the first plan
12 year beginning on or after January 1, 1998.”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to years beginning after December
15 31, 1994.

16 **SEC. 12958. SELF-EMPLOYED MINISTERS TREATED AS EM-**
17 **PLOYEES FOR PURPOSES OF CERTAIN WEL-**
18 **FARE BENEFIT PLANS AND RETIREMENT IN-**
19 **COME ACCOUNTS.**

20 (a) IN GENERAL.—Section 7701(a)(20) is amended
21 to read as follows:

22 “(20) EMPLOYEE.—For the purpose of apply-
23 ing the provisions of section 79 with respect to
24 group-term life insurance purchased for employees,
25 for the purpose of applying the provisions of sections

1 104, 105, and 106 with respect to accident or health
2 insurance or accident or health plans, for the pur-
3 pose of applying the provisions of section 101(b)
4 with respect to employees' death benefits, for the
5 purpose of applying the provisions of subtitle A with
6 respect to contributions to or under a stock bonus,
7 pension, profit-sharing, or annuity plan, and with re-
8 spect to distributions under such a plan, or by a
9 trust forming part of such a plan, and for purposes
10 of applying section 125 with respect to cafeteria
11 plans, the term 'employee' shall include a duly or-
12 dained, commissioned, or licensed minister of a
13 church in the exercise of his or her ministry who is
14 a self-employed individual (within the meaning of
15 section 401(c)(1)(B)) or a full-time life insurance
16 salesman who is considered an employee for the pur-
17 pose of chapter 21, or in the case of services per-
18 formed before January 1, 1951, who would be con-
19 sidered an employee if his services were performed
20 during 1951."

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall be effective for years beginning after De-
23 cember 31, 1994.

1 **SEC. 12959. DEDUCTIONS FOR CONTRIBUTIONS BY CER-**
 2 **TAIN MINISTERS TO RETIREMENT INCOME**
 3 **ACCOUNTS.**

4 (a) IN GENERAL.—Section 404(a) is amended by
 5 adding the following new paragraph:

6 “(10) CONTRIBUTIONS BY CERTAIN MINISTERS
 7 TO RETIREMENT INCOME ACCOUNTS.—If contribu-
 8 tions are made by a minister described in section
 9 403(b)(13)(F) to a retirement income account de-
 10 scribed in section 403(b)(9) and not by a person
 11 other than such minister, such contributions shall be
 12 treated as made to a trust which is exempt from tax
 13 under section 501(a) which is part of a plan which
 14 is described in section 401(a) and shall be deductible
 15 under this subsection to the extent such contribu-
 16 tions do not exceed the exclusion allowance of such
 17 minister, determined under section 403(b)(2).”

18 (b) EFFECTIVE DATE.—The amendment made by
 19 this section shall be effective for years beginning after De-
 20 cember 31, 1994.

21 **SEC. 12960. MODIFICATION FOR CHURCH PLANS OF RULES**
 22 **FOR PLANS MAINTAINED BY MORE THAN ONE**
 23 **EMPLOYER.**

24 (a) IN GENERAL.—Section 413(c) is amended by
 25 adding at the end the following new paragraph:

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to taxable years beginning after
3 December 31, 1994.

4 **SEC. 12962. CHURCH PLAN MODIFICATION TO SEPARATE**
5 **ACCOUNT REQUIREMENT OF SECTION 401(h).**

6 (a) EXCEPTION TO SEPARATE ACCOUNT REQUIRE-
7 MENT.—Section 401(h) is amended by adding at the end
8 the following new sentence: “Notwithstanding the preced-
9 ing sentence, in the case of a pension or annuity plan that
10 is a church plan (within the meaning of section 414(e))
11 which is maintained by more than one employer, para-
12 graph (6) shall not apply to an employee who is a key
13 employee for purposes of section 416 solely because such
14 employee is described in section 416(i)(1)(A)(i) (relating
15 to officers having an annual compensation greater than
16 150 percent of the amount in effect under section
17 415(c)(1)(A)).”

18 (b) APPLICATION OF SECTION 415(l).—Section
19 415(l)(1) is amended to read as follows:

20 “(1) IN GENERAL.—For purposes of this sec-
21 tion, the following shall be treated as an annual ad-
22 dition to a defined contribution plan for purposes of
23 subsection (c):

1 “(A) Contributions allocated to any indi-
2 vidual medical account which is part of a pen-
3 sion or annuity plan.

4 “(B) The actuarially determined amount of
5 prefunding for the insurance value of benefits
6 which are—

7 “(i) described in section 401(h);

8 “(ii) paid under a pension or annuity
9 plan that is a church plan (within the
10 meaning of section 414(e));

11 “(iii) paid under a plan maintained by
12 more than one employer; and

13 “(iv) payable solely to an employee
14 who is a key employee for purposes of sec-
15 tion 415 solely because such employee is
16 described in section 416(i)(1)(A)(i) (relat-
17 ing to officers having an annual compensa-
18 tion greater than 150 percent of the
19 amount in effect under section
20 415(c)(1)(A)), his spouse, or his depend-
21 ents.

22 Subparagraph (B) of section (c)(1) shall not
23 apply to any amount treated as an annual addi-
24 tion under the preceding sentence.”.

1 (c) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to years beginning after December
3 31, 1994.

4 **SEC. 12963. RULE RELATING TO INVESTMENT IN CONTRACT**
5 **NOT TO APPLY TO FOREIGN MISSIONARIES.**

6 (a) IN GENERAL.—The last sentence of section 72(f)
7 is amended to read as follows: “The preceding sentence
8 shall not apply to amounts which were contributed by the
9 employer, as determined under regulations prescribed by
10 the Secretary, to provide pension or annuity credits, to
11 the extent such credits are attributable to services per-
12 formed before January 1, 1963, and are provided pursu-
13 ant to pension or annuity plan provisions in existence on
14 March 12, 1962, and on that date applicable to such serv-
15 ices, or to provide pension or annuity credits for foreign
16 missionaries (within the meaning of section
17 403(b)(2)(D)(iii)).”

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to taxable years beginning after
20 December 31, 1994.

21 **SEC. 12964. REPEAL OF ELECTIVE DEFERRAL CATCH-UP**
22 **LIMITATION FOR RETIREMENT INCOME AC-**
23 **COUNTS.**

24 (a) IN GENERAL.—Clause (iii) of section
25 402(g)(8)(A) is amended to read as follows:

1 “(iii) except in the case of elective de-
2 ferrals under a retirement income account
3 described in section 403(b)(9), the excess
4 of \$5,000 multiplied by the number of
5 years of service of the employee with the
6 qualified organization over the employer
7 contributions described in paragraph (3)
8 made by the organization on behalf of such
9 employee for prior taxable years (deter-
10 mined in the manner prescribed by the
11 Secretary).”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to years beginning after December
14 31, 1994.

15 **SEC. 12965. CHURCH PLANS MAY ANNUITIZE BENEFITS.**

16 (a) IN GENERAL.—A retirement income account de-
17 scribed in section 403(b)(9) of the Internal Revenue Code
18 of 1986, a church plan (within the meaning of section
19 414(e) of such Code) that is a plan described in section
20 401(a) or 401A of such Code, or an account which consists
21 of qualified voluntary employee contributions described in
22 section 219(e)(2) of such Code (as in effect before the date
23 of the enactment of the Tax Reform Act of 1986) and
24 earnings thereon, shall not fail to be described in such sec-
25 tions merely because it pays benefits to participants (and

1 their beneficiaries) from a pool of assets administered or
2 funded by an organization described in section
3 414(e)(3)(A) of such Code, rather than through the pur-
4 chase of annuities from an insurance company.

5 (b) EFFECTIVE DATE.—This provision shall be effec-
6 tive for years beginning after December 31, 1994.

7 **SEC. 12966. CHURCH PLANS MAY INCREASE BENEFIT PAY-**
8 **MENTS.**

9 (a) IN GENERAL.—A retirement income account de-
10 scribed in section 403(b)(9) of the Internal Revenue Code
11 of 1986, a church plan (within the meaning of section
12 414(e) of such Code) that is a plan described in section
13 401(a) or 401A of such Code, or an account which consists
14 of qualified voluntary employee contributions described in
15 section 219(e)(2) of such Code (as in effect before the date
16 of the enactment of the Tax Reform Act of 1986) and
17 earnings thereon, shall not fail to be described in such sec-
18 tions merely because it provides benefit payments to par-
19 ticipants (and their beneficiaries)—

20 (1) to take into account the investment per-
21 formance of the underlying assets or favorable inter-
22 est or mortality experience, or

23 (2) that increase in an amount not in excess of
24 5 percent per year.

1 (b) EFFECTIVE DATE.—This provision shall be effective for years beginning after December 31, 1994.

3 **SEC. 12967. RULES APPLICABLE TO SELF-INSURED MEDICAL REIMBURSEMENT PLANS NOT TO APPLY TO PLANS OF CHURCHES.**

6 (a) IN GENERAL.—Section 105(h) is amended by adding at the end the following new paragraph:

8 “(11) PLANS OF CHURCHES.—This subsection shall not apply to a plan maintained by a church (within the meaning of section 401A(c)(1)).”

11 (b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning after December 31, 1994.

14 **SEC. 12968. RETIREMENT BENEFITS OF MINISTERS NOT SUBJECT TO TAX ON NET EARNINGS FROM SELF-EMPLOYMENT.**

17 (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.

23 (b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning before, on, or after December 31, 1994.