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Senate

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KEMPTHORNE (for himself, Mr. DOLE, Mr. GLENN, Mr. ROTH, Mr. DOMENICI, Mr. EXON, Mr. COVERDELL, Mr. BROWN, Mr. BURNS, Mr. CRAIG, Mr. FAIRCLOTH, Mr. GREGG, Mr. BENNETT, Mrs. HUTCHISON, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BOND, Mr. BREAUX, Mr. CAMPBELL, and Mr. COATS):

S. 1. A bill to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local, and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations; and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committees have 30 days to report or be discharged.

UNFUNDED MANDATE REFORM ACT

Mr. KEMPTHORNE. Mr. President, I would like to make a few comments concerning Senate bill 1. I appreciate greatly what the majority leader, Senator DOLE, stated about Senate bill 1 and the fact he has designated that, in fact, Senate bill 1.

All across America, literally thousands of mayors and county commissioners, school board members, and Governors are absolutely delighted with the fact that this reform measure has been selected by the majority leader, Senator DOLE, in a bipartisan fashion to deal with this dilemma of unfunded Federal mandates.

For State and local officials, Senate bill 1 represents the reform that they have wanted for years concerning unfunded Federal mandates. Senate bill 1 also represents, Mr. President, hope, hope that finally Congress is going to craft that sort of Federal partnership that we talk about in acknowledging that local and State governments are Federal partners with this Government.

Senate bill 1 also offers to business men and women relief from mandates and regulations imposed by Congress and the Federal agencies without knowing the costs. The issue of who best governs and decides local issues is at the heart of the unfunded mandate debate, and right now, Congress does not know the costs nor does it pay for these Federal mandates.

Because Congress passes legislation without ever knowing the costs or consequences to State and local governments, the number and costs of these unfunded mandates continue to escalate. As mayors and Governors struggle to find the money to pay for Washington dictates, they have been sending a strong message to Washington, DC. Their message was simple but it was continuous. Their message has been that unfunded Federal mandates are wrong. They have been saying that they keep us from putting policemen on our streets; they reduce classroom instruction in our schools; they prevent us from balancing our budgets.

I found so interesting the comment by the Democrat Governor of Nebraska, Ben Nelson, who is a friend of mine, when he said, ''I was elected Governor, not the administrator of Federal programs for Nebraska.''

I think that sums up what has been happening. We have overstepped our bounds in our regulations to our State and local governments.

Congress is getting the message, and where once you in Washington did not know what a funded mandate was, fighting unfunded mandates is S. 1, front and center. We are going to deal with it.

I am proud to join with Senator DOLE and with Senator GLENN and Senator ROTH and Senator DOMENICI and Senator EXON, and a number of other Senators, in cosponsoring this legislation so that we now have a majority of Senators who are cosponsors of S. 1 the first day of this 104th Congress.

This legislation forces Congress to know mandate policy. It requires Congress to fund mandates imposed on State and local governments. If we do not, they can be ruled out of order and a rollcall vote will decide whether the Senate should consider unfunded mandate legislation. To quote Victor Ashe, mayor of Knoxville, ''S. 1 is a serious and tough mandate in its form and will begin to restore the partnership which the founders of this Nation intended to exist between the Federal Government and State and local governments.''

S. 1 uses the same principles guiding last year's legislation unanimously approved by the Senate Governmental Affairs Committee and cosponsored by 67 Senators. Specifically, this new bill creates a point of order that requires any legislation imposing a mandate greater than $50 million on State and local governments must have a Congressional Budget Office estimate of the total cost of the mandate. It further requires that the legislation must include the funding to pay for the costs of the mandate through direct funding, new taxes, or appropriations. If the mandate is to be paid for by the appropriations bill, then the money to pay all direct costs in compliance with the mandate must be appropriated. Or, if it is not fully funded, then one of two

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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things must happen: Either the mandate does not take effect or the mandate must be scaled back to a level commensurate with the reduced level of the appropriation. If those elements are not in the bill, the imposed mandate-making legislation is out of order.

S. 1 also requires that our partners in local and State government be consulted by the Congressional Budget Office. Additionally, legislation imposing mandates greater than $200 million on the private sector must have a CBO mandate cost estimate or be ruled out of order. These provisions also apply to amendments in conference reports where the price tag of the legislation is often increased.

Mr. President, I wish to emphasize that this legislation is not intended to stop compliance with mandates and regulations already in place. The goal is to stop the imposition of future unfunded Federal mandates, to stop Congress from passing laws and then requiring local and State governments to pay for them. It is not right for Federal programs to be paid for by local property taxes.

Mr. President, to gauge the impact that these new laws are having, one only needs to look at the fallout in the National Voter Registration Act of 1993, which passed the Congress last session. Today, 13 States have refused to obey this motor-voter bill, and one State, California, is suing the Federal Government because of the cost of the tab they have to pay. Governor Pete Wilson says that this motor-voter provision violates the 10th amendment, which Senator DOLE referenced so eloquently in his comments.

I think there is something ironic and symbolic, Mr. President, in the fact that the number of States currently objecting to this Federal mandate is 13, the same number of those original 13 States that, through their vision, combined to create the United States of America, those visionaries who were bound to protect the intrusive behavior of the Federal Government. This legislation is a great step forward in carrying out what the Founding Fathers intended.

We have worked closely, too, with our colleagues in the House. A companion bill has been developed in the House. I am confident that once the Senate passes this legislation, it will pass in the House of Representatives.

Mr. President, on November 8, when we had the election, there were a series of messages that were sent. The people said they did not want business as usual from Congress, and they also said, I think, that they do not want us to get entrenched in partisan politics because we do not get things done that really need to get done. They said they want us to work for what is right for this country, and that is why we must endeavor to find opportunities for bipartisan support.

This legislation has that bipartisan support. I wish to thank Senator GLENN and Senator ROTH for their leadership and partnership in this important piece of legislation.

I wish to note that last session, when we were not in the majority, Senator GLENN was the chairman of the Governmental Affairs Committee. When unfunded Federal mandates was not a top-of-the-mind response, he worked with us and forged some progressive opportunities for us to come forward with what ultimately now is S. 1. He and his staff, Sebastian O'Kelly, Larry Novey, and Len Weiss, have been very helpful in all of this; Senator ROTH, who throughout this recess has been working with us, and his staff, Frank Polk and John Mercer. That is the sort of bipartisan effort I think we want. Additionally, Senator DOMENICI, the chairman of the Budget Committee, and Senator EXON, the ranking member, have been invaluable resources in getting us to this point with S. 1.

I also want to acknowledge Senator Byron DORGAN for his effort in authorizing the private-sector point of order that is included in this bill, and Senators DOMENICI and NICKLES for their efforts to include in this bill provisions directing Federal agencies to analyze and report the effects that imposed regulations will have on the Nation's economy and productivity and international competitiveness.

Mr. President, this legislation already has the strong endorsement of the U.S. Conference of Mayors, National Association of Counties, National League of Cities, the National Governors Association, the Council of State Governments, the National Conference of State Legislatures, the National School Boards Association, and, I am proud to say, the U.S. Chamber of Commerce, the National Federation of Independent Business, and the National Retail Federation—not only bipartisan, but it is public and private sectors working together in true partnership fashion.

Mr. GLENN. Mr. President, I know the time is short. The Senator was giving a litany of those who worked hard on this, including myself, but he left himself out. No one has stuck to this any more than he has.

I know last year, when I was chairman of the Governmental Affairs Committee, if we went more than a week without having something on the schedule over there on this subject, he was on my back about it, and properly so. He has stuck with this. He has traveled the whole country meeting with this group of seven. He has been a real sparkplug on this, and deserves a tremendous amount of credit himself. And while I may make some comments in a little bit, while I was in the Chamber I wanted to make sure he got some recognition on this, too.

I appreciate his earlier comments very much. I thank the Chair.

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

I ask unanimous consent that the letters of endorsement be made a part of the RECORD.

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

S. 1

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Unfunded Mandate Reform Act of 1995''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to strengthen the partnership between the Federal Government and States, local governments, and tribal governments;

(2) to end the imposition, in the absence of full consideration by Congress, of Federal mandates on States, local governments, and tribal governments without adequate Federal funding, in a manner that may displace other essential State, local, and tribal governmental priorities;

(3) to assist Congress in its consideration of proposed legislation establishing or revising Federal programs containing Federal mandates affecting States, local governments, tribal governments, and the private sector by—

(A) providing for the development of information about the nature and size of mandates in proposed legislation; and

(B) establishing a mechanism to bring such information to the attention of the Senate and the House of Representatives before the Senate and the House of Representatives vote on proposed legislation;

(4) to promote informed and deliberate decisions by Congress on the appropriateness of Federal mandates in any particular instance;

(5) to require that Congress consider whether to provide funding to assist State, local, and tribal governments in complying with Federal mandates, to require analyses of the impact of private sector mandates, and through the dissemination of that information provide informed and deliberate decisions by Congress and Federal agencies and retain competitive balance between the public and private sectors;

(6) to establish a point-of-order vote on the consideration in the Senate and House of Representatives of legislation containing significant Federal mandates; and

(7) to assist Federal agencies in their consideration of proposed regulations affecting States, local governments, and tribal governments, by—

(A) requiring that Federal agencies develop a process to enable the elected and other officials of States, local governments, and tribal governments to provide input when Federal agencies are developing regulations; and

(B) requiring that Federal agencies prepare and consider better estimates of the budgetary impact of regulations containing Federal mandates upon States, local governments, and tribal governments before adopting such regulations, and ensuring that small governments are given special consideration in that process.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—For purposes of this Act—

(1) the terms defined under paragraphs (11) through (21) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (as added by subsection (b) of this section) shall have the meanings as so defined; and

(2) the term ''Director'' means the Director of the Congressional Budget Office.

(b) CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.—Section 3 of the Congressional Budget and Impoundment

Control Act of 1974 is amended by adding at the end thereof the following new paragraphs:

''(11) The term 'Federal intergovernmental mandate' means—

''(A) any provision in legislation, statute, or regulation that—

''(i) would impose an enforceable duty upon States, local governments, or tribal governments, except—

''(I) a condition of Federal assistance or

''(II) a duty arising from participation in a voluntary Federal program, except as provided in subparagraph (B)); or

''(ii) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that would be provided to States, local governments, or tribal governments for the purpose of complying with any such previously imposed duty unless such duty is reduced or eliminated by a corresponding amount; or

''(B) any provision in legislation, statute, or regulation that relates to a then-existing Federal program under which $500,000,000 or more is provided annually to States, local governments, and tribal governments under entitlement authority, if the provision—

''(i)(I) would increase the stringency of conditions of assistance to States, local governments, or tribal governments under the program; or

''(II) would place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding to States, local governments, or tribal governments under the program; and

''(ii) the States, local governments, or tribal governments that participate in the Federal program lack authority under that program to amend their financial or programmatic responsibilities to continue providing required services that are affected by the legislation, statute or regulation.

''(12) The term 'Federal private sector mandate' means any provision in legislation, statute, or regulation that—

''(A) would impose an enforceable duty upon the private sector except—

''(i) a condition of Federal assistance; or

''(ii) a duty arising from participation in a voluntary Federal program; or

''(B) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that will be provided to the private sector for the purposes of ensuring compliance with such duty.

''(13) The term 'Federal mandate' means a Federal intergovernmental mandate or a Federal private sector mandate, as defined in paragraphs (11) and (12).

''(14) The terms 'Federal mandate direct costs' and 'direct costs'—

''(A)(i) in the case of a Federal intergovernmental mandate, mean the aggregate estimated amounts that all States, local governments, and tribal governments would be required to spend in order to comply with the Federal intergovernmental mandate; or

''(ii) in the case of a provision referred to in paragraph (11)(A)(ii), mean the amount of Federal financial assistance eliminated or reduced.

''(B) in the case of a Federal private sector mandate, mean the aggregate estimated amounts that the private sector will be required to spend in order to comply with the Federal private sector mandate;

''(C) shall not include—

''(i) estimated amounts that the States, local governments, and tribal governments (in the case of a Federal intergovernmental mandate) or the private sector (in the case of a Federal private sector mandate) would spend—

''(I) to comply with or carry out all applicable Federal, State, local, and tribal laws and regulations in effect at the time of the adoption of the Federal mandate for the same activity as is affected by that Federal mandate; or

''(II) to comply with or carry out State, local governmental, and tribal governmental programs, or private-sector business or other activities in effect at the time of the adoption of the Federal mandate for the same activity as is affected by that mandate; or

''(ii) expenditures to the extent that such expenditures will be offset by any direct savings to the States, local governments, and tribal governments, or by the private sector, as a result of—

''(I) compliance with the Federal mandate; or

''(II) other changes in Federal law or regulation that are enacted or adopted in the same bill or joint resolution or proposed or final Federal regulation and that govern the same activity as is affected by the Federal mandate; and

''(D) shall be determined on the assumption that State, local, and tribal governments, and the private sector will take all reasonable steps necessary to mitigate the costs resulting from the Federal mandate, and will comply with applicable standards of practice and conduct established by recognized professional or trade associations. Reasonable steps to mitigate the costs shall not include increases in State, local, or tribal taxes or fees.

''(15) The term 'amount' means the amount of budget authority for any Federal grant assistance program or any Federal program providing loan guarantees or direct loans.

''(16) The term 'private sector' means individuals, partnerships, associations, corporations, business trusts, or legal representatives, organized groups of individuals, and educational and other nonprofit institutions.

''(17) The term 'local government' has the same meaning as in section 6501(6) of title 31, United States Code.

''(18) The term 'tribal government' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (83 Stat. 688; 43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians.

''(19) The term 'small government' means any small governmental jurisdictions defined in section 601(5) of title 5, United States Code, and any tribal government.

''(20) The term 'State' has the same meaning as in section 6501(9) of title 31, United State Code.''

''(21) The term 'agency' has the meaning as defined in section 551(1) of title 5, United States Code, but does not include independent regulatory agencies, as defined in section 3502(10) of title 44, United States Code.

''(22) The term 'regulation' or 'rule' has the meaning of ''rule'' as defined in section 601(2) of title 5, United States Code.''.

SEC. 4. EXCLUSIONS.

The provisions of this Act and the amendments made by this Act shall not apply to any provision in a bill or joint resolution before Congress and any provision in a proposed or final Federal regulation that—

(1) enforces constitutional rights of individuals;

(2) establishes or enforces any statutory rights that prohibit discrimination on the basis of race, religion, gender, national origin, or handicapped or disability status;

(3) requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the United States Government;

(4) provides for emergency assistance or relief at the request of any State, local, or tribal government or any official of a State, local, or tribal government;

(5) is necessary for the national security or the ratification or implementation of international treaty obligations; or

(6) the President designates as emergency legislation and that the Congress so designates in statute.

SEC. 5. AGENCY ASSISTANCE.

Each agency shall provide to the Director of the Congressional Budget Office such information and assistance as the Director may reasonably request to assist the Director in carrying out this Act.

TITLE I—LEGISLATIVE ACCOUNTABILITY AND REFORM

SEC. 101. LEGISLATIVE MANDATE ACCOUNTABILITY AND REFORM.

(a) IN GENERAL.—Title IV of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new section:

''SEC. 408. LEGISLATIVE MANDATE ACCOUNTABILITY AND REFORM.

''(a) DUTIES OF CONGRESSIONAL COMMITTEES.—

''(1) IN GENERAL.—When a committee of authorization of the Senate or the House of Representatives reports a bill or joint resolution of public character that includes any Federal mandate, the report of the committee accompanying the bill or joint resolution shall contain the information required by paragraphs (3) and (4).

''(2) SUBMISSION OF BILLS TO THE DIRECTOR.—When a committee of authorization of the Senate or the House of Representatives orders reported a bill or joint resolution of a public character, the committee shall promptly provide the bill or joint resolution to the Director of the Congressional Budget Office and shall identify to the Director any Federal mandates contained in the bill or resolution.

''(3) REPORTS ON FEDERAL MANDATES.—Each report described under paragraph (1) shall contain—

''(A) an identification and description of any Federal mandates in the bill or joint resolution, including the expected direct costs to State, local, and tribal governments, and to the private sector, required to comply with the Federal mandates;

''(B) a qualitative, and if practicable, a quantitative assessment of costs and benefits anticipated from the Federal mandates (including the effects on health and safety and the protection of the natural environment); and

''(C) a statement of the degree to which a Federal mandate affects both the public and private sectors and the extent to which Federal payment of public sector costs would affect the competitive balance between State, local, or tribal governments and privately owned businesses.

''(4) INTERGOVERNMENTAL MANDATES.—If any of the Federal mandates in the bill or joint resolution are Federal intergovernmental mandates, the report required under paragraph (1) shall also contain—

''(A)(i) a statement of the amount, if any, of increase or decrease in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable for activities of State, local, or tribal governments subject to the Federal intergovernmental mandates; and

''(ii) a statement of whether the committee intends that the Federal intergovernmental mandates be partly or entirely unfunded, and if so, the reasons for that intention; and

''(B) any existing sources of Federal assistance in addition to those identified in subparagraph (A) that may assist State, local, and tribal governments in meeting the direct costs of the Federal intergovernmental mandates.

''(5) PREEMPTION CLARIFICATION AND INFORMATION.—When a committee of authorization of the Senate or the House of Representatives reports a bill or joint resolution of public character, the committee report accompanying the bill or joint resolution shall contain, if relevant to the bill or joint resolution, an explicit statement on the extent to which the bill or joint resolution preempts any State, local, or tribal law, and, if so, an explanation of the reasons for such preemption.

''(6) PUBLICATION OF STATEMENT FROM THE DIRECTOR.—

''(A) Upon receiving a statement (including any supplemental statement) from the Director under subsection (b)(1), a committee of the Senate or the House of Representatives shall publish the statement in the committee report accompanying the bill or joint resolution to which the statement relates if the statement is available at the time the report is printed.

''(B) If the statement is not published in the report, or if the bill or joint resolution to which the statement relates is expected to be considered by the Senate or the House of Representatives before the report is published, the committee shall cause the statement, or a summary thereof, to be published in the Congressional Record in advance of floor consideration of the bill or joint resolution.

''(b) DUTIES OF THE DIRECTOR.—

''(1) STATEMENTS ON BILLS AND JOINT RESOLUTIONS OTHER THAN APPROPRIATIONS BILLS AND JOINT RESOLUTIONS.—

''(A) FEDERAL INTERGOVERNMENTAL MANDATES IN REPORTED BILLS AND RESOLUTIONS.—For each bill or joint resolution of a public character reported by any committee of authorization of the Senate or the House of Representatives, the Director of the Congressional Budget Office shall prepare and submit to the committee a statement as follows:

''(i) If the Director estimates that the direct cost of all Federal intergovernmental mandates in the bill or joint resolution will equal or exceed $50,000,000 (adjusted annually for inflation) in the fiscal year in which any Federal intergovernmental mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

''(ii) The estimate required under clause (i) shall include estimates (and brief explanations of the basis of the estimates) of—

''(I) the total amount of direct cost of complying with the Federal intergovernmental mandates in the bill or joint resolution; and

''(II) the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable by State, local, or tribal governments for activities subject to the Federal intergovernmental mandates.

''(B) FEDERAL PRIVATE SECTOR MANDATES IN REPORTED BILLS AND JOINT RESOLUTIONS.—For each bill or joint resolution of a public character reported by any committees of authorization of the Senate or the House of Representatives, the Director of the Congressional Budget Office shall prepare and submit to the committee a statement as follows:

''(i) If the Director estimates that the direct cost of all Federal private sector mandates in the bill or joint resolution will equal or exceed $200,000,000 (adjusted annually for inflation) in the fiscal year in which any Federal private sector mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

''(ii) Estimates required under this subparagraph shall include estimates (and a brief explanation of the basis of the estimates) of—

''(I) the total amount of direct costs of complying with the Federal private sector mandates in the bill or joint resolution; and

''(II) the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution usable by the private sector for the activities subject to the Federal private sector mandates.

''(iii) If the Director determines that it is not feasible to make a reasonable estimate that would be required under clauses (i) and (ii), the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for that determination in the statement.

''(C) LEGISLATION FALLING BELOW THE DIRECT COSTS THRESHOLDS.—If the Director estimates that the direct costs of a Federal mandate will not equal or exceed the thresholds specified in paragraphs (A) and (B), the Director shall so state and shall briefly explain the basis of the estimate.

''(c) LEGISLATION SUBJECT TO POINT OF ORDER IN THE SENATE.—

''(1) IN GENERAL.—It shall not be in order in the Senate to consider—

''(A) any bill or joint resolution that is reported by a committee unless the committee has published a statement of the Director on the direct costs of Federal mandates in accordance with subsection (a)(6) before such consideration; and

''(B) any bill, joint resolution, amendment, motion, or conference report that would increase the direct costs of Federal intergovernmental mandates by an amount that causes the thresholds specified in subsection (b)(1)(A)(i) to be exceeded, unless—

''(i) the bill, joint resolution, amendment, motion, or conference report provides direct spending authority for each fiscal year for the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report in an amount that is equal to the estimated direct costs of such mandate;

''(ii) the bill, joint resolution, amendment, motion, or conference report provides an increase in receipts and an increase in direct spending authority for each fiscal year for the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report in an amount equal to the estimated direct costs of such mandate; or

''(iii) the bill, joint resolution, amendment, motion, or conference report includes an authorization for appropriations in an amount equal to the estimated direct costs of such mandate, and—

''(I) identifies a specific dollar amount estimate of the full direct costs of the mandate for each year or other period during which the mandate shall be in effect under the bill, joint resolution, amendment, motion or conference report, and such estimate is consistent with the estimate determined under paragraph (3) for each fiscal year;

''(II) identifies any appropriation bill that is expected to provide for Federal funding of the direct cost referred to under subclause (IV)(aa);

''(III) identifies the minimum amount that must be appropriated in each appropriations bill referred to in subclause (II), in order to provide for full Federal funding of the direct costs referred to in subclause (I); and

''(IV)(aa) designates a responsible Federal agency and establishes criteria and procedures under which such agency shall implement less costly programmatic and financial responsibilities of State, local, and tribal governments in meeting the objectives of the mandate, to the extent that an appropriation Act does not provide for the estimated direct costs of such mandate as set forth under subclause (III); or

''(bb) designates a responsible Federal agency and establishes criteria and procedures to direct that, if an appropriation Act does not provide for the estimated direct costs of such mandate as set forth under subclause (III), such agency shall declare such mandate to be ineffective as of October 1 of the fiscal year for which the appropriation is not at least equal to the direct costs of the mandate.

''(2) RULE OF CONSTRUCTION.—The provisions of paragraph (1)(B)(iii)(IV)(aa) shall not be construed to prohibit or otherwise restrict a State, local, or tribal government from voluntarily electing to remain subject to the original Federal intergovernmental mandate, complying with the programmatic or financial responsibilities of the original Federal intergovernmental mandate and providing the funding necessary consistent with the costs of Federal agency assistance, monitoring, and enforcement.

''(3) COMMITTEE ON APPROPRIATIONS.—Paragraph (1) shall not apply to matters that are within the jurisdiction of the Committee on Appropriations of the Senate or the House of Representatives.

''(4) DETERMINATION OF APPLICABILITY TO PENDING LEGISLATION.—For purposes of this subsection, on questions regarding the applicability of this Act to a pending bill, joint resolution, amendment, motion, or conference report, the Committee on Governmental Affairs of the Senate, or the Committee on Government Reform and Oversight of the House of Representatives, as applicable, shall have the authority to make the final determination.

''(5) DETERMINATIONS OF FEDERAL MANDATE LEVELS.—For the purposes of this subsection, the levels of Federal mandates for a fiscal year shall be determined based on the estimates made by the Committee on the Budget of the Senate or the House of Representatives, as the case may be.

''(d) ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.—It shall not be in order in the House of Representatives to consider a rule or order that waives the application of subsection (c) to a bill or joint resolution reported by a committee of authorization.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 407 the following new item:

''Sec. 408. Legislative mandate accountability and reform.''.

SEC. 102. ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.

(a) MOTIONS TO STRIKE IN THE COMMITTEE OF THE WHOLE.—Clause 5 of rule XXIII of the Rules of the House of Representatives is amended by adding at the end the following:

''(c) In the consideration of any measure for amendment in the Committee of the Whole containing any Federal mandate the

direct costs of which exceed the threshold in section 408(c) of the Unfunded Mandate Reform Act of 1995, it shall always be in order, unless specifically waived by terms of a rule governing consideration of that measure, to move to strike such Federal mandate from the portion of the bill then open to amendment.''.

(b) COMMITTEE ON RULES REPORTS ON WAIVED POINTS OF ORDER.—The Committee on Rules shall include in the report required by clause 1(d) of Rule XI (relating to its activities during the Congress) of the Rules of the House of Representatives a separate item identifying all waivers of points of order relating to Federal mandates, listed by bill or joint resolution number and the subject matter of that measure.

SEC. 103. ASSISTANCE TO COMMITTEES AND STUDIES.

The Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) in section 202—

(A) in subsection (c)—

(i) by redesignating paragraph (2) as paragraph (3); and

(ii) by inserting after paragraph (1) the following new paragraph:

''(2) At the request of any committee of the Senate or the House of Representatives, the Office shall, to the extent practicable, consult with and assist such committee in analyzing the budgetary or financial impact of any proposed legislation that may have—

''(A) a significant budgetary impact on State, local, or tribal governments; or

''(B) a significant financial impact on the private sector.'';

(B) by amending subsection (h) to read as follows:

''(h) STUDIES.—

''(1) CONTINUING STUDIES.—The Director of the Congressional Budget Office shall conduct continuing studies to enhance comparisons of budget outlays, credit authority, and tax expenditures.

''(2) FEDERAL MANDATE STUDIES.—

''(A) At the request of any Chairman or ranking member of the minority of a Committee of the Senate or the House of Representatives, the Director shall, to the extent practicable, conduct a study of a Federal mandate legislative proposal.

''(B) In conducting a study on intergovernmental mandates under subparagraph (A), the Director shall—

''(i) solicit and consider information or comments from elected officials (including their designated representatives) of State, local, or tribal governments as may provide helpful information or comments;

''(ii) consider establishing advisory panels of elected officials or their designated representatives, of State, local, or tribal governments if the Director determines that such advisory panels would be helpful in performing responsibilities of the Director under this section; and

''(iii) if, and to the extent that the Director determines that accurate estimates are reasonably feasible, include estimates of—

''(I) the future direct cost of the Federal mandate to the extent that such costs significantly differ from or extend beyond the 5-year period after the mandate is first effective; and

''(II) any disproportionate budgetary effects of Federal mandates upon particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities, as appropriate.

''(C) In conducting a study on private sector mandates under subparagraph (A), the Director shall provide estimates, if and to the extent that the Director determines that such estimates are reasonably feasible, of—

''(i) future costs of Federal private sector mandates to the extent that such mandates differ significantly from or extend beyond the 5-year time period referred to in subparagraph (B)(iii)(I);

''(ii) any disproportionate financial effects of Federal private sector mandates and of any Federal financial assistance in the bill or joint resolution upon any particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities; and

''(iii) the effect of Federal private sector mandates in the bill or joint resolution on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services.''; and

(2) in section 301(d) by adding at the end thereof the following new sentence: ''Any Committee of the House of Representatives or the Senate that anticipates that the committee will consider any proposed legislation establishing, amending, or reauthorizing any Federal program likely to have a significant budgetary impact on any State, local, or tribal government, or likely to have a significant financial impact on the private sector, including any legislative proposal submitted by the executive branch likely to have such a budgetary or financial impact, shall include its views and estimates on that proposal to the Committee on the Budget of the applicable House.''.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Congressional Budget Office $4,500,000 for each of the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 to carry out the provisions of this Act.

SEC. 105. EXERCISE OF RULEMAKING POWERS.

The provisions of sections 101, 102, 103, 104, and 107 are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of such House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of each House.

SEC. 106. REPEAL OF CERTAIN ANALYSIS BY CONGRESSIONAL BUDGET OFFICE.

(a) IN GENERAL.—Section 403 of the Congressional Budget Act of 1974 (2 U.S.C. 653) is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out the item relating to section 403.

SEC. 107. EFFECTIVE DATE.

This title shall take effect on January 1, 1996 and shall apply only to legislation introduced on and after such date.

TITLE II—REGULATORY ACCOUNTABILITY AND REFORM

SEC. 201. REGULATORY PROCESS.

(a) IN GENERAL.—Each agency shall, to the extent permitted in law—

(1) assess the effects of Federal regulations on State, local, and tribal governments (other than to the extent that such regulations incorporate requirements specifically set forth in legislation), and the private sector including specifically the availability of resources to carry out any Federal intergovernmental mandates in those regulations; and

(2) seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving statutory and regulatory objectives.

(b) STATE, LOCAL, AND TRIBAL GOVERNMENT INPUT.—Each agency shall, to the extent permitted in law, develop an effective process to permit elected officials (or their designated representatives) of State, local, and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates. Such a process shall be consistent with all applicable laws.

(c) AGENCY PLAN.—

(1) EFFECTS ON STATE, LOCAL AND TRIBAL GOVERNMENTS.—Before establishing any regulatory requirements that might significantly or uniquely affect small governments, agencies shall have developed a plan under which the agency shall—

(A) provide notice of the contemplated requirements to potentially affected small governments, if any;

(B) enable officials of affected small governments to provide input under subsection (b); and

(C) inform, educate, and advise small governments on compliance with the requirements.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to each agency to carry out the provisions of this section, and for no other purpose, such sums as are necessary.

SEC. 202. STATEMENTS TO ACCOMPANY SIGNIFICANT REGULATORY ACTIONS.

(a) IN GENERAL.—Before promulgating any final rule that includes any Federal intergovernmental mandate that may result in the expenditure by State, local, or tribal governments, and the private sector, in the aggregate, of $100,000,000 or more (adjusted annually for inflation by the Consumer Price Index) in any 1 year, and before promulgating any general notice of proposed rulemaking that is likely to result in promulgation of any such rule, the agency shall prepare a written statement containing—

(1) estimates by the agency, including the underlying analysis, of the anticipated costs to State, local, and tribal governments and the private sector of complying with the Federal intergovernmental mandate, and of the extent to which such costs may be paid with funds provided by the Federal Government or otherwise paid through Federal financial assistance;

(2) estimates by the agency, if and to the extent that the agency determines that accurate estimates are reasonably feasible, of—

(A) the future costs of the Federal intergovernmental mandate; and

(B) any disproportionate budgetary effects of the Federal intergovernmental mandate upon any particular regions of the Nation or particular State, local, or tribal governments, urban or rural or other types of communities;

(3) a qualitative, and if possible, a quantitative assessment of costs and benefits anticipated from the Federal intergovernmental mandate (such as the enhancement of health and safety and the protection of the natural environment);

(4) the effect of the Federal private sector mandate on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services; and

(5)(A) a description of the extent of the agency's prior consultation with elected representatives (or their designated representatives) of the affected State, local, and tribal governments;

(B) a summary of the comments and concerns that were presented by State, local, or tribal governments either orally or in writing to the agency;

(C) a summary of the agency's evaluation of those comments and concerns; and

(D) the agency's position supporting the need to issue the regulation containing the Federal intergovernmental mandates (considering, among other things, the extent to which costs may or may not be paid with funds provided by the Federal Government).

(b) PROMULGATION.—In promulgating a general notice of proposed rulemaking or a final rule for which a statement under subsection (a) is required, the agency shall include in the promulgation a summary of the information contained in the statement.

(c) PREPARATION IN CONJUNCTION WITH OTHER STATEMENT.—Any agency may prepare any statement required under subsection (a) in conjunction with or as a part of any other statement or analysis, provided that the statement or analysis satisfies the provisions of subsection (a).

SEC. 203. ASSISTANCE TO THE CONGRESSIONAL BUDGET OFFICE.

The Director of the Office of Management and Budget shall—

(1) collect from agencies the statements prepared under section 202; and

(2) periodically forward copies of such statements to the Director of the Congressional Budget Office on a reasonably timely basis after promulgation of the general notice of proposed rulemaking or of the final rule for which the statement was prepared.

SEC. 204. PILOT PROGRAM ON SMALL GOVERNMENT FLEXIBILITY.

(a) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with Federal agencies, shall establish pilot programs in at least 2 agencies to test innovative, and more flexible regulatory approaches that—

(1) reduce reporting and compliance burdens on small governments; and

(2) meet overall statutory goals and objectives.

(b) PROGRAM FOCUS.—The pilot programs shall focus on rules in effect or proposed rules, or a combination thereof.

TITLE III—REVIEW OF UNFUNDED FEDERAL MANDATES

SEC. 301. ESTABLISHMENT

There is established a commission which shall be known as the ''Commission on Unfunded Federal Mandates'' (in this title referred to as the ''Commission'').

SEC. 302. REPORT ON UNFUNDED FEDERAL MANDATES BY THE COMMISSION.

(a) IN GENERAL.—The Commission shall in accordance with this section—

(1) investigate and review the role of unfunded Federal mandates in intergovernmental relations and their impact on local, State, and Federal government objectives and responsibilities; and

(2) make recommendations to the President and the Congress regarding—

(A) allowing flexibility for States, local, and tribal governments in complying with specific unfunded Federal mandates for which terms of compliance are unnecessarily rigid or complex;

(B) reconciling any 2 or more unfunded Federal mandates which impose contradictory or inconsistent requirements;

(C) terminating unfunded Federal mandates which are duplicative, obsolete, or lacking in practical utility;

(D) suspending, on a temporary basis, unfunded Federal mandates which are not vital to public health and safety and which compound the fiscal difficulties of States, local, and tribal governments, including recommendations for triggering such suspension;

(E) consolidating or simplifying unfunded Federal mandates, or the planning or reporting requirements of such mandates, in order to reduce duplication and facilitate compliance by States, local, and tribal governments with those mandates; and

(F) establishing common Federal definitions or standards to be used by States, local, and tribal governments in complying with unfunded Federal mandates that use different definitions or standards for the same terms or principles.

(3) IDENTIFICATION OF RELEVANT UNFUNDED FEDERAL MANDATES.—Each recommendation under paragraph (2) shall, to the extent practicable, identify the specific unfunded Federal mandates to which the recommendation applies.

(b) CRITERIA.—

(1) IN GENERAL.—The Commission shall establish criteria for making recommendations under subsection (a).

(2) ISSUANCE OF PROPOSED CRITERIA.—The Commission shall issue proposed criteria under this subsection not later than 60 days after the date of the enactment of this Act, and thereafter provide a period of 30 days for submission by the public of comments on the proposed criteria.

(3) FINAL CRITERIA.—Not later than 45 days after the date of issuance of proposed criteria, the Commission shall—

(A) consider comments on the proposed criteria received under paragraph (2);

(B) adopt and incorporate in final criteria any recommendations submitted in those comments that the Commission determines will aid the Commission in carrying out its duties under this section; and

(C) issue final criteria under this subsection.

(c) PRELIMINARY REPORT.—

(1) IN GENERAL.—Not later than 9 months after the date of the enactment of this Act, the Commission shall—

(A) prepare and publish a preliminary report on its activities under this subtitle, including preliminary recommendations pursuant to subsection (a);

(B) publish in the Federal Register a notice of availability of the preliminary report; and

(C) provide copies of the preliminary report to the public upon request.

(2) PUBLIC HEARINGS.—The Commission shall hold public hearings on the preliminary recommendations contained in the preliminary report of the Commission under this subsection.

(d) FINAL REPORT.—Not later than 3 months after the date of the publication of the preliminary report under subsection (c), the Commission shall submit to the Congress, including the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, and to the President a final report on the findings, conclusions, and recommendations of the Commission under this section.

SEC. 303. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) IN GENERAL.—The Commission shall be composed of 9 members appointed from individuals who possess extensive leadership experience in and knowledge of States, local, and tribal governments and intergovernmental relations, including State and local elected officials, as follows:

(A) 3 members appointed by the Speaker of the House of Representatives, in consultation with the minority leader of the House of Representatives.

(B) 3 members appointed by the majority leader of the Senate, in consultation with the minority leader of the Senate.

(C) 3 members appointed by the President.

(2) LIMITATION.—An individual who is a Member or employee of the Congress may not be appointed or serve as a member of the Commission.

(b) WAIVER OF LIMITATION ON EXECUTIVE SCHEDULE POSITIONS.—Appointments may be made under this section without regard to section 5311(b) of title 5, United States Code.

(c) TERMS.—

(1) IN GENERAL.—Each member of the Commission shall be appointed for the life of the Commission.

(2) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) BASIC PAY.—

(1) RATES OF PAY.—Members of the Commission shall serve without pay.

(2) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Commission who are full-time officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Commission.

(e) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(f) CHAIRPERSON.—The President shall designate a member of the Commission as Chairperson at the time of the appointment of that member.

(g) MEETINGS.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission shall meet at the call of the Chairperson or a majority of its members.

(2) FIRST MEETING.—The Commission shall convene its first meeting by not later than 45 days after the date of the completion of appointment of the members of the Commission.

(3) QUORUM.—A majority of members of the Commission shall constitute a quorum but a lesser number may hold hearings.

SEC. 304. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Commission. The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule.

(b) STAFF.—With the approval of the Commission, and without regard to section 5311(b) of title 5, United States Code, the Director may appoint and fix the pay of such staff as is sufficient to enable the Commission to carry out its duties.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate payable under section 5376 of title 5, United States Code.

(d) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts or consultants under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon request of the Director, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this title.

SEC. 305. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this title, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title, except information—

(1) which is specifically exempted from disclosure by law; or

(2) which that department or agency determines will disclose—

(A) matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) information relating to trade secrets or financial or commercial information pertaining specifically to a given person if the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(C) personnel or medical data or similar data the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

unless the portions containing such matters, information, or data have been excised.

Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish that information to the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its duties under this title.

(f) CONTRACT AUTHORITY.—The Commission may, subject to appropriations, contract with and compensate government and private agencies or persons for property and services used to carry out its duties under this title.

SEC. 306. TERMINATION.

The Commission shall terminate 90 days after submitting its final report pursuant to section 302(d).

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission $1,000,000 to carry out this title.

SEC. 308. DEFINITION.

As used in this title, the term ''unfunded Federal mandate'' means—

(1) any provision in statute or regulation that imposes an enforceable duty upon States, local governments, or tribal governments including a condition of Federal assistance or a duty arising from participation in a voluntary Federal program;

(2) relates to a Federal program under which Federal financial assistance is provided to States, local governments, or tribal governments under entitlement authority; or

(3) that imposes any other unfunded obligation on States, local governments, or tribal governments.

SEC. 309. EFFECTIVE DATE.

This title shall take effect 60 days after the date of the enactment of this Act.

TITLE IV—JUDICIAL REVIEW

SEC. 401. JUDICIAL REVIEW.

(a) IN GENERAL.—Any statement or report prepared under this Act, and any compliance or noncompliance with the provisions of this Act, and any determination concerning the applicability of the provisions of this Act shall not be subject to judicial review.

(b) RULE OF CONSTRUCTION.—No provision of this Act or amendment made by this Act shall be construed to create any right or benefit, substantive or procedural, enforceable by any person in any administrative or judicial action. No ruling or determination made under the provisions of this Act or amendments made by this Act shall be considered by any court in determining the intent of Congress or for any other purpose.

NATIONAL LEAGUE OF CITIES,
Washington, DC, December 30, 1994.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR SENATOR KEMPTHORNE: I am writing on behalf of the elected officials of the nation's cities and towns to commend you for sponsoring the Unfunded Mandate Reform Act of 1995. Of all the measures introduced to date, this legislation is undoubtedly the strongest, best crafted, and most comprehensive approach to provide relief for state and local governments from the burden of unfunded federal mandates.

The National League of Cities commits its strongest support for the Unfunded Mandate Reform Act. We will fight any attempts to weaken the bill with the full force of the 150,000 local elected officials we represent. Local governments and the taxpayers we serve have borne the federal government's fiscal burden for too long. We will not have such an important relief measure thwarted in the final hour by special interests.

We commend you for continuing to foster the bipartisan support which your original mandate relief bill so successfully garnered in the last Congress. We will work hard to gain bipartisan support for mandates relief in the 104th Congress, because, as you are well aware, this bill will benefit all states, all counties, all municipalities, and all taxpayers, regardless of their political allegiance.

Again, please accept our sincere gratitude for your efforts.

Sincerely,

CAROLYN LONG BANKS,
President,
Councilwoman-at-Large.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, December 29, 1994.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR SENATOR KEMPTHORNE: On behalf of the National Association of Counties. I am writing to express our strong support for S. 1, the Unfunded Mandate Reform Act of 1995. We sincerely appreciate the leadership you have provided in crafting this new, strong bipartisan bill to relieve states and local governments from the growing burdens of unfunded federal mandates. Our NACo staff has reviewed the latest draft and they are convinced it is much stronger than S. 993, the bill approved in committee last summer.

While this legislation retained many of the basic principles from the previous bill, there were many improvements. Most significant among them is the provision that requires any new mandate to be funded by new entitlement spending or new taxes or new appropriations. If not, the mandate will not take effect unless the majority of members in both houses vote to impose the cost on state and local governments. Although the new bill will not prevent Congress from imposing the cost of new mandates on state and local taxpayers, by holding members accountable we believe it will discourage and curtail the number of mandates imposed on them.

Again, thank you for your leadership on this important legislation. County officials across our great nation stand ready to assist you in anyway we can to ensure the swift passage of S. 1. If you have any questions, please contact Larry Naake or Larry Jones of the NACo staff.

Sincerely,

RANDALL FRANKE
Commissioner, NACo President.

NATIONAL SCHOOL BOARDS ASSOCIATION,
Alexandria, VA, December 30, 1994.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR SENATOR KEMPTHORNE: The National School Boards Association (NSBA), on behalf on the more than 95,000 locally elected school board members nationwide, would like to offer its strong support for the ''Unfunded Mandate Reform Act of 1995'' (S. 1). This legislation would establish a general rule that Congress shall not impose federal mandates without adequate funding. This legislation would stop the flow of requirements on school districts which must spend billions of local tax dollars every year to comply with unfunded federal mandates. We commend you for your unending leadership on this critical issue.

Today, school children throughout the country are facing the prospect of reduced classroom instruction because the federal government requires, but does not fund, services or programs that local school boards are directed to implement. School boards are not opposed to the goals of many of these mandates, but we believe that Congress should be responsible for funding the programs it imposes on school districts. Our nation's public school children must not be made to pay the price for unfunded federal mandates.

S. 1 would prohibit a law from being implemented without necessary federal government funding. S. 1 would allow school districts to execute the future programs which are required by the federal government without placing an unfair financial burden on the schools.

Again, we applaud your leadership in negotiating and sponsoring this bill which would allow schools to provide a quality education to their students. We offer any assistance you need as you quickly move this bill to the Senate floor.

If you have questions regarding this issue, please contact Laurie A. Westley, Chief Legislative Counsel at (703) 838–6703.

Yours very truly,

BOYD W. BOEHLJE,
President.
THOMAS A. SHANNON,
Executive Director.

U.S. CONFERENCE OF MAYORS,
Washington, DC, December 30, 1994.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR SENATOR KEMPTHORNE: On behalf of the United States Conference of Mayors, I want to thank you for your continued leadership in our fight against unfunded federal mandates and to express strong support for the new bill, S. 1.

S. 1 is serious and tough mandate reform which will do more than simply stop the flood of trickle-down taxes and irresponsible, ill-defined federal mandates which have come from Washington over the past two decades. S. 1 will begin to restore the partnership which the founders of this nation intended to exist between the federal government, and state and local governments.

S. 1, which was developed in bipartisan cooperation with the state and local organizations, including the Conference of Mayors, is even stronger than what was before the Senate last year in that it requires Congress to either fund a mandate at the time of passage or provide that the mandate cannot be enforced by the federal government if not fully funded. However, the bill is still based upon the carefully crafted package which was agreed to in S. 993 and which garnered 67 Senate cosponsors in the 103rd Congress. The bill would not in any way repeal, weaken or affect any existing statute, be it an existing unfunded mandate or not. This legislation only seeks to address new unfunded mandate legislation. In addition, S. 1 would not infringe upon or limit the ability of the Congress or the federal judicial system to enforce any new or existing constitutional protection or civil rights statute.

The mayors are extremely pleased that our legislation, which was blocked from final passage in the 103rd Congress, has been designated as S. 1 by incoming Majority Leader Bob Dole. We also understand and appreciate the significance of the Governmental Affairs and Budget Committees holding a joint hearing on our bill on the second day of the 104th Congress at which our organization will be represented.

I remember the early days in our campaign when many questioned our resolve. How could a freshman Republican Senator from the State of Idaho move the Washington establishment to reform its beloved practice of imposing federal mandates without funding? We responded to these doubters by focusing the national grass-roots resentment of unfunded mandates into a well orchestrated political machine, and by joining with our state and local partners in taking our message to Washington.

The United States Conference of Mayors will continue in its efforts to enact S. 1 until we are successful. We will not let up on the political and public pressure. And we will actively oppose efforts to weaken our bill.

The time to pass our bill is now. Those who would seek to delay action will be held accountable, and those who stand with state and local government will know that they have our support and appreciation.

Thank you again for all of your hard work and commitment, and rest assured that we will continue to stand with you.

Sincerely yours,

VICTOR ASHE,
President.

Mr. DOLE. Mr. President, for years, Members of Congress have tried to hide the full cost of efforts to expand the reach of the Federal Government. They do this by passing Federal laws giving, State and local governments new responsibilities, but little, if any, of the money needed to fulfill their new federally-mandated obligations. State and local officials call these new obligations unfunded mandates.

State and local government costs don't show up in the Federal budget. Congressional advocates of a particular piece of legislation who are concerned that their proposal might not pass if the full costs of implementation are known, shift a large portion of the costs off-budget. The problem is that Federal cost estimates don't tell the whole story. Just because a new piece of legislation doesn't have a Federal cost does not mean that it has no cost or that it does not affect taxpayers.

For the past several years, a steady stream of unfunded mandates has been flowing out of Washington, wreaking havoc on State and local budgets, and forcing Governors, Mayors, State legislators and city council members across the country to make tough choices.

Because most States and localities are required to balance their budgets each year, unfunded mandates force State and local officials to choose between cutting other services and raising taxes to balance their budgets and fulfill their new federally-mandated responsibilities.

The costs are staggering. Ohio Governor George Voinovich reviewed the impact of unfunded Federal mandates on the State of Ohio. His August 1993 study found—and I quote—''Unfunded Federal mandates identified in this survey will impose costs of over $1.74 billion on the State of Ohio from 1992 through 1995.'' Officials at the National Conference of State Legislatures have estimated that unfunded mandates cost States more than $10 billion a year. The actual figure may be even higher. Gov. Pete Wilson has estimated that unfunded Federal mandates cost the State of California $7.7 billion in 1994.

That's a lot of money, even in Washington. Money that could have been used to bolster law enforcement or education budgets, money that could have been used to finance innovative new State or local initiatives.

Mr. President, the time has come for a little legislative truth-in-advertising. Before Members of Congress vote for a piece of legislation, they need to know how it could impact the States and localities they represent. If Members of Congress want to pass a new law, they should be willing to make the tough choices needed to pay for it.

The Unfunded Mandate Reform Act of 1995 enjoys broad bipartisan support. It is a change that we can adopt this month and have an immediate impact on the way that Congress evaluates new legislation.

This legislation recognizes that governments are not the only ones affected by mandates. This bill recognizes that potential private sector costs should be a part of the equation whenever Congress evaluates the potential costs of new legislation. That is why the bill would require that CBO evaluate the potential costs of new mandates on businesses and individuals.

Mr. President, this is not a partisan issue. It's a good government issue whose time has come, thanks, in large part, to the hard work and skilled leadership of the distinguished Senator from Idaho, Senator KEMPTHORNE.

As the former Mayor of Boise, Senator KEMPTHORNE knows firsthand the difficult choices that unfunded mandates force upon those who have to balance their budgets every year. He has worked tirelessly over the past several months with State and local officials from across the country on both sides of the aisle, with Governmental Affairs Committee, Chairman, ROTH, Budget Committee Chairman DOMENICI, key Democrats on both of those key committees, the administration and key Republicans in the House. The result of all this effort is a bill that is tougher than the bill we debated last year.

I am confident that this new, improved version—the Unfunded Mandates Reform Act of 1995—will be the blueprint for a bill that can be approved in both Houses of Congress and signed into law by President Clinton early this year.

Governors, State legislators, mayors, county executives, and other State, local, and tribal executives—Democrats, Republicans and Independents—are urging us to act quickly to provide them with the protection they seek. They want to forge a new partnership between Congress and State and local governments. Adoption of this important legislation will send them a clear signal that the 104th Congress intends to make that new partnership a reality.

Chairman ROTH and Chairman DOMENICI have announced that the Governmental Affairs and Budget Committees will hold a joint hearing on S. 1 tomorrow. The Governmental Affairs, Committee will markup the bill Friday, and the Budget Committee will mark up the bill on Monday of next week. Our hope is that by working on a bipartisan basis we can get this important piece of legislation to the floor and begin the debate next week.

Mr. GLENN. Mr. President, I rise to announce my support for S. 1—the Kempthorne-Glenn bill on Federal mandate reform and relief. This is legislation that had strong bipartisan and administration support last year. In fact we had 67 cosponsors, and my hope is that we will be able to pass the bill quickly through the House and Senate in this Congress. But before I go into a description of the bill, I'd like to provide some background to the whole unfunded Federal mandates debate.

On October 27, 1993, State and local elected officials from all over the Nation came to Washington and declared that day—''National Unfunded Mandates Day.'' These officials conveyed a powerful message to Congress and the Clinton administration on the need for Federal mandate reform and relief. They raised four major objections to unfunded Federal mandates.

First, unfunded Federal mandates impose unreasonable fiscal burdens on their budgets;

Second, they limit State and local government flexibility to address more pressing local problems like crime and education;

Third, Federal mandates too often come in a ''one size fits all'' box that stifles the development of more innovative local efforts—efforts that ultimately may be more effective in solving the problem the Federal mandate is meant to address; and,

Fourth, they allow Congress to get credit for passing some worthy mandate or program, while leaving State and local governments with the difficult tasks of cutting services or raising taxes in order to pay for it.

In our two hearings, we heard testimony from elected State and local officials from both parties, representing all sizes of government. It was clear from the testimony that unfunded mandates hit small counties and townships as hard as they do big cities and larger States.

I think it's worth stepping back and taking a look at the evolution of the Federal-State-local relationship over the last decade and a half so we can put this debate into some historical context. I believe the seeds from which sprang the mandate reform movement can be traced back to the so-called policy of ''New Federalism,'' a policy which resulted in a gradual but steady shift in governing responsibilities from the Federal Government to State and local governments over the last 10 to 15 years. During that time period, Federal aid to State and local governments was severely cut, or even eliminated, in a number of key domestic program areas. At the same time, enactment and subsequent implementation of various Federal statutes passed on new costs to State and local governments. In simple terms, State and local governments ended up receiving less of the Federal carrot and more of the Federal stick.

A. THE COST OF FEDERAL MANDATES

Let's examine the cost issue first. While there has been substantial debate on the actual cost of Federal mandates, suffice it to say that almost all participants in the debate agree that there isn't complete data on the aggregate costs of Federal mandates to State and local governments. In fact, one of the major objectives of S. 993 is to develop better information and data on the cost of mandates. Likewise, there is even less information available on estimates of what potential benefits might be derived from select Federal mandates—a point made by representatives from the disability, environmental, and labor community in the committee's second hearing. Nonetheless, there have been efforts made in the past to measure the cost impacts of Federal mandates on State and local governments. And those efforts do show that costs appear to be rising. Since 1981, the Congressional Budget Office [CBO] has been preparing cost estimates on major legislation reported by committee with an expected annual cost to State and local governments in excess of $200 million. According to CBO, 89 bills with an estimated annual cost in excess of $200 million each were reported out of committee between 1983 and 1988. I would point out one major caveat with CBO's analysis—it does not indicate whether these bills funded the costs or not, nor how many of the bills were eventually enacted. Still, even with a rough calculation, the chart shows that committees reported out bills with an average estimated new cost of at least $17.8 billion per year to State and local governments. In total, 382 bills were reported from committees over the 6-year period with some new costs to State and local governments. So if anything, the $17.8 billion figure is a conservative estimate for reported bills.

Federal environmental mandates head the list of areas that State and local officials claim to be the most burdensome. A closer look at two of the studies done on the cost of State and local governments of compliance with environmental statutes does indicate that these costs appear to be rising. A 1990 EPA study, Environmental Investments: The Cost of a Clean Environment, estimates that total annual costs of environmental mandates—from all levels of government—to State and local governments will rise from $22.2 billion in 1987 to $37.1 billion by the 2000—an increase in real terms of 67 percent. EPA estimates that the cost of environmental mandates to State governments will rise from $3 billion in 1987 to $4.5 billion by 2000—a 48-percent increase. Over the same timeframe, the annual costs of environmental mandates to local governments is estimated to increase from $19.2 billion to $32.6 billion—a 70-percent gain. According to the Vice President's National Performance Review, the total annual cost of environmental mandates to State and local governments, when adjusted for inflation, will reach close to $44 billion by the end of this century.

The city of Columbus in my home State of Ohio also noted a trend in rising costs for city compliance with Federal environmental mandates. In its study, the city concluded that its cost of compliance environmental statutes would rise from $62.1 million in 1991 to $107.4 million in 1995—in 1991 constant dollars—a 73-percent increase. The city estimates that its share of the total city budget going to pay for these mandates will increase from 10.6 percent to 18.3 percent over that timeframe.

In addition to environmental requirements, State and local officials in our committee hearings cited otherFederal requirements as burdensome and costly. They highlighted compliance with the Americans with Disabilities Act and the Motor Voter Registration Act; complying with the administrative requirements that go with implementing many Federal programs; and, meeting Federal criminal justice and educational program requirements. Now I would note that while each of these individual programs or requirements clearly carry with them costs to State and local governments, costs which we have too often ignored in the past, I believe that on a case-by-case basis each of these mandates has substantial benefits to our society and our nation as a whole, otherwise I along with many of my colleagues in the Senate wouldn't have voted to enact them. State and local officials readily concede that individual mandates on a case-by-case basis may indeed be worthy. However, when you look at all mandates spanning across the entire gamut of Federal laws and regulation, you begin to understand that it is the aggregate impact of all Federal mandates that has spurred the calls for mandate reform and relief. The Advisory Commission on Intergovernmental Relations testified in our April hearing that the number of major Federal statutes with explicit mandates on State and local governments went from zero during the period of 1941 to 1964, to 9 during the rest of the 1960s, to 25 in the 70s, and 27 in the 80s.

However, to truly reach a better understanding of the Federal mandates debate, we must also look at the Federal funding picture vis a vis State and local governments.

B. FEDERAL AID TO STATE AND LOCAL GOVERNMENTS

The record shows that Federal discretionary aid to State and local governments to both implement Federal policies and directives as well as comply with them saw a sharp drop in the 1980s.

An examination of Census Bureau data on sources of State and local government revenue shows a decreasing Federal role in the funding of State and local governments. In 1979, the Federal government's contribution to State and local government revenues reached 18.6 percent. By 1989, the Federal contribution of the State and local revenue pie had steadily shrunk to 13.2 percent before edging up to 14.3 percent in 1991—the latest year that data is available.

What contributed to declining trend in the Federal financing of State and local governments? A closer look at patterns in Federal discretionary aid programs to State and local governments during the 1980s provides the answer. According to the Federal Funds Information Service, between 1981 and 1990 Federal discretionary program funding to State and local governments rose slightly from $47.5 billion to $51.6 billion. However, this figure when adjusted for inflation tells a much different story; Federal aid dropped 28 percent in real terms over the decade.

A number of vital Federal aid programs to State and local governments experienced sharp cuts and, in some cases, outright elimination during the decade. In 1986, the administration and Congress agreed to terminate the general revenue sharing program—a program that provided approximately $4.5 billion annually to local governments and allowed them broad discretion on how to spend the funds. Since its inception in 1972, general revenue sharing had provided approximately $83 billion to State and local governments. Unfortunately, the Reagan administration succeeded in terminating the program and the Congress followed its lead. There were other important Federal-State-local programs that were substantially cut back between 1981 and

1990. They include: Economic Development Assistance, Community Development Block Grants, Mass Transit, Refugee Assistance, and Low-Income Home Energy Assistance.

Luckily, under both the Bush and Clinton administration, we've managed to restore some needed funding to many of these programs. Still, in real dollars, funds for discretionary aid programs to State and local governments remain 18 percent below their 1981 levels.

THE COMMITTEE'S LEGISLATIVE EFFORTS

In the last Congress, eight bills were referred to the Governmental Affairs Committee that touched on at least some aspect of the unfunded Federal mandates problem. After two hearings, we marked up a compromise bill that borrowed the best of the various provisions and requirements from the different bills. We worked closely in a deliberative, bipartisan fashion with the de facto leader on this issue, Senator KEMPTHORNE, along with other Members and with the administration. The Kempthorne-Glenn Compromise had the endorsement and strong support of the 7 groups representing State and local governments: the National Governors Association; the National Conference of State Legislators; the Council on State Governments; the National League of Cities; the U.S. Conference of Mayors; the National Association of Counties; and the International City Management Association. It had the backing of the Clinton administration and was endorsed by the editorial boards of the New York Times, Cleveland Plain Dealer, and other newspapers across the country, both large and small. The bill we are introducing today as S. 1 largely embodies what we had last year in S. 993.

Let me explain what the Kempthorne-Glenn bill does:

It requires the Congressional Budget Office to conduct State, local and tribal cost estimates on legislation that imposes new Federal mandates in excess of $50 million annually onto the budgets of State, local, and tribal governments. The current laws requires these estimates at a $200 million threshold. I believe that that high a figure allows a lot of Federal mandates to slip through without being scored. $200 million spread across equally among all States may not be much, but if it falls particularly hard on any one region—which does happen with legislation around here—it is substantial. Let me make clear, however, that what CBO will score here are new Federal mandates, not what State, local, and tribal governments are spending to comply with existing mandates, nor what they are spending to comply with their own laws and mandates.

Second, and I think most importantly, is that the bill holds Congress accountable for imposing additional unfunded Federal mandates. We do this by requiring a majority point of order vote on any legislation that imposes new unfunded Federal mandates in excess of $50 million annual cost to State, local or tribal governments.

To avoid the point of order, the sponsor of the bill would have to authorize funding to cover the cost to State and local governments of the Federal mandate, or otherwise find ways to pay for the mandate. This could come from the expansion of an existing grant or subsidized loan program, or the creation of an new one, or perhaps the raising of new revenues or user fees.

S. 1 also includes provisions for the analysis of legislation that imposes mandates on the private sector. CBO would have to complete a private sector cost estimate on bills reported by Committee with a $200 million or more annual cost threshold.

We do exempt certain Federal laws from this bill. Civil rights and Constitutional rights are excluded. National security, emergency legislation, and ratification of international treaties are also exempt.

I want to also point out that the bill does not prohibit Congress from passing unfunded Federal mandates. There may be times when it is appropriate to ask State and local governments to pick up the tab for Federal mandates. But let that debate take place on the Senate floor and let there be a vote on the specific mandate in the legislation.

The Kempthorne-Glenn Compromise also addresses regulatory mandates. We all know how the Federal bureaucracy can impose burdensome and inflexible regulations on State and local governments as well as on others who end up trapped in the bureaucracy's regulatory net. In the Committee's November hearing, we heard testimony from Susan Ritter, county auditor for Renville County, ND. Ms. Ritter noted that the town of Sherwood, in her State, with a population of 286, will have to spend $2,000—one half of its annual budget—on testing its water supply in order to comply with EPA regulations. Clearly, there is no way that the town is going to be able to meet this requirement.

So, consistent with the President's Executive Orders, we have required that Federal agencies conduct cost-benefit analyses on major regulations that impact State, local and tribal governments. Further, agencies must develop a timely and effective means of allowing State and local input into the regulatory process. Given that State and local governments are responsible for implementing many of our Federal laws, it is not only fair that they be considered partners in the Federal regulatory process, but it is also good public policy as well. Such a process must also be consistent with the Administrative Procedure Act to ensure an open and fair process. The bill also requires Federal agencies to make a special effort in performing outreach to the smallest governments. Then maybe we'll be able to minimize the occurrence of situations like the one that took place in the town of Sherwood.

Finally, we've asked the Advisory Commission on Intergovernmental Relations to work with CBO to develop a better cost estimating process and to monitor implementation of the legislation.

CLOSING REMARKS.

In closing, I'd like to put this issue into some larger perspective. As we all know, the Federal, State, and local relationship is complicated. It is a blurry line between where one level of government's responsibility ends and another's begins. All three levels of government need to work together in a constructive fashion to provide the best possible delivery of services to the American people in the most cost-effective fashion. After all, as Federal, State, and local officials, we all serve the same constituents. Further, we serve the American people at a time when their confidence in all three levels of government is probably at an all-time low. There are numerous explanations for this lack of confidence in government and I won't go into them here. Vice President Gore's National Performance Review attributes ''an increasingly hidebound and paralyzed intergovernmental process'' as at least part of the reason for why many Americansfeel that government is wasteful, inefficient, and ineffective. We need to restore balance to the intergovernmental partnership as well as strengthen it so that government at all levels can operate in a more cost-effective manner.

Both the administration and a number of my colleagues have made proposals to shift a number of Federal programs and responsibilities to State and local governments. Clearly, as this mandates debate has shown us, we ought to at least experiment to see if State and local governments can carry out some these programs in a more effective fashion than we have been doing at a Federal level. I know from my years as chairman of the Governmental Affairs Committee that Americans do want more efficient and less costly government and maybe one way to accomplish that objective is too grant more flexibility to State and local governments and let them run some of these programs. However, I think we should proceed with some degree of caution. Growing up in the Depression, I learned that State and local governments don't have the wherewithal and resources to meet all human needs. That's why President Roosevelt came through with the New Deal. So there has been and will continue to be, the need for a Federal presence in many domestic policy areas. But that shouldn't preclude us from maybe loosening the reigns on State and local governments some, or even dropping them entirely. But we should be careful, and look at it on a case-by-case basis.

I believe that the Kempthorne-Glenn bill would help to restore that partnership and bring needed perspective to future Federal decisionmaking. I am

glad that it will be the first bill introduced in the Senate and look forward to working toward its very early passage.

I want to give special thanks to my colleague from Idaho for his rule in developing this legislation. He has been over diligent and, as a former mayor, very passionate about this issue. But he has also been willing to engage in the give and take that goes on in developing legislation where there are a lot of pressures from all sides to go one way or the other. This has truly been a bipartisan effort and he deserves special credit for that.

Mr. ROTH. Mr. President, I am very pleased to join with my colleague, Senator KEMPTHORNE, in cosponsoring today the first bill introduced in the Senate in the 104th Congress. The ''Unfunded Mandates Reform Act of 1995'' represents an important shift in the basic attitude of the Congress toward our State and local governments. It will help bring a better balance to our system of federalism.

In recognition of the fundamental importance of this legislation, it has been assigned the bill number S. 1. As chairman of the Governmental Affairs Committee, where the legislation has been referred, I intend to act on it immediately. A joint hearing with the Budget Committee on S. 1 has been scheduled for tomorrow morning. The next day the Governmental Affairs Committee is scheduled to consider the bill, and vote on reporting it to the Senate. It is my intention to bring the ''Unfunded Mandates Reform Act'' to the floor sometime next week.

This important legislation is just the first step in a long-overdue effort to reform the Federal regulatory process. I intend to move quickly in addressing the need for regulatory reform in the broader sense, particular as it applies to the regulation of business. I expect to hold the first hearing on this subject in early Fedruary.

Again, I want to express my pleasure in joining with the Senator from Idaho in this important effort, embodied in the legislation he is introducing today. I urge my colleagues to help move it quickly to enactment.

Mr. NICKLES. Mr. President, I would first like to commend Senator KEMPTHORNE and Senator GLENN for once again introducing the Unfunded Mandates Reform Act and I am pleased to be an original cosponsor. Senator KEMPTHORNE has been especially stalwart in pushing unfunded mandate legislation to the forefront and keeping the Senate's focus on this important issue. Particularly, I am pleased the legislation includes my language to require executive branch agencies to do a cost estimate of regulatory actions, which was a key component of my legislation, the Economic and Employment Impact Act.

On October 27, 1993, Governors, State legislators, county officials and mayors from across the Nation came to Washington and declared ''National Unfunded Mandates Day''. They sent a very loud and clear signal to Congress and the Clinton administration that State and local governments and the taxpayers can no longer afford the exploding costs of unfunded Federal mandates. The simple fact is when the Federal Government passes an unfunded mandate on the States and local governments, they must then raise taxes, reduce other spending or borrow. Mandates on the private sector also add great costs to the economy. The ultimate loser in this cycle is the U.S. taxpayer.

According to a U.S. Conference of Mayors' survey of 314 cities, the cost of unfunded Federal mandates to cities alone for 1993 was $6.5 billion. The Federal Clean Water Act—$3.6 billion, Federal Solid Waste Disposal—$1 billion, and the Federal Safe Drinking Water Act—$0.6 billion were the most costly unfunded mandates. On the private sector side, the Chamber of Commerce has recently reported the result of a survey of its membership which identified the issue of unfunded mandates and their costs on the private sector and State and local governments as the No. 1 issue.

Several States and local governments did their own studies of the costs of unfunded Federal mandates. The city of Columbus, OH found that compliance with Federal environmental regulations alone will cost the city up to $1.6 billion over the next 10 years, which equals $850 annually per household.

The Unfunded Mandate Reform Act forces Congress to know how much Federal mandates on States and local governments and the private sector cost. In addition, it will require that the Federal Government pays the costs incurred by complying with mandates on State and local governments. This legislation will ensure that the economic impact of major legislative and regulatory proposals on State and local governments and the private sector are given full consideration in Congress and the executive branch before they become policy.

One of the primary reasons for the explosive growth in Federal mandates is Washington's ignorance of exactly how much they costs States, local governments and private citizens, regardless of how well-intended they may be. This legislation seeks a solution to that problem by requiring the Congressional Budget Office [CBO] to estimate the impact of Federal mandates to State, local, and tribal governments as well as the private sector.

In order to ensure the cooperation of CBO and the committees in providing this valuable economic impact information to the full Senate, the legislation before us requires a majority point of order to lie against any Federal mandate legislation which does not have a CBO cost estimate of the impact of that legislation on State and local governments or the private sector.

Mandates costing greater than $50 million affecting State and local governments will not only have an estimate of the costs but also include the money or taxes to pay for the mandate. If it does not pass both tests a majority point of order will lie against the legislation.

The economic impact analysis requirement for legislation which affects the private sector is vitally important. The private sector provision command CBO to provide an impact statement of the costs and the effect on the economy of legislation with mandates which exceed $200 million in any of the next 5 years. This requirement is similar to legislation, the Economic and Employment Impact Act, Senator REID and myself offered as an amendment to the National Competitiveness Act, and was approved by voice vote by the full Senate.

Another important element of this legislation that is also a key component of the Economic and Employment Impact Act, is the requirement for economic impact analysis of regulatory actions exceeding $100 million by executive branch agencies. The author of this act should be commended for requiring a cost analysis for regulations affecting State and local governments and the private sector.

The cost of Federal mandates has unleashed havoc upon State and local governments and the private sector. Congress and the administration must stop passing the costs of their good ideas without knowing the costs of those ideas and assuming responsibility for the undue economic burdens on the local governments, the private sector and the U.S. taxpayer.

By Mr. GRASSLEY (for himself, Mr. LIEBERMAN, Mr. DOLE, Mr. NICKLES, Mr. ROTH, Mr. GLENN, Mr. SMITH, Mr. SPECTER, Mr. BROWN, Mr. INHOFE, Mr. THOMPSON, Ms. SNOWE, Mr. ABRAHAM, Mr. SANTORUM, Mr. CRAIG THOMAS, Mr. COHEN, Mr. CRAIG, Mrs. BOXER, Mr. ROBB, Mr. KOHL, Mr. WARNER, Mr. BAUCUS, Mr. HELMS, Mr. GREGG, Mr. DEWINE, Mr. CAMPBELL, Mr. BENNETT, Mr. MACK, Mr. KERREY, Mrs. KASSEBAUM, and Mr. LOTT):

S. 2. A bill to make certain laws applicable to the legislative branch of the Federal Government; read twice.

THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

Mr. DOLE. Mr. President, for far too long, Congress has imposed new rules and regulations on the private sector, while seeking to exempt itself from those same rules.

Not surprisingly, many of our citizens have begun to view the Senate and the House of Representatives not as the people's body, but as the ''imperial congress,'' as an institution that considers itself above the law and without accountability.

This past election day, the American people finally said ''enough is enough.'' Not only do the American people want

less government, less regulation, and lower taxes, they also want Congress to clean up its own act by living under the very laws we seek to impose on everyone else. After all, what's good for the goose is certainly good for the gander.

S. 2, the Congressional Accountability Act, is a key element of our effort to put the institution of Congress back in the good graces of the American people. Later today, the House will pass its own version of congressional-coverage legislation, and perhaps as early as tomorrow, S. 2 will be passed here in the Senate.

In a nutshell, S. 2 forces Congress to comply with the following laws that regulate private employment and the private-sector workplace: (1) The Fair Labor Standards Act, (2) The Federal Labor Management Relations Act, (3) Title VII of the Civil Rights Act of 1964, (4) The Americans with Disabilities Act, (5) The Rehabilitation Act of 1973, (6) The Age Discrimination in Employment Act, (7) The Family and Medical Leave Act, (8) The Occupational Safety and Health Act, (9) The Employee Polygraph Protection Act, (10) The Worker Adjustment and Retraining Notification Act, and (11) The Veterans Reemployment Act.

All these laws now apply to the private sector, and with the passage of S. 2, they will soon apply to Congress as well.

To enforce the application of the laws to Congress, S. 2 establishes an office of compliance with a 5-member board of directors. The directors on the board will be jointly appointed by the Senate majority leader, the Senate minority leader, the Speaker of the House of Representatives, and the House minority leader. The office will also have a general counsel, an executive director, and two deputy executive directors, one for the Senate and one for the House. Each of the deputy executive directors will be responsible for promulgating the implementing regulations for his or her respective house.

In addition, S. 2 requires that any future legislation that affects the terms and conditions of private employment must be accompanied by a report describing the manner in which the legislation will apply to Congress. If any provision of the proposed law does not apply to Congress, the report must include a statement explaining why this is so. This reporting requirement will help ensure that Congress resists the temptation of exempting itself from future regulations and rules.

Of course, S. 2 may herald a new era of regulatory caution, where Congress thinks twice before imposing a new government-crafted requirement on the private sector. It's one thing for Congress to create a new regulatory burden; it's something quite different when Congress has to bear the burden too.

Finally, Mr. President, I want to congratulate my distinguished colleague, Senator CHUCK GRASSLEY, for spearheading the congressional-coverage effort here in the Senate. Without his hard work and commitment, S. 2 would not be the priority that it is today. I also want to take a moment to recognize my colleague from Oklahoma, Senator DON NICKLES, for his important contribution as well.

Mr. President, I ask unanimous consent that the full text of S. 2 be reprinted in the RECORD immediately after my remarks.

S. 2

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Congressional Accountability Act of 1995''.

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

TITLE I—GENERAL

SEC. 101. DEFINITIONS.

Except as otherwise specifically provided in this Act, as used in this Act:

(1) BOARD.—The term ''Board'' means the Board of Directors of the Office of Compliance.

(2) CHAIR.—The term ''Chair'' means the Chair of the Board of Directors of the Office of Compliance.

(3) COVERED EMPLOYEE.—The term ''covered employee'' means any employee of—

(A) the House of Representatives;
(B) the Senate;
(C) the Capitol Guide Service;
(D) the Capitol Police;
(E) the Congressional Budget Office;
(F) the Office of the Architect of the Capitol;
(G) the Office of the Attending Physician;
(H) the Office of Compliance; or
(I) the Office of Technology Assessment.

(4) EMPLOYEE.—The term ''employee'' includes an applicant for employment and a former employee.

(5) EMPLOYEE OF THE OFFICE OF THE ARCHITECT OF THE CAPITOL.—The term ''employee of the Office of the Architect of the Capitol'' includes any employee of the Office of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants.

(6) EMPLOYEE OF THE CAPITOL POLICE.—The term ''employee of the Capitol Police'' includes any member or officer of the Capitol Police.

(7) EMPLOYEE OF THE HOUSE OF REPRESENTATIVES.—The term ''employee of the House of Representatives'' includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated

by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (C) through (I) of paragraph (3).

(8) EMPLOYEE OF THE SENATE.—The term ''employee of the Senate'' includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (C) through (I) of paragraph (3).

(9) EMPLOYING OFFICE.—The term ''employing office'' means—

(A) the personal office of a Member of the House of Representatives or of a Senator;

(B) a committee of the House of Representatives or the Senate or a joint committee;

(C) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(D) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

(10) EXECUTIVE DIRECTOR.—The term ''Executive Director'' means the Executive Director of the Office of Compliance.

(11) GENERAL COUNSEL.—The term ''General Counsel'' means the General Counsel of the Office of Compliance.

(12) OFFICE.—The term ''Office'' means the Office of Compliance.

SEC. 102. APPLICATION OF LAWS.

(a) LAWS MADE APPLICABLE.—The following laws shall apply, as prescribed by this Act, to the legislative branch of the Federal Government:

(1) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(2) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

(3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(4) The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.).

(5) The Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.).

(6) The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(7) Chapter 71 (relating to Federal service labor-management relations) of title 5, United States Code.

(8) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.).

(9) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.).

(10) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(11) Chapter 43 (relating to veterans' employment and reemployment) of title 38, United States Code.

(b) LAWS WHICH MAY BE MADE APPLICABLE.—

(1) IN GENERAL.—The Board shall review provisions of Federal law (including regulations) relating to (A) the terms and conditions of employment (including hiring, promotion, demotion, termination, salary, wages, overtime compensation, benefits, work assignments or reassignments, grievance and disciplinary procedures, protection from discrimination in personnel actions, occupational health and safety, and family and medical and other leave) of employees, and (B) access to public services and accommodations,

(2) BOARD REPORT.—Beginning on December 31, 1996, and every 2 years thereafter, the Board shall report on (A) whether or to what degree the provisions described in paragraph (1) are applicable or inapplicable to the legislative branch, and (B) with respect to provisions inapplicable to the legislative branch, whether such provisions should be made applicable to the legislative branch. The presiding officers of the House of Representatives and the Senate shall cause each such report to be printed in the Congressional Record and each such report shall be referred to the committees of the House of Representatives and the Senate with jurisdiction.

(3) REPORTS OF CONGRESSIONAL COMMITTEES.—Each report accompanying any bill or joint resolution relating to terms and conditions of employment or access to public services or accommodations reported by a committee of the House of Representatives or the Senate shall—

(A) describe the manner in which the provisions of the bill or joint resolution apply to the legislative branch; or

(B) in the case of a provision not applicable to the legislative branch, include a statement of the reasons the provision does not apply.

On the objection of any Member, it shall not be in order for the Senate or the House of Representatives to consider any such bill or joint resolution if the report of the committee on such bill or joint resolution does not comply with the provisions of this paragraph. This paragraph may be waived in either House by majority vote of that House.

TITLE II—EXTENSION OF RIGHTS AND PROTECTIONS

PART A—EMPLOYMENT DISCRIMINATION, FAMILY AND MEDICAL LEAVE, FAIR LABOR STANDARDS, EMPLOYEE POLYGRAPH PROTECTION, WORKER ADJUSTMENT AND RETRAINING, EMPLOYMENT AND REEMPLOYMENT OF VETERANS, AND INTIMIDATION

SEC. 201. RIGHTS AND PROTECTIONS UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, THE REHABILITATION ACT OF 1973, AND TITLE I OF THE AMERICANS WITH DISABILITIES ACT OF 1990.

(a) DISCRIMINATORY PRACTICES PROHIBITED.—All personnel actions affecting covered employees shall be made free from any discrimination based on—

(1) race, color, religion, sex, or national origin, within the meaning of section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2);

(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or

(3) disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sections 102 through 104 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112–12114).

(b) REMEDY.—

(1) CIVIL RIGHTS.—The remedy for a violation of subsection (a)(1) shall be—

(A) such remedy as would be appropriate if awarded under section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(g)); and

(B) such compensatory damages as would be appropriate if awarded under section 1977 of the Revised Statutes (42 U.S.C. 1981), or as would be appropriate if awarded under sections 1977A(a)(1), 1977A(b)(2), and irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes (42 U.S.C. 1981a(a)(1), 1981a(b)(2), and 1981a(b)(3)(D)).

(2) AGE DISCRIMINATION.—The remedy for a violation of subsection (a)(2) shall be—

(A) such remedy as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)); and

(B) such liquidated damages as would be appropriate if awarded under section 7(b) of such Act (29 U.S.C. 626(b)). In addition, the waiver provisions of section 7(f) of such Act (29 U.S.C. 626(f)) shall apply to covered employees.

(3) DISABILITIES DISCRIMINATION.—The remedy for a violation of subsection (a)(3) shall be—

(A) such remedy as would be appropriate if awarded under section 505(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 794a(a)(1)) or section 107(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117(a)); and

(B) such compensatory damages as would be appropriate if awarded under sections 1977A(a)(2), 1977A(a)(3), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes (42 U.S.C. 1981a(a)(2), 1981a(a)(3), 1981a(b)(2), and 1981a(b)(3)(D)).

(c) APPLICATION TO GENERAL ACCOUNTING OFFICE, GOVERNMENT PRINTING OFFICE, AND LIBRARY OF CONGRESS.—

(1) SECTION 717 OF THE CIVIL RIGHTS ACT OF 1964.—Section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) is amended by—

(A) striking ''legislative and'';

(B) striking ''branches'' and inserting ''branch''; and

(C) inserting ''Government Printing Office, the General Accounting Office, and the'' after ''and in the''.

(2) SECTION 15 OF THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.—Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended by—

(A) striking ''legislative and'';

(B) striking ''branches'' and inserting ''branch''; and

(C) inserting ''Government Printing Office, the General Accounting Office, and the'' after ''and in the''.

(3) SECTION 509 OF THE AMERICANS WITH DISABILITIES ACT OF 1990.—Section 509 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12209) is amended—

(A) by striking subsections (a) and (b) of section 509;

(B) in subsection (c), by striking ''(c) INSTRUMENTALITIES OF CONGRESS.—'' and inserting ''The General Accounting Office, the Government Printing Office, and the Library of Congress shall be covered as follows:'';

(C) by striking the second sentence of paragraph (2);

(D) in paragraph (4), by striking ''the instrumentalities of the Congress include'' and inserting ''the term 'instrumentality of the Congress' means'', by striking ''the Architect of the Capitol, the Congressional Budget Office'', by inserting ''and'' before ''the Library'', and by striking ''the Office of Technology Assessment, and the United States Botanic Garden'';

(E) by redesignating paragraph (5) as paragraph (7) and by inserting after paragraph (4) the following new paragraph:

''(5) ENFORCEMENT OF EMPLOYMENT RIGHTS.—The remedies and procedures set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) shall be available to any employee of an instrumentality of the Congress who alleges a violation of the rights and protections under sections 102 through 104 of this Act that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of the instrumentality of the Congress.''; and

(F) by amending the title of the section to read ''INSTRUMENTALITIES OF THE CONGRESS''.

(d) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act.

SEC. 202. RIGHTS AND PROTECTIONS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

(a) FAMILY AND MEDICAL LEAVE RIGHTS AND PROTECTIONS PROVIDED.—

(1) IN GENERAL.—The rights and protections established by sections 101 through 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 through 2615) shall apply to covered employees.

(2) DEFINITION.—For purposes of the application described in paragraph (1)—

(A) the term ''employer'' as used in the Family and Medical Leave Act of 1993 means any employing office, and

(B) the term ''eligible employee'' as used in the Family and Medical Leave Act of 1993 means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy, including liquidated damages, as would be appropriate if awarded under paragraph (1) of section 107(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2617(a)(1)).

(c) APPLICATION TO GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—

(1) AMENDMENTS TO THE FAMILY AND MEDICAL LEAVE ACT OF 1993.—

(A) COVERAGE.—Section 101(4)(A) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611(4)(A)) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ''; and'', and by adding after clause (iii) the following:

''(iv) includes the General Accounting Office and the Library of Congress.''.

(B) ENFORCEMENT.—Section 107 of the Family and Medical Leave Act of 1993 (29 U.S.C 2617) is amended by adding at the end the following:

''(f) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—In the case of the General Accounting Office and the Library of Congress, the authority of the Secretary of Labor under this title shall be exercised respectively by the Comptroller General of the United States and the Librarian of Congress.''.

(2) CONFORMING AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 6381(1)(A) of title 5, United States Code, is amended by striking ''and'' after ''District of Columbia'' and inserting before the semicolon the following: '', and any employee of the General Accounting Office or the Library of Congress''.

(d) REGULATIONS.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement the rights and protections under this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsections (a) and (b) shall be effective 1 year after the date of the enactment of this Act.

(2) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—Subsection (c) shall be effective 1 year after transmission to the Congress of the study under section 230.

SEC. 203. RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938.

(a) FAIR LABOR STANDARDS.—

(1) IN GENERAL.—The rights and protections established by subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 (a)(1) and (d), 207, 212(c)) shall apply to covered employees.

(2) INTERNS.—For the purposes of this section, the term ''covered employee'' does not include an intern as defined in regulations under subsection (c).

(3) COMPENSATORY TIME.—Except as provided in regulations under subsection (c)(3), covered employees may not receive compensatory time in lieu of overtime compensation.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy, including liquidated damages, as would be appropriate if awarded under section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)).

(c) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—Except as provided in paragraph (3), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(3) IRREGULAR WORK SCHEDULES.—The Board shall issue regulations for covered employees whose work schedules directly depend on the schedule of the House of Representatives or the Senate that shall be comparable to the provisions in the Fair Labor Standards Act of 1938 that apply to employees who have irregular work schedules.

(d) APPLICATION TO THE GOVERNMENT PRINTING OFFICE.—Section 3(e)(2)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)(A)) is amended—

(1) in clause (iii), by striking ''legislative or'',

(2) by striking ''or'' at the end of clause (iv),

(3) by striking the semicolon at the end of clause (v) and inserting '', or'' and by adding after clause (v) the following:

''(vi) the Government Printing Office;''.

(e) EFFECTIVE DATE.—Subsections (a) and (b) shall be effective 1 year after the date of the enactment of this Act.

SEC. 204. RIGHTS AND PROTECTIONS UNDER THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988.

(a) POLYGRAPH PRACTICES PROHIBITED.—

(1) IN GENERAL.—No employing office, irrespective of whether a covered employee works in that employing office, may require a covered employee to take a lie detector test where such a test would be prohibited if required by an employer under paragraph (1), (2), or (3) of section 3 of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2002(1), (2), or (3)). In addition, the waiver provisions of section 6(d) of such Act (29 U.S.C. 2005(d)) shall apply to covered employees.

(2) DEFINITIONS.—For purposes of this section, the term ''covered employee'' shall include employees of the General Accounting Office and the Library of Congress and the term ''employing office'' shall include the General Accounting Office and the Library of Congress.

(3) CAPITOL POLICE.—Nothing in this section shall preclude the Capitol Police from using lie detector tests in accordance with regulations under subsection (c).

(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under section 6(c)(1) of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2005(c)(1)).

(c) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall be effective 1 year after the date of the enactment of this Act.

(2) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission to the Congress of the study under section 230.

SEC. 205. RIGHTS AND PROTECTIONS UNDER THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT.

(a) WORKER ADJUSTMENT AND RETRAINING NOTIFICATION RIGHTS.—

(1) IN GENERAL.—No employing office shall be closed or a mass layoff ordered within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102) until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to representatives of covered employees or, if there are no representatives, to covered employees.

(2) DEFINITIONS.—For purposes of this section, the term ''covered employee'' shall include employees of the General Accounting Office and the Library of Congress and the term ''employing office'' shall include the General Accounting Office and the Library of Congress.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under paragraphs (1), (2), and (4) of section 5(a) of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2104(a)(1), (2), and (4)).

(c) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall be effective 1 year after the date of the enactment of this Act.

(2) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission to the Congress of the study under section 230.

SEC. 206. RIGHTS AND PROTECTIONS RELATING TO VETERANS' EMPLOYMENT AND REEMPLOYMENT.

(a) EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES.—

(1) IN GENERAL.—It shall be unlawful for an employing office to—

(A) discriminate, within the meaning of subsections (a) and (b) of section 4311 of title 38, United States Code, against an eligible employee;

(B) deny to an eligible employee reemployment rights within the meaning of sections 4312 and 4313 of title 38, United States Code; or

(C) deny to an eligible employee benefits within the meaning of sections 4316, 4317, and 4318 of title 38, United States Code.

(2) DEFINITIONS.—For purposes of this section—

(A) the term ''eligible employee'' means a covered employee performing service in the uniformed services, within the meaning of section 4303(13) of title 38, United States Code, whose service has not been terminated upon occurrence of any of the events enumerated in section 4304 of title 38, United States Code,

(B) the term ''covered employee'' includes employees of the General Accounting Office and the Library of Congress, and

(C) the term ''employing office'' includes the General Accounting Office and the Library of Congress.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under paragraphs (1), (2)(A), and (3) of section 4323(c) of title 38, United States Code.

(c) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall be effective 1 year after the date of the enactment of this Act.

(2) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission to the Congress of the study under section 230.

SEC. 207. PROHIBITION OF INTIMIDATION OR REPRISAL.

(a) IN GENERAL.—It shall be unlawful for an employing office to intimidate, take reprisal against, or otherwise discriminate against, any covered employee because the covered employee has opposed any practice made unlawful by this Act, or because the covered employee has initiated proceedings, made a charge, or testified, assisted, or participated in any manner in a hearing or other proceeding under this Act.

(b) REMEDY.—The remedy available for a violation of subsection (a) shall be such legal or equitable remedy as would be appropriate.

PART B—PUBLIC SERVICES AND ACCOMMODATIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990

SEC. 210. RIGHTS AND PROTECTIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990 RELATING TO PUBLIC SERVICES AND ACCOMMODATIONS; PROCEDURES FOR REMEDY OF VIOLATIONS.

(a) ENTITIES SUBJECT TO THIS SECTION.—The requirements of this section shall apply to—

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician;

(9) the Office of Compliance; and

(10) the Office of Technology Assessment.

(b) DISCRIMINATION IN PUBLIC SERVICES AND ACCOMMODATIONS.—

(1) RIGHTS AND PROTECTIONS.—The rights and protections against discrimination in the provision of public services and accommodations established by sections 201 through 230, 302, 303, and 309 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131–12150, 12182, 12183, and 12189) shall apply to the entities listed in subsection (a).

(2) DEFINITIONS.—For purposes of the application of title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.) under this section, the term ''public entity'' means any entity listed in subsection (a) that provides public services, programs, or activities.

(c) REMEDY.—The remedy for a violation of subsection (b) shall be such remedy as would be appropriate if awarded under section 203 or 308(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12133, 12188(a)), except that, with respect to any claim of employment discrimination asserted by any covered employee, the exclusive remedy shall be under section 201 of this title.

(d) AVAILABLE PROCEDURES.—

(1) CHARGE FILED WITH GENERAL COUNSEL.—A qualified individual with a disability, as defined in section 201(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131(2)), who alleges a violation of subsection (b) by an entity listed in subsection (a), may file a charge against any entity responsible for correcting the violation with the General Counsel within 180 days of the occurrence of the alleged violation. The General Counsel shall investigate the charge.

(2) MEDIATION.—If, upon investigation under paragraph (1), the General Counsel believes that a violation of subsection (b) may have occurred and that mediation may be helpful in resolving the dispute, the General Counsel may request, but not participate in, mediation under section 403 between the charging individual and any entity responsible for correcting the alleged violation.

(3) COMPLAINT, HEARING, BOARD REVIEW.—If mediation under paragraph (2) has not succeeded in resolving the dispute, and if the General Counsel believes that a violation of subsection (b) may have occurred, the General Counsel may file with the Office a complaint against any entity responsible for correcting the violation. The complaint shall be submitted to a hearing officer for decision pursuant to section 405 and any person who has filed a charge under paragraph (1) may intervene as of right, with the full rights of a party. The decision of the hearing officer shall be subject to review by the Board pursuant to section 406.

(4) JUDICIAL REVIEW.—A charging individual who has intervened under paragraph (3) or any respondent to the complaint, if aggrieved by a final decision of the Board under paragraph (3), may file a petition for review in the United States Court of Appeals for the Federal Circuit, pursuant to section 407.

(e) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(f) PERIODIC INSPECTIONS; REPORT TO CONGRESS; INITIAL STUDY.—

(1) PERIODIC INSPECTIONS.—On a regular basis, and at least once each Congress, the General Counsel shall inspect the facilities of the entities listed in subsection (a) to ensure compliance with subsection (b).

(2) REPORT.—On the basis of each periodic inspection, the General Counsel shall, at least once every Congress, prepare and submit a report—

(A) to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Architect of the Capitol, and to the entity responsible, as determined under regulations issued by the Board under section 304 of this Act, for correcting the violation of this section uncovered by such inspection, and

(B) containing the results of the periodic inspection, describing any steps necessary to correct any violation of this section, assessing any limitations in accessibility to and usability by individuals with disabilities associated with each violation, and the estimated cost and time needed for abatement.

(3) INITIAL PERIOD FOR STUDY AND CORRECTIVE ACTION.—The period from the date of the enactment of this Act until December 31, 1996, shall be available to the Office of the Architect of the Capitol and other entities subject to this section to identify any violations of subsection (b), to determine the costs of compliance, and to take any necessary corrective action to abate any violations. The Office shall assist the Office of the Architect of the Capitol and other entities listed in subsection (a) by arranging for inspections and other technical assistance at their request. Prior to July 1, 1996, the General Counsel shall conduct a thorough inspection under paragraph (1) and shall submit the report under paragraph (2) for the 104th Congress.

(4) DETAILED PERSONNEL.—The Attorney General, the Secretary of Transportation, and the Architectural and Transportation Barriers Compliance Board may, on request of the Executive Director, detail to the Office such personnel as may be necessary to advise and assist the Office in carrying out its duties under this section.

(g) APPLICATION OF AMERICANS WITH DISABILITIES ACT OF 1990 TO THE PROVISION OF PUBLIC SERVICES AND ACCOMMODATIONS BY THE GENERAL ACCOUNTING OFFICE, THE GOVERNMENT PRINTING OFFICE, AND THE LIBRARY OF CONGRESS.—Section 509 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12209)), as amended by section 201(c) of this Act, is amended by adding the following new paragraph:

''(6) ENFORCEMENT OF RIGHTS TO PUBLIC SERVICES AND ACCOMMODATIONS.—The remedies and procedures set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) shall be available to any qualified person with a disability who is a visitor, guest, or patron of an instrumentality of Congress and who alleges a violation of the rights and protections under sections 201 through 230 or section 302 or 303 of this Act that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of the instrumentality of the Congress.''.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsections (b), (c), and (d) shall be effective on January 1, 1997.

(2) GENERAL ACCOUNTING OFFICE, GOVERNMENT PRINTING OFFICE, AND LIBRARY OF CONGRESS.—Subsection (g) shall be effective 1 year after transmission to the Congress of the study under section 230.

PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

SEC. 215. RIGHTS AND PROTECTIONS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970; PROCEDURES FOR REMEDY OF VIOLATIONS.

(a) OCCUPATIONAL SAFETY AND HEALTH PROTECTIONS.—

(1) IN GENERAL.—Each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654).

(2) DEFINITIONS.—For purposes of the application under this section of the Occupational Safety and Health Act of 1970—

(A) the term ''employer'' as used in such Act means an employing office;

(B) the term ''employee'' as used in such Act means a covered employee;

(C) the term ''employing office'' includes the General Accounting Office and the Library of Congress; and

(D) the term ''employee'' includes employees of the General Accounting Office and the Library of Congress.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be an order to correct the violation, including such order as would be appropriate if issued under section 13(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 662(a)).

(c) PROCEDURES.—

(1) REQUESTS FOR INSPECTIONS.—Upon written request of any employing office or covered employee, the General Counsel shall exercise the authorities granted to the Secretary of Labor by subsections (a) and (f) of section 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657(a) and (f)) to inspect and investigate places of employment under the jurisdiction of employing offices.

(2) CITATIONS, NOTICES, AND NOTIFICATIONS.—For purposes of this section, the General Counsel shall exercise the authorities granted to the Secretary of Labor in sections 9 and 10 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 658 and 659), to issue—

(A) a citation or notice to any employing office responsible for correcting a violation of subsection (a), as determined appropriate by the General Counsel pursuant to regulations issued by the Board pursuant to section 304; or

(B) a notification to any employing office that the General Counsel believes has failed to correct a violation for which a citation has been issued within the period permitted for its correction.

(3) HEARINGS AND REVIEW.—If after issuing a citation or notification, the General Counsel determines that a violation has not been corrected, the General Counsel may file a complaint with the Office against the employing office named in the citation or notification. The complaint shall be submitted to a hearing officer for decision pursuant to section 405, subject to review by the Board pursuant to section 406.

(4) VARIANCE PROCEDURES.—An employing office may request from the Board an order granting a variance from a standard made applicable by this section. For the purposes of this section, the Board shall exercise the authorities granted to the Secretary of Labor in section 6(b)(6) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)(6)) to act on any employing office's request for a variance. The Board shall refer the matter to a hearing officer pursuant to section 405, subject to review by the Board pursuant to section 406.

(5) JUDICIAL REVIEW.—The General Counsel or employing office aggrieved by a final decision of the Board under paragraph (3) or (4), may file a petition for review with the United States Court of Appeals for the Federal Circuit pursuant to section 407.

(6) COMPLIANCE DATE.—If a citation of a violation under this section is received and new appropriated funds are necessary to abate the violation, abatement shall take place as soon as possible, but no later than the fiscal year following the fiscal year in which the citation is issued.

(d) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(e) PERIODIC INSPECTIONS; REPORT TO CONGRESS.—

(1) PERIODIC INSPECTIONS.—On a regular basis, and at least once each Congress, the General Counsel shall conduct periodic inspections of all facilities of the House of Representatives, the Senate, the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment to report on compliance with subsection (a).

(2) REPORT.—On the basis of each periodic inspection, the General Counsel shall prepare and submit a report—

(A) to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Office of the Architect of the Capitol or other employing office responsible, as determined under regulations issued by the Board under section 304 of this Act, for correcting the violation of this section uncovered by such inspection, and

(B) containing the results of the periodic inspection, identifying the employing office responsible for correcting the violation of this section uncovered by such inspection, describing any steps necessary to correct any violation of this section, and assessing any risks to employee health and safety associated with any violation.

(3) ACTION AFTER REPORT.—If a report identifies any violation of this section, the General Counsel shall issue a citation or notice in accordance with subsection (c)(2)(A).

(4) DETAILED PERSONNEL.—The Secretary of Labor may, on request of the Executive Director, detail to the Office such personnel as may be necessary to advise and assist the Office in carrying out its duties under this section.

(f) INITIAL PERIOD FOR STUDY AND CORRECTIVE ACTION.—The period from the date of the enactment of this Act until December 31, 1996, shall be available to the Office of the Architect of the Capitol and other employing offices to identify any violations of subsection (a), to determine the costs of compliance, and to take any necessary corrective action to abate any violations. The Office shall assist the Office of the Architect of the Capitol and other employing offices by arranging for inspections and other technical assistance at their request. Prior to July 1, 1996, the General Counsel shall conduct a thorough inspection under subsection (e)(1) and shall submit the report under subsection (e)(2) for the 104th Congress.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a), (b), (c), and (e)(3) shall be effective on January 1, 1997.

(2) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission to the Congress of the study under section 230.

PART D—LABOR-MANAGEMENT RELATIONS

SEC. 220. APPLICATION OF CHAPTER 71 OF TITLE 5, UNITED STATES CODE, RELATING TO FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS; PROCEDURES FOR REMEDY OF VIOLATIONS.

(a) LABOR-MANAGEMENT RIGHTS.—

(1) IN GENERAL.—Subject to subsection (d), the rights, protections, and responsibilities established under sections 7102, 7106, 7111 through 7117, 7119 through 7122, and 7131 of title 5, United States Code, shall apply to employing offices and to covered employees and representatives of those employees.

(2) DEFINITION.—For purposes of the application under this section of the sections referred to in paragraph (1), the term ''agency'' shall be deemed to include an employing office.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy, including a remedy under section 7118(a)(7) of title 5, United States Code, as would be appropriate if awarded by the Federal Labor Relations Authority to remedy a violation of any provision made applicable by subsection (a).

(c) AUTHORITIES AND PROCEDURES FOR IMPLEMENTATION AND ENFORCEMENT.—

(1) GENERAL AUTHORITIES OF THE BOARD; PETITIONS.—For purposes of this section and except as otherwise provided in this section, the Board shall exercise the authorities of the Federal Labor Relations Authority under sections 7105, 7111, 7112, 7113, 7115, 7117, 7118, and 7122 of title 5, United States Code, and of the President under section 7103(b) of title 5, United States Code. For purposes of this section, any petition or other submission that, under chapter 71 of title 5, United States Code, would be submitted to the Federal Labor Relations Authority shall, if brought under this section, be submitted to the Board. The Board shall refer any matter under this paragraph to a hearing officer for decision pursuant to section 405, subject to review by the Board pursuant to section 406. The Board may direct that the General Counsel carry out the Board's investigative authorities under this paragraph.

(2) GENERAL AUTHORITIES OF THE GENERAL COUNSEL; CHARGES OF UNFAIR LABOR PRACTICE.—For purposes of this section and except as otherwise provided in this section, the General Counsel shall exercise the authorities of the General Counsel of the Federal Labor Relations Authority under sections 7104 and 7118 of title 5, United States Code. For purposes of this section, any

charge or other submission that, under chapter 71 of title 5, United States Code, would be submitted to the General Counsel of the Federal Labor Relations Authority shall, if brought under this section, be submitted to the General Counsel. If any person charges an employing office or a labor organization with having engaged in or engaging in an unfair labor practice and makes such charge within 180 days of the occurrence of the alleged unfair labor practice, the General Counsel shall investigate the charge and may file a complaint with the Office. The complaint shall be submitted to a hearing officer for decision pursuant to section 405, subject to review by the Board pursuant to section 406.

(3) JUDICIAL REVIEW.—Except for matters referred to in paragraphs (1) and (2) of section 7123(a) of title 5, United States Code, the General Counsel or the respondent to the complaint, if aggrieved by a final decision of the Board under paragraphs (1) and (2) of this subsection may file a petition for judicial review in the United States Court of Appeals for the Federal Circuit pursuant to section 407.

(4) EXERCISE OF IMPASSES PANEL AUTHORITY; REQUESTS.—For purposes of this section and except as otherwise provided in this section, the Board shall exercise the authorities of the Federal Service Impasses Panel under section 7119 of title 5, United States Code. For purposes of this section, any request that, under chapter 71 of title 5, United States Code, would be presented to the Federal Service Impasses Panel shall, if made under this section, be presented to the Board. At the request of the Board, the Executive Director shall appoint a mediator or mediators to perform the functions of the Federal Service Impasses Panel under section 7119 of title 5, United States Code.

(c) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—Except as provided in subsection (d), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Federal Labor Relations Authority to implement the statutory provisions referred to in subsection (a) except—

(A) to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; or

(B) as the Board deems necessary to avoid a conflict of interest or appearance of a conflict of interest.

(d) SPECIFIC REGULATIONS REGARDING APPLICATION TO CERTAIN OFFICES OF CONGRESS.—

(1) REGULATIONS REQUIRED.—The Board shall issue regulations pursuant to section 304 on the manner and extent to which the requirements and exemptions of chapter 71 of title 5, United States Code, should apply to covered employees who are employed in the offices listed in paragraph (2). The regulations shall, to the greatest extent practicable, be consistent with the provisions and purposes of chapter 71 of title 5, United States Code and of this Act, and shall be the same as substantive regulations issued by the Federal Labor Relations Authority under such chapter, except—

(A) to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

(B) that the Board shall exclude from coverage under this section any covered employees who are employed in offices listed in paragraph (2) if the Board determines that such exclusion is required because of—

(i) a conflict of interest or appearance of a conflict of interest; or

(ii) Congress's constitutional responsibilities.

(2) OFFICES REFERRED TO.—The offices referred to in paragraph (1) include—

(A) the personal office of any Member of the House of Representatives or of any Senator;

(B) a standing, select, special, permanent, temporary, or other committee of the Senate or House of Representatives, or a joint committee of Congress;

(C) the Office of the Vice President (as President of the Senate), the Office of the President pro tempore of the Senate, the Office of the Majority Leader of the Senate, the Office of the Minority Leader of the Senate, the Office of the Majority Whip of the Senate, the Office of the Minority Whip of the Senate, the Conference of the Majority of the Senate, the Conference of the Minority of the Senate, the Office of the Secretary of the Conference of the Majority of the Senate, the Office of the Secretary of the Conference of the Minority of the Senate, the Office of the Secretary for the Majority of the Senate, the Office of the Secretary for the Minority of the Senate, the Majority Policy Committee of the Senate, the Minority Policy Committee of the Senate, and the following offices within the Office of the Secretary of the Senate: Offices of the Parliamentarian, Bill Clerk, Legislative Clerk, Journal Clerk, Executive Clerk, Enrolling Clerk, Official Reporters of Debate, Daily Digest, Printing Services, Captioning Services, and Senate Chief Counsel for Employment;

(D) the Office of the Speaker of the House of Representatives, the Office of the Majority Leader of the House of Representatives, the Office of the Minority Leader of the House of Representatives, the Offices of the Chief Deputy Majority Whips, the Offices of the Chief Deputy Minority Whips and the following offices within the Office of the Clerk of the House of Representatives: Offices of Legislative Operations, Official Reporters of Debate, Official Reporters to Committees, Printing Services, and Legislative Information;

(E) the Office of the Legislative Counsel of the Senate, the Office of the Senate Legal Counsel, the Office of the Legislative Counsel of the House of Representatives, the Office of the General Counsel of the House of Representatives, the Office of the Parliamentarian of the House of Representatives, and the Office of the Law Revision Counsel;

(F) the offices of any caucus or party organization;

(G) the Congressional Budget Office, the Office of Technology Assessment, and the Office of Compliance; and

(H) such other offices that perform comparable functions which are identified under regulations of the Board.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall be effective on October 1, 1996.

(2) CERTAIN OFFICES.—With respect to the offices listed in subsection (d)(2), to the covered employees of such offices, and to representatives of such employees, subsections (a) and (b) shall be effective on the effective date of regulations under subsection (d).

PART E—GENERAL

SEC. 225. GENERALLY APPLICABLE REMEDIES AND LIMITATIONS.

(a) ATTORNEY'S FEES.—If a covered employee, with respect to any claim under this Act, or a qualified person with a disability, with respect to any claim under section 210, is a prevailing party in any proceeding under section 405, 406, 407, or 408, the hearing officer, Board, or court, as the case may be, may award attorney's fees, expert witness fees, and any other costs as would be appropriate if awarded under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(k)).

(b) INTEREST.—In any proceeding under section 405, 406, 407, or 408, the same interest to compensate for delay in payment shall be made available as would be appropriate if awarded under section 717(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(d)).

(c) CIVIL PENALTIES AND PUNITIVE DAMAGES.—No civil penalty or punitive damages may be awarded with respect to any claim under this Act.

(d) EXCLUSIVE PROCEDURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), no person may commence an administrative or judicial proceeding to seek a remedy for the rights and protections afforded by this Act except as provided in this Act.

(2) VETERANS.—A covered employee under section 206 may also utilize any provisions of chapter 43 of title 38, United States Code, that are applicable to that employee.

(e) SCOPE OF REMEDY.—Only a covered employee who has undertaken and completed the procedures described in sections 402 and 403 may be granted a remedy under part A of this title.

(f) CONSTRUCTION.—

(1) DEFINITIONS AND EXEMPTIONS.—Except where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions in the laws made applicable by this Act shall apply under this Act.

(2) SIZE LIMITATIONS.—Notwithstanding paragraph (1), provisions in the laws made applicable under this Act (other than the Worker Adjustment and Retraining Notification Act) determining coverage based on size, whether expressed in terms of numbers of employees, amount of business transacted, or other measure, shall not apply in determining coverage under this Act.

(3) EXECUTIVE BRANCH ENFORCEMENT.—This Act shall not be construed to authorize enforcement by the executive branch of this Act.

PART F—STUDY

SEC. 230. STUDY AND RECOMMENDATIONS REGARDING GENERAL ACCOUNTING OFFICE, GOVERNMENT PRINTING OFFICE, AND LIBRARY OF CONGRESS.

(a) IN GENERAL.—The Administrative Conference of the United States shall undertake a study of—

(1) the application of the laws listed in subsection (b) to—

(A) the General Accounting Office;

(B) the Government Printing Office; and

(C) the Library of Congress; and

(2) the regulations and procedures used by the entities referred to in paragraph (1) to apply and enforce such laws to themselves and their employees.

(b) APPLICABLE STATUTES.—The study under this section shall consider the application of the following laws:

(1) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), and related provisions of section 2302 of title 5, United States Code.

(2) The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), and related provisions of section 2302 of title 5, United States Code.

(3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and related provisions of section 2302 of title 5, United States Code.

(4) The Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.), and related provisions of sections 6381 through 6387 of title 5, United States Code.

(5) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), and related provisions of sections 5541 through 5550a of title 5, United States Code.

(6) The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), and related provisions of section 7902 of title 5, United States Code.

(7) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(8) Chapter 71 (relating to Federal service labor-management relations) of title 5, United States Code.

(9) The General Accounting Office Personnel Act of 1980 (31 U.S.C. 731 et seq.).

(10) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.).

(11) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.).

(12) Chapter 43 (relating to veterans' employment and reemployment) of title 38, United States Code.

(c) CONTENTS OF STUDY AND RECOMMENDATIONS.—The study under this section shall evaluate whether the rights, protections, and procedures, including administrative and judicial relief, applicable to the entities listed in paragraph (1) of subsection (a) and their employees are comprehensive and effective and shall include recommendations for any improvements in regulations or legislation, including proposed regulatory or legislative language.

(d) DEADLINE AND DELIVERY OF STUDY.—Not later than 2 years after the date of the enactment of this Act—

(1) the Administrative Conference of the United States shall prepare and complete the study and recommendations required under this section and shall submit the study and recommendations to the Board; and

(2) the Board shall transmit such study and recommendations (with the Board's comments) to the head of each entity considered in the study, and to the Congress by delivery to the Speaker of the House of Representatives and President pro tempore of the Senate for referral to the appropriate committees of the House of Representatives and of the Senate.

TITLE III—OFFICE OF COMPLIANCE

SEC. 301. ESTABLISHMENT OF OFFICE OF COMPLIANCE.

(a) ESTABLISHMENT.—There is established, as an independent office within the legislative branch of the Federal Government, the Office of Compliance.

(b) BOARD OF DIRECTORS.—The Office shall have a Board of Directors. The Board shall consist of 5 individuals appointed jointly by the Speaker of the House of Representatives, the Majority Leader of the Senate, and the Minority Leaders of the House of Representatives and the Senate. Appointments of the first 5 members of the Board shall be completed not later than 90 days after the date of the enactment of this Act.

(c) CHAIR.—The Chair shall be appointed from members of the Board jointly by the Speaker of the House of Representatives, the Majority Leader of the Senate, and the Minority Leaders of the House of Representatives and the Senate.

(d) BOARD OF DIRECTORS QUALIFICATIONS.—

(1) SPECIFIC QUALIFICATIONS.—Selection and appointment of members of the Board shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. Members of the Board shall have training or experience in the application of the rights, protections, and remedies under one or more of the laws made applicable under section 102.

(2) DISQUALIFICATIONS FOR APPOINTMENTS.—

(A) LOBBYING.—No individual who engages in, or is otherwise employed in, lobbying of the Congress and who is required under the Federal Regulation of Lobbying Act to register with the Clerk of the House of Representatives or the Secretary of the Senate shall be eligible for appointment to, or service on, the Board.

(B) INCOMPATIBLE OFFICE.—No member of the Board appointed under subsection (b) may hold or may have held the position of Member of the House of Representatives or Senator, may hold the position of officer or employee of the House of Representatives, Senate, or instrumentality or other entity of the legislative branch, or may have held such a position (other than the position of an officer or employee of the General Accounting Office Personnel Appeals Board, an officer or employee of the Office of Fair Employment Practices of the House of Representatives, or officer or employee of the Office of Fair Employment Practices of the Senate) within 4 years of the date of appointment.

(3) VACANCIES.—A vacancy on the Board shall be filled in the manner in which the original appointment was made.

(e) TERM OF OFFICE.—

(1) IN GENERAL.—Except as provided in paragraph (2), membership on the Board shall be for 5 years. A member of the Board who is appointed to a term of office of more than 3 years shall only be eligible for appointment for a single term of office.

(2) FIRST APPOINTMENTS.—Of the members first appointed to the Board—

(A) 1 shall have a term of office of 3 years,

(B) 2 shall have a term of office of 4 years, and

(C) 2 shall have a term of office of 5 years, 1 of whom shall be the Chair,

as designated at the time of appointment by the persons specified in subsection (b).

(f) REMOVAL.—

(1) AUTHORITY.—Any member of the Board may be removed from office by a majority decision of the appointing authorities described in subsection (b), but only for—

(A) disability that substantially prevents the member from carrying out the duties of the member,

(B) incompetence,

(C) neglect of duty,

(D) malfeasance, including a felony or conduct involving moral turpitude, or

(E) holding an office or employment or engaging in an activity that disqualifies the individual from service as a member of the Board under subsection (d)(2).

(2) STATEMENT OF REASONS FOR REMOVAL.—In removing a member of the Board, the Speaker of the House of Representatives and the President pro tempore of the Senate shall state in writing to the member of the Board being removed the specific reasons for the removal.

(g) COMPENSATION.—

(1) PER DIEM.—Each member of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. The rate of pay of a member may be prorated based on the portion of the day during which the member is engaged in the performance of Board duties.

(2) TRAVEL EXPENSES.—Each member of the Board shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(h) DUTIES.—The Office shall—

(1) carry out a program of education for Members of Congress and other employing authorities of the legislative branch of the Federal Government respecting the laws made applicable to them and a program to inform individuals of their rights under laws applicable to the legislative branch of the Federal Government;

(2) in carrying out the program under paragraph (1), distribute the telephone number and address of the Office, procedures for action under title IV, and any other information appropriate for distribution, distribute such information to employing offices in a manner suitable for posting, provide such information to new employees of employing offices, distribute such information to the residences of covered employees, and conduct seminars and other activities designed to educate employing offices and covered employees; and

(3) compile and publish statistics on the use of the Office by covered employees, including the number and type of contacts made with the Office, on the reason for such contacts, on the number of covered employees who initiated proceedings with the Office under this Act and the result of such proceedings, and on the number of covered employees who filed a complaint, the basis for the complaint, and the action taken on the complaint.

(i) CONGRESSIONAL OVERSIGHT.—The Board and the Office shall be subject to oversight (except with respect to the disposition of individual cases) by the Committee on Rules and Administration and the Committee on Governmental Affairs of the Senate and the Committee on House Oversight of the House of Representatives.

(j) OPENING OF OFFICE.—The Office shall be open for business, including receipt of requests for counseling under section 402, not later than 1 year after the date of the enactment of this Act.

(k) FINANCIAL DISCLOSURE REPORTS.—Members of the Board and officers and employees of the Office shall file the financial disclosure reports required under title I of the Ethics in Government Act of 1978 with the Clerk of the House of Representatives.

SEC. 302. OFFICERS, STAFF, AND OTHER PERSONNEL.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT AND REMOVAL.—

(A) IN GENERAL.—The Chair, subject to the approval of the Board, shall appoint and may remove an Executive Director. Selection and appointment of the Executive Director shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. The first Executive Director shall be appointed no later than 90 days after the initial appointment of the Board of Directors.

(B) QUALIFICATIONS.— The Executive Director shall be an individual with training or expertise in the application of laws referred to in section 102(a).

(C) DISQUALIFICATIONS.—The disqualifications in section 301(d)(2) shall apply to the appointment of the Executive Director.

(2) COMPENSATION.—The Chair may fix the compensation of the Executive Director. The rate of pay for the Executive Director may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(3) TERM.—The term of office of the Executive Director shall be a single term of 5 years, except that the first Executive Director shall have a single term of 7 years.

(4) DUTIES.—The Executive Director shall serve as the chief operating officer of the Office. Except as otherwise specified in this Act, the Executive Director shall carry out all of the responsibilities of the Office under this Act.

(b) DEPUTY EXECUTIVE DIRECTORS.—

(1) IN GENERAL.—The Chair, subject to the approval of the Board, shall appoint and may remove a Deputy Executive Director for the Senate and a Deputy Executive Director for the House of Representatives. Selection and appointment of a Deputy Executive Director shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the office. The disqualifications in section 301(d)(2) shall apply to the appointment of a Deputy Executive Director.

(2) TERM.—The term of office of a Deputy Executive Director shall be a single term of 5 years, except that the first Deputy Executive Directors shall have a single term of 6 years.

(3) COMPENSATION.—The Chair may fix the compensation of the Deputy Executive Directors. The rate of pay for a Deputy Executive Director may not exceed 96 percent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(4) DUTIES.—The Deputy Executive Director for the Senate shall recommend to the Board regulations under section 304(a)(2)(B)(i), maintain the regulations and all records pertaining to the regulations, and shall assume such other responsibilities as may be delegated by the Executive Director. The Deputy Executive Director for the House of Representatives shall recommend to the Board the regulations under section 304(a)(2)(B)(ii), maintain the regulations and all records pertaining to the regulations, and shall assume such other responsibilities as may be delegated by the Executive Director.

(c) GENERAL COUNSEL.—

(1) IN GENERAL.—The Chair, subject to the approval of the Board, shall appoint a General Counsel. Selection and appointment of the General Counsel shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. The disqualifications in section 301(d)(2) shall apply to the appointment of a General Counsel.

(2) COMPENSATION.—The Chair may fix the compensation of the General Counsel. The rate of pay for the General Counsel may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(3) DUTIES.—The General Counsel shall—

(A) exercise the authorities and perform the duties of the General Counsel as specified in this Act; and

(B) otherwise assist the Board and the Executive Director in carrying out their duties and powers, including representing the Office in any judicial proceeding under this Act.

(4) ATTORNEYS IN THE OFFICE OF THE GENERAL COUNSEL.—The General Counsel shall appoint, and fix the compensation of, and may remove, such additional attorneys as may be necessary to enable the General Counsel to perform the General Counsel's duties.

(5) TERM.—The term of office of the General Counsel shall be a single term of 5 years.

(6) REMOVAL.—

(A) AUTHORITY.—The General Counsel may be removed from office by the Chair but only for—

(i) disability that substantially prevents the General Counsel from carrying out the duties of the General Counsel,

(ii) incompetence,

(iii) neglect of duty,

(iv) malfeasance, including a felony or conduct involving moral turpitude, or

(v) holding an office or employment or engaging in an activity that disqualifies the individual from service as the General Counsel under paragraph (1).

(B) STATEMENT OF REASONS FOR REMOVAL.—In removing the General Counsel, the Speaker of the House of Representatives and the President pro tempore of the Senate shall state in writing to the General Counsel the specific reasons for the removal.

(d) OTHER STAFF.—The Executive Director shall appoint, and fix the compensation of, and may remove, such other additional staff, including hearing officers, but not including attorneys employed in the office of the General Counsel, as may be necessary to enable the Office to perform its duties.

(e) DETAILED PERSONNEL.—The Executive Director may, with the prior consent of the department or agency of the Federal Government concerned, use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency, including the services of members or personnel of the General Accounting Office Personnel Appeals Board.

(f) CONSULTANTS.—In carrying out the functions of the Office, the Executive Director may procure the temporary (not to exceed 1 year) or intermittent services of consultants.

SEC. 303. PROCEDURAL RULES.

(a) IN GENERAL.—The Executive Director shall, subject to the approval of the Board, adopt rules governing the procedures of the Office, including the procedures of hearing officers, which shall be submitted for publication in the Congressional Record. The rules may be amended in the same manner.

(b) PROCEDURE.—The Executive Director shall adopt rules referred to in subsection (a) in accordance with the principles and procedures set forth in section 553 of title 5, United States Code. The Executive Director shall publish a general notice of proposed rulemaking under section 553(b) of title 5, United States Code, but, instead of publication of a general notice of proposed rulemaking in the Federal Register, the Executive Director shall transmit such notice to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Before issuing rules, the Executive Director shall provide a comment period of at least 30 days after publication of a general notice of proposed rulemaking. Upon adopting rules, the Executive Director shall transmit notice of such action together with a copy of such rules to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Rules shall be considered issued by the Executive Director as of the date on which they are published in the Congressional Record.

SEC. 304. SUBSTANTIVE REGULATIONS.

(a) REGULATIONS.—

(1) IN GENERAL.—The procedures applicable to the regulations of the Board issued for the implementation of this Act, which shall include regulations the Board is required to issue under title II (including regulations on the appropriate application of exemptions under the laws made applicable in title II) are as prescribed in this section.

(2) RULEMAKING PROCEDURE.—Such regulations of the Board—

(A) shall be adopted, approved, and issued in accordance with subsection (b);

(B) shall consist of 3 separate bodies of regulations, which shall apply, respectively, to—

(i) the Senate and employees of the Senate;

(ii) the House of Representatives and employees of the House of Representatives; and

(iii) all other covered employees and employing offices.

(b) ADOPTION BY THE BOARD.—The Board shall adopt the regulations referred to in subsection (a)(1) in accordance with the principles and procedures set forth in section 553 of title 5, United States Code, and as provided in the following provisions of this subsection:

(1) PROPOSAL.—The Board shall publish a general notice of proposed rulemaking under section 553(b) of title 5, United States Code, but, instead of publication of a general notice of proposed rulemaking in the Federal Register, the Board shall transmit such notice to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Such notice shall set forth the recommendations of the Deputy Director for the Senate in regard to regulations under subsection (a)(2)(B)(i), the recommendations of the Deputy Director for the House of Representatives in regard to regulations under subsection (a)(2)(B)(ii), and the recommendations of the Executive Director for regulations under subsection (a)(2)(B)(iii).

(2) COMMENT.—Before adopting regulations, the Board shall provide a comment period of at least 30 days after publication of a general notice of proposed rulemaking.

(3) ADOPTION.—After considering comments, the Board shall adopt regulations and shall transmit notice of such action together with a copy of such regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.

(4) RECOMMENDATION AS TO METHOD OF APPROVAL.—The Board shall include a recommendation in the general notice of proposed rulemaking and in the regulations as to whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution.

(c) APPROVAL OF REGULATIONS.—

(1) IN GENERAL.—Regulations referred to in paragraph (2)(B)(i) of subsection (a) may be approved by the Senate by resolution or by the Congress by concurrent resolution or by joint resolution. Regulations referred to in paragraph (2)(B)(ii) of subsection (a) may be approved by the House of Representatives by resolution or by the Congress by concurrent resolution or by joint resolution. Regulations referred to in paragraph (2)(B)(iii) may be approved by Congress by concurrent resolution or by joint resolution.

(2) REFERRAL.—Upon receipt of a notice of adoption of regulations under subsection (b)(3), the presiding officers of the House of Representatives and the Senate shall refer such notice, together with a copy of such regulations, to the appropriate committee or committees of the House of Representatives and of the Senate. The purpose of the referral shall be to consider whether such regulations should be approved, and, if so, whether such approval should be by resolution of the House of Representatives or of the Senate, by concurrent resolution or by joint resolution.

(3) JOINT REFERRAL AND DISCHARGE IN THE SENATE.—The presiding officer of the Senate may refer the notice of issuance of regulations, or any resolution of approval of regulations, to one committee or jointly to more than one committee. If a committee of the Senate acts to report a jointly referred measure, any other committee of the Senate

must act within 30 calendar days of continuous session, or be automatically discharged.

(4) ONE-HOUSE RESOLUTION OR CONCURRENT RESOLUTION.—In the case of a resolution of the House of Representatives or the Senate or a concurrent resolution referred to in paragraph (1), the matter after the resolving clause shall be the following: ''The following regulations issued by the Office of Compliance on ___ are hereby approved:'' (the blank space being appropriately filled in, and the text of the regulations being set forth).

(5) JOINT RESOLUTION.—In the case of a joint resolution referred to in paragraph (1), the matter after the resolving clause shall be the following: ''The following regulations issued by the Office of Compliance on ___ are hereby approved and shall have the force and effect of law:'' (the blank space being appropriately filled in, and the text of the regulations being set forth).

(d) ISSUANCE AND EFFECTIVE DATE.—

(1) PUBLICATION.—After approval of regulations under subsection (c), the Board shall submit the regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.

(2) DATE OF ISSUANCE.—The date of issuance of regulations shall be the date on which they are published in the Congressional Record.

(3) EFFECTIVE DATE.—Regulations shall become effective not less than 60 days after the regulations are issued, except that the Board may provide for an earlier effective date for good cause found (within the meaning of section 553(d)(3) of title 5, United States Code) and published with the regulation.

(e) AMENDMENT OF REGULATIONS.—Regulations may be amended in the same manner as is described in this section for the adoption, approval, and issuance of regulations, except that the Board may, in its discretion, dispense with publication of a general notice of proposed rulemaking of minor, technical, or urgent amendments that satisfy the criteria for dispensing with publication of such notice pursuant to section 553(b)(B) of title 5, United States Code.

(f) RIGHT TO PETITION FOR RULEMAKING.—Any interested party may petition to the Board for the issuance, amendment, or repeal of a regulation.

(g) CONSULTATION.—The Executive Director, the Deputy Directors, and the Board—

(1) shall consult, with regard to the development of regulations, with—

(A) the Chair of the Administrative Conference of the United States;

(B) the Secretary of Labor;

(C) the Federal Labor Relations Authority; and

(D) the Director of the Office of Personnel Management; and

(2) may consult with any other persons with whom consultation, in the opinion of the Board, the Executive Director, or Deputy Directors, may be helpful.

SEC. 305. EXPENSES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Beginning in fiscal year 1995, and for each fiscal year thereafter, there are authorized to be appropriated for the expenses of the Office such sums as may be necessary to carry out the functions of the Office. Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding 12 months following the date of the enactment of this Act—

(1) one-half of the expenses of the Office shall be paid from funds appropriated for allowances and expenses of the House of Representatives, and

(2) one-half of the expenses of the Office shall be paid from funds appropriated for allowances and expenses of the Senate,

upon vouchers approved by the Executive Director.

(b) WITNESS FEES AND ALLOWANCES.—Except for covered employees, witnesses before a hearing officer or the Board in any proceeding under this Act other than rulemaking shall be paid the same fee and mileage allowances as are paid subpoenaed witnesses in the courts of the United States. Covered employees who are summoned, or are assigned by their employer, to testify in their official capacity or to produce official records in any proceeding under this Act shall be entitled to travel expenses under subchapter I and section 5751 of chapter 57 of title 5, United States Code.

TITLE IV—ADMINISTRATIVE AND JUDICIAL DISPUTE-RESOLUTION PROCEDURES

SEC. 401. PROCEDURE FOR CONSIDERATION OF ALLEGED VIOLATIONS.

Except as otherwise provided, the procedure for consideration of alleged violations of part A of title II consists of—

(1) counseling as provided in section 402;

(2) mediation as provided in section 403; and

(3) election, as provided in section 404, of either—

(A) a formal complaint and hearing as provided in section 405, subject to Board review as provided in section 406, and judicial review in the United States Court of Appeals for the Federal Circuit as provided in section 407, or

(B) a civil action in a district court of the United States as provided in section 408.

In the case of an employee of the Office of the Architect of the Capitol or of the Capitol Police, the Executive Director, after receiving a request for counseling under section 402, may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police for resolution of the employee's grievance for a specific period of time, which shall not count against the time available for counseling or mediation.

SEC. 402. COUNSELING.

(a) IN GENERAL.—To commence a proceeding, a covered employee alleging a violation of a law made applicable under part A of title II shall request counseling by the Office. The Office shall provide the employee with all relevant information with respect to the rights of the employee. A request for counseling shall be made not later than 180 days after the date of the alleged violation.

(b) PERIOD OF COUNSELING.—The period for counseling shall be 30 days unless the employee and the Office agree to reduce the period. The period shall begin on the date the request for counseling is received.

(c) NOTIFICATION OF END OF COUNSELING PERIOD.—The Office shall notify the employee in writing when the counseling period has ended.

SEC. 403. MEDIATION.

(a) INITIATION.—Not later than 15 days after the end of the counseling period under section 402, but prior to and as a condition of making an election under section 404, the covered employee who alleged a violation of a law shall file a request for mediation with the Office.

(b) PROCESS.—Mediation under this section—

(1) may include the Office, the covered employee, the employing office, and one or more individuals appointed by the Executive Director after considering recommendations by organizations composed primarily of individuals experienced in adjudicating or arbitrating personnel matters, and

(2) shall involve meetings with the parties separately or jointly for the purpose of resolving the dispute between the covered employee and the employing office.

(c) MEDIATION PERIOD.—The mediation period shall be 30 days beginning on the date the request for mediation is received. The mediation period may be extended for additional periods at the joint request of the covered employee and the employing office. The Office shall notify in writing the covered employee and the employing office when the mediation period has ended.

(d) INDEPENDENCE OF MEDIATION PROCESS.—No individual, who is appointed by the Executive Director to mediate, may conduct or aid in a hearing conducted under section 405 with respect to the same matter or shall be subject to subpoena or any other compulsory process with respect to the same matter.

SEC. 404. ELECTION OF PROCEEDING.

Not later than 90 days after a covered employee receives notice of the end of the period of mediation, but no sooner than 30 days after receipt of such notification, such covered employee may either—

(1) file a complaint with the Office in accordance with section 405, or

(2) file a civil action in accordance with section 408 in the United States district court for the district in which the employee is employed or for the District of Columbia.

SEC. 405. COMPLAINT AND HEARING.

(a) IN GENERAL.—A covered employee may, upon the completion of mediation under section 403, file a complaint with the Office. The respondent to the complaint shall be the employing office—

(1) involved in the violation, or

(2) in which the violation is alleged to have occurred,

and about which mediation was conducted.

(b) DISMISSAL.—A hearing officer may dismiss any claim that the hearing officer finds to be frivolous or that fails to state a claim upon which relief may be granted.

(c) HEARING OFFICER.—

(1) APPOINTMENT.—Upon the filing of a complaint, the Executive Director shall appoint an independent hearing officer to consider the complaint and render a decision. No Member of the House of Representatives, Senator, officer of either the House of Representatives or the Senate, head of an employing office, member of the Board, or covered employee may be appointed to be a hearing officer. The Executive Director shall select hearing officers on a rotational or random basis from the lists developed under paragraph (2). Nothing in this section shall prevent the appointment of hearing officers as full-time employees of the Office or the selection of hearing officers on the basis of specialized expertise needed for particular matters.

(2) LISTS.—The Executive Director shall develop master lists, composed of—

(A) members of the bar of a State or the District of Columbia and retired judges of the United States courts who are experienced in adjudicating or arbitrating the kinds of personnel and other matters for which hearings may be held under this Act, and

(B) individuals expert in technical matters relating to accessibility and usability by persons with disabilities or technical matters relating to occupational safety and health.

In developing lists, the Executive Director shall consider candidates recommended by the Federal Mediation and Conciliation Service or the Administrative Conference of the United States.

(d) HEARING.—Unless a complaint is dismissed before a hearing, a hearing shall be—

(1) conducted in closed session on the record by the hearing officer;

(2) commenced no later than 60 days after filing of the complaint under subsection (b), except that the Office may, for good cause, extend up to an additional 30 days the time for commencing a hearing; and

(3) conducted, except as specifically provided in this Act and to the greatest extent practicable, in accordance with the principles and procedures set forth in sections 554 through 557 of title 5, United States Code.

(e) DISCOVERY.—Reasonable prehearing discovery may be permitted at the discretion of the hearing officer.

(f) SUBPOENAS.—

(1) IN GENERAL.—At the request of a party, a hearing officer may issue subpoenas for the attendance of witnesses and for the production of correspondence, books, papers, documents, and other records. The attendance of witnesses and the production of records may be required from any place within the United States. Subpoenas shall be served in the manner provided under rule 45(b) of the Federal Rules of Civil Procedure.

(2) OBJECTIONS.—If a person refuses, on the basis of relevance, privilege, or other objection, to testify in response to a question or to produce records in connection with a proceeding before a hearing officer, the hearing officer shall rule on the objection. At the request of the witness or any party, the hearing officer shall (or on the hearing officer's own initiative, the hearing officer may) refer the ruling to the Board for review.

(3) ENFORCEMENT.—

(A) IN GENERAL.—If a person fails to comply with a subpoena, the Board may authorize the General Counsel to apply, in the name of the Office, to an appropriate United States district court for an order requiring that person to appear before the hearing officer to give testimony or produce records. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey a lawful order of the district court issued pursuant to this section may be held by such court to be a civil contempt thereof.

(B) SERVICE OF PROCESS.—Process in an action or contempt proceeding pursuant to subparagraph (A) may be served in any judicial district in which the person refusing or failing to comply, or threatening to refuse or not to comply, resides, transacts business, or may be found, and subpoenas for witnesses who are required to attend such proceedings may run into any other district.

(g) DECISION.—The hearing officer shall issue a written decision as expeditiously as possible, but in no case more than 90 days after the conclusion of the hearing. The written decision shall be transmitted by the Office to the parties. The decision shall state the issues raised in the complaint, describe the evidence in the record, contain findings of fact and conclusions of law, contain a determination of whether a violation has occurred, and order such remedies as are appropriate pursuant to title II. The decision shall be entered in the records of the Office. If a decision is not appealed under section 406 to the Board, the decision shall be considered the final decision of the Office.

(h) PRECEDENTS.—A hearing officer who conducts a hearing under this section shall be guided by judicial decisions under the laws made applicable by section 102 and by Board decisions under this Act.

SEC. 406. APPEAL TO THE BOARD.

(a) IN GENERAL.—Any party aggrieved by the decision of a hearing officer under section 405(g) may file a petition for review by the Board not later than 30 days after entry of the decision in the records of the Office.

(b) PARTIES' OPPORTUNITY TO SUBMIT ARGUMENT.—The parties to the hearing upon which the decision of the hearing officer was made shall have a reasonable opportunity to be heard, through written submission and, in the discretion of the Board, through oral argument.

(c) STANDARD OF REVIEW.—The Board shall set aside a decision of a hearing officer if the Board determines that the decision was—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

(d) RECORD.—In making determinations under subsection (c), the Board shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(e) DECISION.—The Board shall issue a written decision setting forth the reasons for its decision. The decision may affirm, reverse, or remand to the hearing officer for further proceedings. A decision that does not require further proceedings before a hearing officer shall be entered in the records of the Office as a final decision.

SEC. 407. JUDICIAL REVIEW OF BOARD DECISIONS AND ENFORCEMENT.

(a) JURISDICTION.—

(1) JUDICIAL REVIEW.—The United States Court of Appeals for the Federal Circuit shall have jurisdiction over any proceeding commenced by a petition of—

(A) a party aggrieved by a final decision of the Board under section 406(e) in cases arising under part A of title II,

(B) a charging individual or a respondent before the Board who files a petition under section 210(d)(4),

(C) the General Counsel or a respondent before the Board who files a petition under section 215(c)(5), or

(D) the General Counsel or a respondent before the Board who files a petition under section 220(c)(3).

The court of appeals shall have exclusive jurisdiction to set aside, suspend (in whole or in part), to determine the validity of, or otherwise review the decision of the Board.

(2) ENFORCEMENT.—The United States Court of Appeals for the Federal Circuit shall have jurisdiction over any petition of the General Counsel, filed in the name of the Office and at the direction of the Board, to enforce a final decision under section 405(g) or 406(e) with respect to a violation of part A, B, C, or D of title II.

(b) PROCEDURES.—

(1) RESPONDENTS.—(A) In any proceeding commenced by a petition filed under subsection (a)(1) (A) or (B), or filed by a party other than the General Counsel under subsection (a)(1) (C) or (D), the Office shall be named respondent and any party before the Board may be named respondent by filing a notice of election with the court within 30 days after service of the petition.

(B) In any proceeding commenced by a petition filed by the General Counsel under subsection (a)(1) (C) or (D), the prevailing party in the final decision entered under section 406(e) shall be named respondent, and any other party before the Board may be named respondent by filing a notice of election with the court within 30 days after service of the petition.

(C) In any proceeding commenced by a petition filed under subsection (a)(2), the party under section 405 or 406 that the General Counsel determines has failed to comply with a final decision under section 405(g) or 406(e) shall be named respondent.

(2) INTERVENTION.—Any party that participated in the proceedings before the Board under section 406 and that was not made respondent under paragraph (1) may intervene as of right.

(c) LAW APPLICABLE.—Chapter 158 of title 28, United States Code, shall apply to judicial review under paragraph (1) of subsection (a), except that—

(1) with respect to section 2344 of title 28, United States Code, service of a petition in any proceeding in which the Office is a respondent shall be on the General Counsel rather than on the Attorney General;

(2) the provisions of section 2348 of title 28, United States Code, on the authority of the Attorney General, shall not apply;

(3) the petition for review shall be filed not later than 90 days after the entry in the Office of a final decision under section 406(e); and

(4) the Office shall be an ''agency'' as that term is used in chapter 158 of title 28, United States Code.

(d) STANDARD OF REVIEW.—To the extent necessary for decision in a proceeding commenced under subsection (a)(1) and when presented, the court shall decide all relevant questions of law and interpret constitutional and statutory provisions. The court shall set aside a final decision of the Board if it is determined that the decision was—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

(e) RECORD.—In making determinations under subsection (d), the court shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

SEC. 408. CIVIL ACTION.

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction over any civil action commenced under this section by a covered employee who has completed counseling under section 402 and mediation under section 403. A civil action may be commenced by a covered employee only to seek redress for a violation for which the employee has completed counseling and mediation.

(b) PARTIES.—The defendant shall be the employing office alleged to have committed the violation, or in which the violation is alleged to have occurred.

(c) JURY TRIAL.—Any party may demand a jury trial where a jury trial would be available in an action against a private defendant under the relevant law made applicable by this Act. In any case in which a violation of section 201 is alleged, the court shall not inform the jury of the maximum amount of compensatory damages available under section 201(b)(1) or 201(b)(3).

SEC. 409. JUDICIAL REVIEW OF REGULATIONS.

In any proceeding brought under section 407 or 408 in which the application of a regulation issued under this Act is at issue, the court may review the validity of the regulation in accordance with the provisions of subparagraphs (A) through (D) of section 706(2) of title 5, United States Code, except that with respect to regulations approved by a joint resolution under section 304(c), only the provisions of section 706(2)(B) of title 5, United States Code, shall apply. If the court determines that the regulation is invalid, the court may apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provisions with respect to which the invalid regulation was issued. Except as provided in this section, the validity of regulations issued under this Act is not subject to judicial review.

SEC. 410. OTHER JUDICIAL REVIEW PROHIBITED.

Except as expressly authorized by sections 407, 408, and 409, the compliance or noncompliance with the provisions of this Act and any action taken pursuant to this Act shall not be subject to judicial review.

SEC. 411. EFFECT OF FAILURE TO ISSUE REGULATIONS.

In any proceeding under section 405, 406, 407, or 408, except a proceeding to enforce section 220 with respect to offices listed under section 220(d)(2), if the Board has not issued a regulation on a matter for which this Act requires a regulation to be issued, the hearing officer, Board, or court, as the case may be, may apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.

SEC. 412. EXPEDITED REVIEW OF CERTAIN APPEALS.

(a) IN GENERAL.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order of a court upon the constitutionality of any provision of this Act.

(b) JURISDICTION.—The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal referred to in paragraph (1), advance the appeal on the docket, and expedite the appeal to the greatest extent possible.

SEC. 413. PRIVILEGES AND IMMUNITIES.

The authorization to bring judicial proceedings under sections 407 and 408 shall not constitute a waiver of sovereign immunity for any other purpose, or of the privileges of any Senator or Member of the House of Representatives under article I, section 6, clause 1, of the Constitution, or a waiver of any power of either the Senate or the House of Representatives under the Constitution, including under article I, section 5, clause 3, or under the rules of either House relating to records and information within its jurisdiction.

SEC. 414. SETTLEMENT OF COMPLAINTS.

Any settlement entered into by the parties to a process described in section 210, 215, 220, or 401 shall be in writing and not become effective unless it is approved by the Executive Director. Nothing in this Act shall affect the power of the Senate and the House of Representatives, respectively, to establish rules governing the process by which a settlement may be entered into by such House or by any employing office of such House.

SEC. 415. PAYMENTS.

(a) AWARDS AND SETTLEMENTS.—Except as provided in subsection (c), only funds which are appropriated to an account of the Office in the Treasury of the United States for the payment of awards and settlements may be used for the payment of awards and settlements under this Act. There are authorized to be appropriated for such account such sums as may be necessary to pay such awards and settlements. Funds in the account are not available for awards and settlements involving the General Accounting Office, the Government Printing Office, or the Library of Congress.

(b) COMPLIANCE.—Except as provided in subsection (c), there are authorized to be appropriated such sums as may be necessary for administrative, personnel, and similar expenses of employing offices which are needed to comply with this Act.

(c) OSHA, ACCOMMODATION, AND ACCESS REQUIREMENTS.—Funds to correct violations of section 201(a)(3), 210, or 215 of this Act may be paid only from funds appropriated to the employing office or entity responsible for correcting such violations. There are authorized to be appropriated such sums as may be necessary for such funds.

SEC. 416. CONFIDENTIALITY.

(a) COUNSELING.—All counseling shall be strictly confidential, except that the Office and a covered employee may agree to notify the employing office of the allegations.

(b) MEDIATION.—All mediation shall be strictly confidential.

(c) HEARINGS AND DELIBERATIONS.—Except as provided in subsections (d) and (e), the hearings and deliberations of hearing officers and of the Board and of its officers and employees on complaints, charges, proposed citations, and other pleadings under this Act shall be confidential.

(d) RELEASE OF RECORDS FOR JUDICIAL ACTION.—The records of hearing officers and the Board may be made public if required for the purpose of judicial review under section 407.

(e) ACCESS BY COMMITTEES OF CONGRESS.—At the discretion of the Executive Director, the Executive Director may provide to the Committee on Standards of Official Conduct of the House of Representatives and the Select Committee on Ethics of the Senate access to the records of the hearings and decisions of the hearing officers and the Board, including all written and oral testimony in the possession of the Office. The Executive Director shall not provide such access until the Executive Director has consulted with the individual filing the complaint at issue, and until a final decision has been entered under section 405(g) or 406(e).

(f) FINAL DECISIONS.—A final decision entered under section 405(g) or 406(e) shall be made public if it is in favor of the complaining covered employee, or in favor of the charging party under section 210, or if the decision reverses a decision of a hearing officer which had been in favor of the covered employee or charging party. The Board may make public any other decision at its discretion.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. EXERCISE OF RULEMAKING POWERS.

The provisions of sections 102(b)(2) and 304(c) are enacted—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of such House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of each House.

SEC. 502. POLITICAL AFFILIATION AND PLACE OF RESIDENCE.

(a) IN GENERAL.—It shall not be a violation of any provision of section 201 to consider the—

(1) party affiliation;

(2) domicile; or

(3) political compatibility with the employing office;

of an employee referred to in subsection (b) with respect to employment decisions.

(b) DEFINITION.—For purposes of subsection (a), the term ''employee'' means—

(1) an employee on the staff of the leadership of the House of Representatives or the leadership of the Senate;

(2) an employee on the staff of a committee or subcommittee of—

(A) the House of Representatives;

(B) the Senate; or

(C) a joint committee of the Congress;

(3) an employee on the staff of a Member of the House of Representatives or on the staff of a Senator;

(4) an officer of the House of Representatives or the Senate or a congressional employee who is elected by the House of Representatives or Senate or is appointed by a Member of the House of Representatives or by a Senator (in addition an employee described in paragraph (1), (2), or (3)); or

(5) an applicant for a position that is to be occupied by an individual described in any of paragraphs (1) through (4).

SEC. 503. NONDISCRIMINATION RULES OF THE HOUSE AND SENATE.

The Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives retain full power, in accordance with the authority provided to them by the Senate and the House, with respect to the discipline of Members, officers, and employees for violating rules of the Senate and the House on nondiscrimination in employment.

SEC. 504. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CIVIL RIGHTS REMEDIES.—

(1) Sections 301 and 302 of the Government Employee Rights Act of 1991 (2 U.S.C. 1201 and 1202) are amended to read as follows:

''SEC. 301. GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.

''(a) SHORT TITLE.—This title may be cited as the 'Government Employee Rights Act of 1991'.

''(b) PURPOSE.—The purpose of this title is to provide procedures to protect the rights of certain government employees, with respect to their public employment, to be free of discrimination on the basis of race, color, religion, sex, national origin, age, or disability.

''(c) DEFINITION.—For purposes of this title, the term 'violation' means a practice that violates section 302(a) of this title.

''SEC. 302. DISCRIMINATORY PRACTICES PROHIBITED.

''(a) PRACTICES.—All personnel actions affecting the Presidential appointees described in section 303 or the State employees described in section 304 shall be made free from any discrimination based on—

''(1) race, color, religion, sex, or national origin, within the meaning of section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16);

''(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or

''(3) disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sections 102 through 104 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112–14).

''(b) REMEDIES.—The remedies referred to in sections 303(a)(1) and 304(a)—

''(1) may include, in the case of a determination that a violation of subsection (a)(1) or (a)(3) has occurred, such remedies as would be appropriate if awarded under sections 706(g), 706(k), and 717(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(g), 2000e–5(k), 2000e–16(d)), and such compensatory damages as would be appropriate if awarded under section 1977 or sections 1977A(a) and 1977A(b)(2) of the Revised Statutes (42 U.S.C. 1981 and 1981a(a) and (b)(2));

''(2) may include, in the case of a determination that a violation of subsection (a)(2) has occurred, such remedies as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)); and

''(3) may not include punitive damages.''.

(2) Sections 303 through 319, and sections 322, 324, and 325 of the Government Employee Rights Act of 1991 (2 U.S.C. 1203–1218, 1221, 1223, and 1224) are repealed, except as provided in section 506 of this Act.

(3) Sections 320 and 321 of the Government Employee Rights Act of 1991 (2 U.S.C. 1219

and 1220) are redesignated as sections 303 and 304, respectively.

(4) Sections 303 and 304 of the Government Employee Rights Act of 1991, as so redesignated, are each amended by striking ''and 307(h) of this title''.

(5) Section 1205 of the Supplemental Appropriations Act of 1993 (2 U.S.C. 1207a) is repealed, except as provided in section 506 of this Act.

(b) FAMILY AND MEDICAL LEAVE ACT OF 1993.—Title V of the Family and Medical Leave Act of 1993 (2 U.S.C. 60m et seq.) is repealed, except as provided in section 506 of this Act.

(c) ARCHITECT OF THE CAPITOL.—

(1) REPEAL.—Section 312(e) of the Architect of the Capitol Human Resources Act (Public Law 103–283; 108 Stat. 1444) is repealed, except as provided in section 506 of this Act.

(2) APPLICATION OF GENERAL ACCOUNTING OFFICE PERSONNEL ACT OF 1980.—The provisions of sections 751, 753, and 755 of title 31, United States Code, amended by section 312(e) of the Architect of the Capitol Human Resources Act, shall be applied and administered as if such section 312(e) (and the amendments made by such section) had not been enacted.

SEC. 505. JUDICIAL BRANCH COVERAGE STUDY.

The Judicial Conference of the United States shall prepare a report for submission by the Chief Justice of the United States to the Congress on the application to the judicial branch of the Federal Government of—

(1) the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.);

(2) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);

(3) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(4) the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.);

(5) the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.);

(6) the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.);

(7) chapter 71 (relating to Federal service labor-management relations) of title 5, United States Code;

(8) the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.);

(9) the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.);

(10) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.); and

(11) chapter 43 (relating to veterans' employment and reemployment) of title 38, United States Code.

The report shall be submitted to Congress not later than December 31, 1996, and shall include any recommendations the Judicial Conference may have for legislation to provide to employees of the judicial branch the rights, protections, and procedures under the listed laws, including administrative and judicial relief, that are comparable to those available to employees of the legislative branch under titles I through IV of this Act.

SEC. 506. SAVINGS PROVISIONS.

(a) TRANSITION PROVISIONS FOR EMPLOYEES OF THE HOUSE OF REPRESENTATIVES AND OF THE SENATE.—

(1) CLAIMS ARISING BEFORE EFFECTIVE DATE.—If, as of the date on which section 201 takes effect, an employee of the Senate or the House of Representatives has or could have requested counseling under section 305 of the Government Employees Rights Act of 1991 (2 U.S.C. 1205) or Rule LI of the House of Representatives, including counseling for alleged violations of family and medical leave rights under title V of the Family and Medical Leave Act of 1993, the employee may complete, or initiate and complete, all procedures under the Government Employees Rights Act of 1991 and Rule LI, and the provisions of that Act and Rule shall remain in effect with respect to, and provide the exclusive procedures for, those claims until the completion of all such procedures.

(2) CLAIMS ARISING BETWEEN EFFECTIVE DATE AND OPENING OF OFFICE.—If a claim by an employee of the Senate or House of Representatives arises under section 201 or 202 after the effective date of such sections, but before the opening of the Office for receipt of requests for counseling or mediation under sections 402 and 403, the provisions of the Government Employees Rights Act of 1991 (2 U.S.C. 1201 et seq.) and Rule LI of the House of Representatives relating to counseling and mediation shall remain in effect, and the employee may complete under that Act or Rule the requirements for counseling and mediation under sections 402 and 403. If, after counseling and mediation is completed, the Office has not yet opened for the filing of a timely complaint under section 405, the employee may elect—

(A) to file a complaint under section 307 of the Government Employees Rights Act of 1991 (2 U.S.C. 1207) or Rule LI of the House of Representatives, and thereafter proceed exclusively under that Act or Rule, the provisions of which shall remain in effect until the completion of all proceedings in relation to the complaint, or

(B) to commence a civil action under section 408.

(3) SECTION 1205 OF THE SUPPLEMENTAL APPROPRIATIONS ACT OF 1993.—With respect to payments of awards and settlements relating to Senate employees under paragraph (1) of this subsection, section 1205 of the Supplemental Appropriations Act of 1993 (2 U.S.C. 1207a) remains in effect.

(b) TRANSITION PROVISIONS FOR EMPLOYEES OF THE ARCHITECT OF THE CAPITOL.—

(1) CLAIMS ARISING BEFORE EFFECTIVE DATE.—If, as of the date on which section 201 takes effect, an employee of the Architect of the Capitol has or could have filed a charge or complaint regarding an alleged violation of section 312(e)(2) of the Architect of the Capitol Human Resources Act (Public Law 103–283), the employee may complete, or initiate and complete, all procedures under section 312(e) of that Act, the provisions of which shall remain in effect with respect to, and provide the exclusive procedures for, that claim until the completion of all such procedures.

(2) CLAIMS ARISING BETWEEN EFFECTIVE DATE AND OPENING OF OFFICE.—If a claim by an employee of the Architect of the Capitol arises under section 201 or 202 after the effective date of those provisions, but before the opening of the Office for receipt of requests for counseling or mediation under sections 402 and 403, the employee may satisfy the requirements for counseling and mediation by exhausting the requirements prescribed by the Architect of the Capitol in accordance with section 312(e)(3) of the Architect of the Capitol Human Resources Act (Public Law 103–283). If, after exhaustion of those requirements the Office has not yet opened for the filing of a timely complaint under section 405, the employee may elect—

(A) to file a charge with the General Accounting Office Personnel Appeals Board pursuant to section 312(e)(3) of the Architect of the Capitol Human Resources Act (Public Law 103–283), and thereafter proceed exclusively under section 312(e) of that Act, the provisions of which shall remain in effect until the completion of all proceedings in relation to the charge, or

(B) to commence a civil action under section 408.

(c) TRANSITION PROVISION RELATING TO MATTERS OTHER THAN EMPLOYMENT UNDER SECTION 509 OF THE AMERICANS WITH DISABILITIES ACT.—With respect to matters other than employment under section 509 of the Americans with Disabilities Act (42 U.S.C. 12209), the rights, protections, remedies, and procedures of section 509 of such Act shall remain in effect until section 210 of this Act takes effect with respect to each of the entities covered by section 509 of such Act.

SEC. 507. SEVERABILITY.

If any provision of this Act or the application of such provision to any person or circumstance is held to be invalid, the remainder of this Act and the application of the provisions of the remainder to any person or circumstance shall not be affected thereby.

By Mr. DOLE (for himself, Mr. HATCH, Mr. THURMOND, Mr. SIMPSON, Mr. GRAMM, Mr. SANTORUM, Mr. ABRAHAM, Mr. DEWINE, and Mr. KYL):

S. 3. A bill to control crime, and for other purposes; to the Committee on the Judiciary.

THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT IMPROVEMENT ACT OF 1995

Mr. DOLE. Mr. President, one of the most heated debates last Congress centered around the so-called crime bill. While our colleagues on the other side of the aisle ultimately succeeded in passing the bill, Republicans argued then—and continue to maintain—that the bill spent far too much on social programs of unproven worth, while failing to adopt some of the tough measures proposed to combat violent crime.

To a large degree, S. 3 attempts to correct some of the obvious flaws and excesses of last year's crime bill. It also stakes out some critical new ground, particularly in the area of criminal procedure. More importantly, S. 3 is premised on the principle that criminals are not the victims of society, as some may claim, but rather that society itself is the victim of criminals and the violence they perpetuate. In addition, S. 3 recognizes that the States and localities, not the Federal Government, are on the front lines in the war against crime and are best equipped to devise effective anticrime strategies. When it comes to fighting crime, the role of the Federal Government should be to assist the States and localities in their own crime-fighting efforts, rather than impose unnecessary regulations and ''one-size-fits-all'' requirements that often do more harm than good.

REVISITING LAST YEAR'S CRIME BILL

For starters, S. 3 incorporates the 10 amendments that Senate Republicans unsuccessfully sought to offer during last year's crime-bill debate. These amendments include: (1) Mandatory minimum penalties for those who use a gun in the commission of a crime, sell illegal drugs to minors, or employ minors to sell drugs; (2) repeal of more than $5 billion in wasteful social spending that was included in last year's crime bill, including spending on the Local Partnership Act, the model cities intensive grants, and the so-called drug courts; and (3) a provision requiring restitution for the victims of Federal crimes. S. 3 also increases funding for

new prison construction and operation by nearly $1 billion over the funding levels contained in last year's crime bill.

MORE POLICE AND MORE FLEXIBILITY

One of the most over-hyped proposals in the crime bill was the $8.8 billion community-policing program. Although the Clinton administration claimed that the proposal would result in 100,000 new police hires over the next 6 years, most criminal-justice experts predict that the proposal will fully fund only a portion of that figure, perhaps as few as 20,000 new cops.

Recognizing that the Federal Government does not have all the crime-fighting answers, S. 3 repackages the community-policing proposal into a single block grant program. Under the block grant program, States and localities will have the option of using the funds for a variety of purposes, including the hiring of new police officers, training existing officers, paying overtime, upgrading equipment, or investing in new crime-fighting technologies. Unlike the community-policing program in last year's crime bill, S. 3 imposes no matching requirement or per-officer spending cap. This should give States and localities some much-needed flexibility in determining how best to utilize these important crime-fighting resources.

At the same time, S. 3 beefs up funding for some of our Federal law enforcement agencies, including the FBI and the Drug Enforcement Administration. This will help ensure that these agencies will be able to carry out their important missions.

PROCEDURAL REFORMS

S. 3 also enacts some long overdue reforms to the criminal justice system. First, it reforms habeas corpus procedures in a way that safeguards the legitimate rights of the accused while ensuring that lawfully-imposed capital sentences are not endlessly delayed by frivolous appeals. Most importantly, S. 3 requires Federal courts to give deference to State court decisions on Federal constitutional claims, so long as the claims were ''fully and fairly'' litigated at the State level. Application of this principle will go a long way towards streamlining the criminal appeals process, thereby making punishment swifter and more certain and enhancing the confidence of the American people in our system of criminal justice.

California Attorney General Dan Lungren, as well as the National Association of State Attorneys General, played a prominent role in the drafting of the habeas corpus reform provisions of S. 3. Their input was invaluable.

Second, S. 3 abolishes the exclusionary rule as it pertains to the fourth amendment and establishes a tort remedy for those whose fourth amendment rights have been violated by an unreasonable search and seizure. Under the tort remedy, the United States will be liable for damages resulting from an unlawful search and seizure conducted by a law enforcement officer who was acting within the scope of his employment.

The bottom line is that probative evidence, particularly in a criminal trial, should not be excluded because a police officer made a mistake. We should discipline the police officer and his supervising authority, not punish the crime victim by excluding probative evidence.

And finally, S. 3 creates an obstruction of justice offense for attorneys who knowingly file false statements in criminal proceedings.

CONCLUSION

Mr. President, when it comes to solving the crime epidemic in this country, Republicans don't have all the answers—not by a long shot. But, in our view, S. 3 provides the framework for the type of tough anticrime legislation the American people deserve.

Finally, I want to thank my distinguished colleague from Utah, Senator HATCH, for his leadership in crafting this important legislation. During his tenure in the Senate, Senator HATCH has always been a relentless advocate for a no-nonsense approach to solving the violent crime problem. I look forward to his service as chairman of the Senate Judiciary Committee.

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

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

S. 3

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Violent Crime Control and Law Enforcement Improvement Act of 1995''.

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

TITLE I—INCARCERATION OF VIOLENT CRIMINALS

SEC. 101. PRISON GRANTS.

Subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 and the amendments made thereby are amended to read as follows:

''Subtitle A—Violent Offender Incarceration and Truth in Sentencing Incentive Grants

''SEC. 20101. GRANTS FOR CORRECTIONAL FACILITIES.

''(a) GRANT AUTHORIZATION.—The Attorney General may make grants to individual States and to States organized as multi-State compacts to construct, develop, expand, modify, operate, or improve conventional correctional facilities, including prisons and jails, for the confinement of violent offenders, to ensure that prison cell space is available for the confinement of violent offenders and to implement truth in sentencing laws for sentencing violent offenders.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this subtitle, a State or States organized as multi-State compacts shall submit an application to the Attorney General that includes—

''(1)(A) except as provided in subparagraph (B), assurances that the State or States, have implemented, or will implement, correctional policies and programs, including truth in sentencing laws that ensure that violent offenders serve a substantial portion of the sentences imposed, that are designed to provide sufficiently severe punishment for violent offenders, including violent juvenile offenders, and that the prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public;

''(B) in the case of a State that on the date of enactment of the Violent Crime Control and Law Enforcement Improvement Act of 1995 practices indeterminant sentencing, a demonstration that average times served for the offenses of murder, rape, robbery, and assault in the State exceed by at least 10 percent the national average of time served for such offenses in all of the States;

''(2) assurances that the State or States have implemented policies that provide for the recognition of the rights and needs of crime victims;

''(3) assurances that funds received under this section will be used to construct, develop, expand, modify, operate, or improve conventional correctional facilities;

''(4) assurances that the State or States have involved counties and other units of local government, when appropriate, in the construction, development, expansion, modification, operation, or improvement of correctional facilities designed to ensure the incarceration of violent offenders, and that the State or States will share funds received under this section with counties and other units of local government, taking into account the burden placed on the units of local government when they are required to confine sentenced prisoners because of overcrowding in State prison facilities;

''(5) assurances that funds received under this section will be used to supplement, not supplant, other Federal, State, and local funds;

''(6) assurances that the State or States have implemented, or will implement not later than 18 months after the date of enactment of the Violent Crime Control and Law Enforcement Improvement Act of 1995, policies to determine the veteran status of inmates and to ensure that incarcerated veterans receive the veterans benefits to which they are entitled; and

''(7) if applicable, documentation of the multi-State compact agreement that specifies the construction, development, expansion, modification, operation, or improvement of correctional facilities.

''SEC. 20102. TRUTH IN SENTENCING INCENTIVE GRANTS.

''(a) TRUTH IN SENTENCING GRANT PROGRAM.—Fifty percent of the total amount of funds appropriated to carry out this subtitle for each of fiscal years 1996, 1997, 1998, 1999, and 2000 shall be made available for truth in sentencing incentive grants. To be eligible to receive such a grant, a State must meet the requirements of section 20101(b) and shall demonstrate that the State—

''(1) has in effect laws that require that persons convicted of violent crimes serve not less than 85 percent of the sentence imposed;

''(2) since 1993—

''(A) has increased the percentage of convicted violent offenders sentenced to prison;

''(B) has increased the average prison time that will be served in prison by convicted violent offenders sentenced to prison; and

''(C) has in effect at the time of application laws requiring that a person who is convicted of a violent crime shall serve not less than 85 percent of the sentence imposed if—

''(i) the person has been convicted on 1 or more prior occasions in a court of the United States or of a State of a violent crime or a serious drug offense; and

''(ii) each violent crime or serious drug offense was committed after the defendant's conviction of the preceding violent crime or serious drug offense; or

''(3) in the case of a State that on the date of enactment of the Violent Crime Control and Law Enforcement Improvement Act of 1995 practices indeterminant sentencing, a demonstration that average times served for the offenses of murder, rape, robbery, and assault in the State exceed by at least 10 percent the national average of time served for such offenses in all of the States.

''(b) ALLOCATION OF TRUTH IN SENTENCING INCENTIVE FUNDS.—The amount available to carry out this section for any fiscal year shall be allocated to each eligible State in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the previous year bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for the previous year.

''SEC. 20103. VIOLENT OFFENDER INCARCERATION GRANTS.

''(a) VIOLENT OFFENDER INCARCERATION GRANT PROGRAM.—Fifty percent of the total amount of funds appropriated to carry out this subtitle for each of fiscal years 1996, 1997, 1998, 1999, and 2000 shall be made available for violent offender incarceration grants. To be eligible to receive such a grant, a State or States must meet the requirements of section 20101(b).

''(b) ALLOCATION OF VIOLENT OFFENDER INCARCERATION FUNDS.—Funds made available to carry out this section shall be allocated as follows:

''(1) 0.6 percent shall be allocated to each eligible State, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each shall be allocated 0.05 percent.

''(2) The amount remaining after application of paragraph (1) shall be allocated to each eligible State in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the previous year bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for the previous year.

''SEC. 20104. RULES AND REGULATIONS.

''(a) IN GENERAL.—Not later than 90 days after the date of enactment of the Violent

Crime Control and Law Enforcement Improvement Act of 1995, the Attorney General shall issue rules and regulations regarding the uses of grant funds received under this subtitle.

''(b) BEST AVAILABLE DATA.—If data regarding part 1 violent crimes in any State for the previous year is unavailable or substantially inaccurate, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for the previous year for the State for the purposes of allocation of funds under this subtitle.

''SEC. 20105. DEFINITIONS.

''In this subtitle—

''(1) the term 'part 1 violent crimes' means murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports;

''(2) the term 'State' or 'States' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands; and

''(3) the term 'indeterminate sentencing' means a system by which the court has discretion in imposing the actual length of the sentence, up to the statutory maximum, and an administrative agency, or the court, controls release between court-ordered minimum and maximum sentence.

''SEC. 20106. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subtitle—

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

''(2) $1,150,000,000 for fiscal year 1997;

''(3) $2,100,000,000 for fiscal year 1998;

''(4) $2,200,000,000 for fiscal year 1999; and

''(5) $2,270,000,000 for fiscal year 2000.''.

SEC. 102. REPEAL.

Subtitle B of title II of the Violent Crime and Law Enforcement Act of 1994 is repealed.

SEC. 103. CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS.

(a) REPEAL.—Section 20416 of the Violent Crime Control and Law Enforcement Act of 1994, and the amendments made by that section, are repealed.

(b) EXHAUSTION REQUIREMENT.—Section 7(a) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) is amended—

(1) in paragraph (1)—

(A) by striking ''in any action brought'' and inserting ''no action shall be brought'';

(B) by striking ''the court shall'' and all that follows through ''require exhaustion of'' and insert ''until''; and

(C) by inserting ''and exhausted'' after ''available''; and

(2) in paragraph (2) by inserting ''or are otherwise fair and effective'' before the period at the end.

(c) FRIVOLOUS ACTIONS.—Section 7(a) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(a)) is amended by adding at the end the following:

''(3) The court shall on its own motion or on motion of a party dismiss any action brought pursuant to section 1979 of the Revised Statutes of the United States by an adult convicted of a crime and confined in any jail, prison, or other correctional facility if the court is satisfied that the action fails to state a claim upon which relief can be granted or is frivolous or malicious.''.

(d) MODIFICATION OF REQUIRED MINIMUM STANDARDS.—Section 7(b)(2) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(b)(2)) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(e) REVIEW AND CERTIFICATION PROCEDURE CHANGES.—Section 7(c) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(c)) is amended—

(1) in paragraph (1), by inserting ''or are otherwise fair and effective'' before the period at the end; and

(2) in paragraph (2), by inserting ''or is no longer fair and effective'' before the period at the end.

(f) PROCEEDINGS IN FORMA PAUPERIS.—

(1) DISMISSAL.—Section 1915(d) of title 28, United States Code, is amended—

(A) by inserting ''at any time'' after ''counsel and may'';

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

(C) by inserting ''fails to state a claim upon which relief may be granted or'' after ''that the action''; and

(D) by inserting '', even if partial filing fees have been imposed by the court'' before the period.

(2) PRISONER'S STATEMENT OF ASSETS.—Section 1915 of title 28, United States Code, is amended by adding at the end the following:

''(f) If a prisoner in a correctional institution files an affidavit in accordance with subsection (a), such prisoner shall include in the affidavit a statement of all assets the prisoner possesses. The court shall make inquiry of the correctional institution in which the prisoner is incarcerated for information available to such institution relating to the extent of the prisoner's assets. The court shall require full or partial payment of filing fees according to the prisoner's ability to pay.''.

SEC. 104. REPORT ON PRISON WORK PROGRESS.

(a) FINDINGS.—The Senate finds that—

(1) Federal Prison Industries was created by Congress in 1934 as a wholly owned, nonprofit government corporation directed to train and employ Federal prisoners;

(2) traditionally, one-half of the Federal prison inmates had meaningful prison jobs; now, with the increasing prison population, less than one-quarter are employed in prison industry positions;

(3) expansion of the product lines and services of Federal Prison Industries beyond its traditional lines of business will enable more Federal prison inmates to work, and such expansion must occur so as to minimize any adverse impact on the private sector and labor; and

(4) all able-bodied Federal prison inmates should work.

(b) REPORT.—

(1) IN GENERAL.—In an effort to achieve the goal of full Federal prison inmate employment, the Attorney General, in consultation with the Director of the Bureau of Prisons, the Secretary of Labor, the Secretary of Defense, the Administrator of the General Services Administration, and the private sector and labor, shall submit a report to Congress not later than September 1, 1996, that describes a strategy for employing more Federal prison inmates;

(2) CONTENTS.—The report shall—

(A) contain a review of existing lines of business of Federal Prison Industries;

(B) consider the findings and recommendations of the final report of the Summit on Federal Prison Industries (June 1992–July 1993);

(C) make recommendations for legislation and changes in existing law that may be necessary for the Federal Prison Industries to employ more Federal prison inmates; and

(D) focus on—

(i) the creation of new job opportunities for Federal prison inmates;

(ii) the degree to which any expansion of lines of business of Federal Prison Industries may adversely affect the private sector or displace domestic labor; and

(iii) the degree to which opportunities for partnership between Federal Prison Industries and small business can be fostered.

SEC. 105. DRUG TREATMENT FOR PRISONERS.

Section 3621(e) of title 18, United States Code (as added by section 32001 of the Violent Crime Control and Law Enforcement Act of 1994) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively; and

(3) in paragraph (2), as redesignated by paragraph (2)—

(A) by striking ''and'' at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(D) a full examination and evaluation of the effectiveness of the treatment in reducing drug use among prisoners.''.

TITLE II—STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

SEC. 201. BLOCK GRANT PROGRAM.

Title I of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

''TITLE I—STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

''SEC. 10001. BLOCK GRANTS TO STATES.

''(a) IN GENERAL.—The Attorney General shall make grants under this title to States for use by State and local governments to—

''(1) hire, train, and employ on a continuing basis, new law enforcement officers and necessary support personnel;

''(2) pay overtime to currently employed law enforcement officers and necessary support personnel;

''(3) procure equipment, technology, and other material that is directly related to basic law enforcement functions, such as the detection or investigation of crime, or the prosecution of criminals; and

''(4) establish and operate cooperative programs between community residents and law enforcement agencies for the control, detection, or investigation of crime, or the prosecution of criminals.

''(b) LAW ENFORCEMENT TRUST FUNDS.—Funds received by a State or unit of local government under this title may be reserved in a trust fund established by the State or unit of local government to fund the future needs of programs authorized under subsection (a).

''(c) ALLOCATION AND DISTRIBUTION OF FUNDS.—

''(1) ALLOCATION.—The amount made available pursuant to section 10003 shall be allocated as follows:

''(A) 0.6 percent shall be allocated to each of the participating States.

''(B) After the allocation under subparagraph (A), the remainder shall be allocated on the basis of the population of each State as determined by the 1990 decennial census as adjusted annually, by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this subparagraph as the population of the State bears to the population of all States.

''(2) DISTRIBUTION TO LOCAL GOVERNMENTS.—

''(A) IN GENERAL.—A State receiving a grant under this title shall ensure that not less than 85 percent of the funds received are distributed to units of local government.

''(B) LIMITATION.—Not more than 2.5 percent of funds received by a State in any grant year shall be used for costs associated with the administration and distribution of grant money.

''(d) DISBURSEMENT.—

''(1) IN GENERAL.—The Attorney General shall issue regulations establishing procedures under which a State may receive assistance under this title.

''(2) GENERAL REQUIREMENTS FOR QUALIFICATION.—A State qualifies for a payment under this title for a payment period only if the State establishes that—

''(A) the State will establish a segregated account in which the government will deposit all payments received under this title;

''(B) the State will expend the payments in accordance with the laws and procedures that are applicable to the expenditure of revenues of the State;

''(C) the State will use accounting, audit, and fiscal procedures that conform to guidelines that shall be prescribed by the Attorney General after consultation with the Comptroller General of the United States and, as applicable, amounts received under this title shall be audited in compliance with the Single Audit Act of 1984;

''(D) after reasonable notice to a State, the State will make available to the Attorney General and the Comptroller General of the United States, with the right to inspect, records that the Attorney General or Comptroller General of the United States reasonably requires to review compliance with this title;

''(E) the State will make such reports as the Attorney General reasonably requires, in addition to the annual reports required under this title; and

''(F) the State will expend the funds only for the purposes set forth in subsection (a).

''(3) SANCTIONS FOR NONCOMPLIANCE.—

''(A) IN GENERAL.—If the Attorney General finds that a State has not complied substantially with paragraph (2) or regulations prescribed under such paragraph, the Attorney General shall notify the State. The notice shall provide that if the State does not initiate corrective action within 30 days after the date on which the State receives the notice, the Attorney General will withhold additional payments to the State for the current payment period and later payment periods. Payments shall be withheld until such time as the Attorney General determines that the State—

''(i) has taken the appropriate corrective action; and

''(ii) will comply with paragraph (2) and the regulations prescribed under such paragraph.

''(B) NOTICE.—Before giving notice under subparagraph (A), the Attorney General shall give the chief executive officer of the State reasonable notice and an opportunity for comment.

''(C) PAYMENT CONDITIONS.—The Attorney General shall make a payment to a State under subparagraph (A) only if the Attorney General determines that the State—

''(i) has taken the appropriate corrective action; and

''(ii) will comply with paragraph (2) and regulations prescribed under such paragraph.

''SEC. 10002. APPLICATIONS.

''(a) The Attorney General shall make grants under this title only if a State has submitted an application to the Attorney General in such form, and containing such information, as is the Attorney General may reasonably require.

''SEC. 10003. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title—

''(1) $2,050,000,000 for fiscal year 1996;

''(2) $2,150,000,000 for fiscal year 1997;

''(3) $1,900,000,000 for fiscal year 1998;

''(4) $1,900,000,000 for fiscal year 1999; and

''(5) $468,000,000 for fiscal year 2000.

''SEC. 10004. LIMITATION ON USE OF FUNDS.

''Funds made available to States under this title shall not be used to supplant State or local funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this title, be made available from State or local sources.''.

TITLE III—FEDERAL EMERGENCY LAW ENFORCEMENT ASSISTANCE ACT

SEC. 301. FEDERAL JUDICIARY AND FEDERAL LAW ENFORCEMENT.

Title XIX of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

''SEC. 190001. FEDERAL JUDICIARY AND FEDERAL LAW ENFORCEMENT.

''(a) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE FEDERAL JUDICIARY.—There are authorized to be appropriated for the activities of the Federal Judiciary to help meet the increased demands for judicial activities, including supervised release, and pretrial and probation services, that will result from this Act—

''(1) $30,000,000 for fiscal year 1996;

''(2) $35,000,000 for fiscal year 1997;

''(3) $40,000,000 for fiscal year 1998;

''(4) $40,000,000 for fiscal year 1999; and

''(5) $55,000,000 for fiscal year 2000.

''(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE DEPARTMENT OF JUSTICE.—There are authorized to be appropriated for the activities and agencies of the Department of Justice, in addition to sums authorized elsewhere in this section, to help meet the increased demands for Department of Justice activities that will result from this Act—

''(1) $40,000,000 for fiscal year 1996;

''(2) $40,000,000 for fiscal year 1997;

''(3) $40,000,000 for fiscal year 1998;

''(4) $40,000,000 for fiscal year 1999; and

''(5) $39,000,000 for fiscal year 2000.

''(c) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE FEDERAL BUREAU OF INVESTIGATION.—There are authorized to be appropriated for the activities of the Federal Bureau of Investigation, to help meet the increased demands for Federal Bureau of Investigation activities that will result from this Act—

''(1) $203,150,000 for fiscal year 1996;

''(2) $184,500,000 for fiscal year 1997;

''(3) $284,000,000 for fiscal year 1998;

''(4) $147,500,000 for fiscal year 1999; and

''(5) $125,850,000 for fiscal year 2000.

''(d) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR UNITED STATES ATTORNEYS.—There are authorized to be appropriated for the account Department of Justice, Legal Activities, Salaries and Expenses, United States Attorneys, to help meet the increased demands for litigation and related activities that will result from this Act—

''(1) $15,000,000 for fiscal year 1996;

''(2) $23,000,000 for fiscal year 1997;

''(3) $30,000,000 for fiscal year 1998;

''(4) $37,000,000 for fiscal year 1999; and

''(5) $45,000,000 for fiscal year 2000.

''(e) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE DEPARTMENT OF THE TREASURY.—There are authorized to be appropriated for the activities of the Bureau of Alcohol, Tobacco, and Firearms, the United States Custom Service, the Financial Crimes Enforcement Network, the Federal Law Enforcement Training Center, the Criminal Investigation Division of the Internal Revenue Service, and the United States Secret Service to help meet the increased demands for Department of the Treasury activities that will result from this Act—

''(1) $30,000,000 for fiscal year 1995;

''(2) $70,000,000 for fiscal year 1996;

''(3) $90,000,000 for fiscal year 1997;

''(4) $110,000,000 for fiscal year 1998;

''(5) $125,000,000 for fiscal year 1999; and

''(6) $125,000,000 for fiscal year 2000.''.

SEC. 302. DRUG ENFORCEMENT ADMINISTRATION.

Section 180104 of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

''SEC. 180104. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE DRUG ENFORCEMENT ADMINISTRATION.

''There are authorized to be appropriated for the activities of the Drug Enforcement Administration, to help meet the increased demands for Drug Enforcement Administration activities that will result from this Act—

''(1) $42,000,000 for fiscal year 1996;

''(2) $55,000,000 for fiscal year 1997;

''(3) $70,000,000 for fiscal year 1998;

''(4) $85,000,000 for fiscal year 1999; and

''(5) $98,000,000 for fiscal year 2000.''.

TITLE IV—CRIMINAL PENALTIES.

SEC. 401. SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of clause (i);

(2) in clause (ii), by striking the semicolon and inserting ''or which, if it had been prosecuted as a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) at the time of the offense, and because of the type and quantity of the controlled substance involved, would have been punishable by a maximum term of imprisonment of ten years or more; or''; and

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

''(iii) any act of juvenile delinquency that if committed by an adult would be a serious drug offense described in this paragraph;''.

SEC. 402. PROSECUTION OF JUVENILES AS ADULTS.

(a) SERIOUS JUVENILE OFFENDERS.—

(1) REPEAL.—Section 150002 of the Violent Crime Control and Law Enforcement Act of 1994, and the amendments made by that section, are repealed.

(2) ADULT PROSECUTION OF SERIOUS JUVENILE OFFENDERS.—Section 5032 of title 18, United States Code, is amended—

(A) in the first undesignated paragraph—

(i) by striking ''an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), (3)),'' and inserting ''an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1003, 1005, 1009, 1010(b) (1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), or (3), or 963),''; and

(ii) by striking ''922(p)'' and inserting ''924(b), (g), or (h)'';

(B) in the fourth undesignated paragraph—

(i) by striking ''an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959)'' and inserting ''an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1005, 1009, 1010(b) (1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955,

959, 960(b) (1), (2), or (3), or 963), or section 924 (b), (g), or (h) of this title,''; and

(ii) by striking ''subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), (3))'' and inserting ''or an offense (or conspiracy or attempt to commit an offense) described in section 401(b)(1) (A), (B), or (C), (d), or (e), or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841(b)(1) (A), (B), or (C), (d), or (e), 844, or 846) or section 1002(a), 1003, 1009, 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), or (3), or 963)''; and

(C) in the fifth undesignated paragraph by adding at the end the following: ''In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of this factor shall not preclude such a transfer.''.

(b) CRIMES OF VIOLENCE.—

(1) REPEAL.—Section 140001 of the Violent Crime Control and Law Enforcement Act of 1994, and the amendments made by that section, are repealed.

(2) PROSECUTION AS ADULTS OF VIOLENT JUVENILE OFFENDERS.—Section 5032 of title 18, United States Code, is amended by adding at the end the following new paragraphs:

''Notwithstanding any other provision of this section or any other law, a juvenile who was 13 years of age or older on the date of the commission of an offense under section 113 (a), (b), or (c), 1111, 1113, 2111, 2113, or 2241 (a) or (c), shall be prosecuted as an adult in Federal court. No juvenile prosecuted as an adult under this paragraph shall be incarcerated in an adult prison.

''If a juvenile prosecuted under this paragraph is convicted, the juvenile shall be entitled to file a petition for resentencing pursuant to applicable sentencing guidelines when the juvenile reaches the age of 16.

''The United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, if necessary, to carry out this section. For resentencing determinations pursuant to the preceding paragraph, the Commission may promulgate guidelines, if necessary to permit sentencing adjustments that may include adjustments that provide for supervised release for defendants who have clearly demonstrated—

''(A) an exceptional degree of responsibility for the offense; and

''(B) a willingness and ability to refrain from further criminal conduct.''.

SEC. 403. AVAILABILITY OF FINES AND SUPERVISED RELEASE FOR JUVENILE OFFENDERS.

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence by striking ''subsection (d)'' and inserting ''subsection (e)''; and

(B) in the second sentence, by striking ''place him on probation, or commit him to official detention'' and inserting ''place the juvenile on probation, commit the juvenile to official detention (including the possibility of a term of supervised release), or impose any fine that would be authorized if the juvenile had been convicted as an adult'';

(2) by redesignating subsection (d) as subsection (e); and

(3) by adding after subsection (c) the following new subsection:

''(d) The term for which supervised release may be ordered for a juvenile found to be a juvenile delinquent may not extend—

''(1) in the case of a juvenile who is less than 18 years old, beyond the earlier of—

''(A) five years after the date on which the juvenile becomes 21 years old; or

''(B) the maximum supervised release term that would be authorized by section 3583(b) if the juvenile had been tried and convicted as an adult; or

''(2) in the case of a juvenile who is between 18 and 21 years old—

''(A) who if convicted as an adult would be convicted of a Class A, B, or C felony, beyond 5 years after the juvenile's release from official detention; or

''(B) in any other case beyond the lesser of—

''(i) 3 years; or

''(ii) the maximum term of supervised release that would be authorized if the juvenile had been tried and convicted as an adult.''.

SEC. 404. AMENDMENTS CONCERNING JUVENILE RECORDS.

(a) Section 5038 of title 18, United States Code, is amended—

(1) by striking subsections (d) and (f);

(2) by redesignating subsection (e) as subsection (d); and

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

''(e) Whenever a juvenile has been found guilty of committing an act which if committed by an adult would be an offense described in clause (3) of the first paragraph of section 5032, the juvenile shall be fingerprinted and photographed, and the fingerprints and photograph shall be sent to the Federal Bureau of Investigation, Identification Division. The court shall also transmit to the Federal Bureau of Investigation, Identification Division, the information concerning the adjudication, including name, date of adjudication, court, offenses, and sentence, along with the notation that the matter was a juvenile adjudication. The fingerprints, photograph, and other records and information relating to a juvenile described in this subsection, or to a juvenile who is prosecuted as an adult, shall be made available in the manner applicable to adult defendants.''.

SEC. 405. MANDATORY MINIMUM PRISON SENTENCES FOR PERSONS WHO USE MINORS IN DRUG TRAFFICKING ACTIVITIES OR SELL DRUGS TO MINORS.

(a) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b), by adding at the end the following: ''Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted of drug trafficking under this subsection shall be not less than 10 years. Notwithstanding any other law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.''; and

(2) in subsection (c) by inserting after the second sentence the following: ''Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted of drug trafficking under this subsection shall be a mandatory term of life imprisonment. Notwithstanding any other law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.''.

(b) MANDATORY MINIMUM PRISON SENTENCES FOR PERSONS CONVICTED OF DISTRIBUTION OF DRUGS TO MINORS.—

(1) IN GENERAL.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(A) in subsection (a)—

(i) by striking ''twenty-one'' and inserting ''eighteen'';

(ii) by striking ''eighteen'' and inserting ''twenty-one'';

(iii) by striking ''not less than one year'' and inserting ''not less than ten years''; and

(iv) by striking the last sentence;

(B) in subsection (b)—

(i) by striking ''twenty-one'' and inserting ''eighteen'';

(ii) by striking ''eighteen'' and inserting ''twenty-one'';

(iii) by striking ''not less than one year'' and inserting ''a mandatory term of life imprisonment'';

(iv) by striking the last sentence; and

(C) by adding at the end the following new subsection:

''(c) OFFENSES INVOLVING SMALL QUANTITIES OF MARIJUANA.—The mandatory minimum sentencing provisions of this section shall not apply to offenses involving five grams or less of marijuana.''; and

(D) in the section heading by striking ''twenty-one'' and inserting ''eighteen''.

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 13 of title 21, United States Code, is amended in the item relating to section 859, by striking ''twenty-one'' and inserting ''eighteen''.

(c) PENALTIES FOR DRUG OFFENSES IN DRUG-FREE ZONES.—

(1) REPEAL.—Section 90102 of the Violent Crime Control and Law Enforcement Act of 1994 is repealed.

(2) INCREASED PENALTIES.—Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(A) in subsection (a)—

(i) by striking ''not less than one year'' and inserting ''not less than five years''; and

(ii) by striking the last sentence;

(B) in subsection (b), by striking ''not less than three years'' and inserting ''not less than ten years'';

(C) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(D) by inserting after subsection (b) the following new subsection:

''(c) OFFENSES INVOLVING SMALL QUANTITIES OF MARIJUANA.—The mandatory minimum sentencing provisions of this section shall not apply to offenses involving five grams or less of marijuana.''.

SEC. 406. MANDATORY MINIMUM SENTENCING REFORM.

(a) REPEAL.—Title VIII of the Violent Crime Control and Law Enforcement Act of 1994, and the amendments made by that title, is repealed.

(b) FLEXIBILITY IN APPLICATION OF MANDATORY MINIMUM SENTENCE PROVISIONS IN CERTAIN CIRCUMSTANCES.—

(1) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

''(f) MANDATORY MINIMUM SENTENCE PROVISIONS.—

''(1) SENTENCING UNDER THIS SECTION.—In the case of an offense described in paragraph (2), the court shall, notwithstanding the requirement of a mandatory minimum sentence in that section, impose a sentence in accordance with this section and the sentencing guidelines and any pertinent policy statement issued by the United States Sentencing Commission.

''(2) OFFENSES.—An offense is described in this paragraph if—

''(A) the defendant is subject to a mandatory minimum term of imprisonment under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960);

''(B) the defendant does not have—

''(i) any criminal history points under the sentencing guidelines; or

''(ii) any prior conviction, foreign or domestic, for a crime of violence against a person or a drug trafficking offense that resulted in a sentence of imprisonment (or an adjudication as a juvenile delinquent for an act that, if committed by an adult, would constitute a crime of violence against a person or a drug trafficking offense);

''(C) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person—

''(i) as a result of the act of any person during the course of the offense; or

''(ii) as a result of the use by any person of a controlled substance that was involved in the offense;

''(D) the defendant did not carry or otherwise have possession of a firearm (as defined in section 921) or other dangerous weapon during the course of the offense and did not direct another person to carry a firearm and the defendant had no knowledge of any other conspirator involved in the offense possessing a firearm;

''(E) the defendant was not an organizer, leader, manager, or supervisor of others (as defined or determined under the sentencing guidelines) in the offense;

''(F) the defendant did not use, attempt to use, or make a credible threat to use physical force against the person of another during the course of the offense;

''(G) the defendant did not own the drugs, finance any part of the offense or sell the drugs; and

''(H) the Government certifies that the defendant has timely and truthfully provided to the Government all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan.''.

(2) HARMONIZATION.—

(A) IN GENERAL.—The United States Sentencing Commission—

(i) may make such amendments as it deems necessary and appropriate to harmonize the sentencing guidelines and policy statements with section 3553(f) of title 18, United States Code, as added by paragraph (1), and promulgate policy statements to assist the courts in interpreting that provision; and

(ii) shall amend the sentencing guidelines, if necessary, to assign to an offense under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) to which a mandatory minimum term of imprisonment applies, a guideline level that will result in the imposition of a term of imprisonment at least equal to the mandatory term of imprisonment that is currently applicable, unless a downward adjustment is authorized under section 3553(f) of title 18, United States Code, as added by subsection (a).

(B) EMERGENCY AMENDMENTS.—If the Commission determines that an expedited procedure is necessary for amendments made pursuant to paragraph (1) to become effective on the effective date specified in subsection (c), the Commission may promulgate such amendments as emergency amendments under the procedures set forth in section 21(a) of the Sentencing Act of 1987 (101 Stat. 1271), as though the authority under that section had not expired.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) and any amendments to the sentencing guidelines made by the United States Sentencing Commission pursuant to paragraph (2) shall apply with respect to sentences imposed for offenses committed on or after the date that is 60 days after the date of enactment of this Act.

SEC. 407. INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended by inserting after the first sentence the following: ''Except to the extent a greater minimum sentence is otherwise provided by the preceding sentence or by any other provision of this subsection or any other law, a person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, uses or carries a firearm shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

''(A) be punished by imprisonment for not less than 10 years;

''(B) if the firearm is discharged, be punished by imprisonment for not less than 20 years; and

''(C) if the death of a person results, be punished by death or by imprisonment for not less than life.

Notwithstanding any other law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed under this subsection.''.

SEC. 408. PENALTIES FOR ARSON.

(a) REPEAL.—Section 320106 of the Violent Crime Control and Law Enforcement Act of 1994 is repealed.

(b) INCREASED PENALTIES.—Section 844 of title 18, United States Code, is amended—

(1) in subsection (f)—

(A) by striking ''not more than ten years, or fined not more than $10,000'' and inserting ''not less than five years and not more than 20 years, fined the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed''; and

(B) by striking ''not more than twenty years, or fined not more than $10,000'' and inserting ''not less than five years and not more than 40 years, fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed'';

(2) in subsection (h)—

(A) in the first sentence by striking ''five years'' and inserting ''10 years''; and

(B) in the second sentence by striking ''ten years'' and inserting ''20 years''; and

(3) in subsection (i)—

(A) by striking ''not more than ten years or fined not more than $10,000'' and inserting ''not less than five years and not more than 20 years, fined the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed''; and

(B) by striking ''not more than twenty years or fined not more than $10,000'' and inserting ''not less than five years and not more than 40 years, fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed''.

(c) STATUTE OF LIMITATIONS FOR ARSON.—Section 320917(a) of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking ''7'' and inserting ''10''.

SEC. 409. INTERSTATE TRAVEL OR USE OF MAILS OR A FACILITY IN INTERSTATE COMMERCE TO FURTHER KIDNAPPING.

Section 1201(a) of title 18, United States Code, is amended—

(1) in paragraph (3) by striking ''or'' at the end of the paragraph;

(2) in paragraph (5) by striking ''duties,'' and inserting ''duties; or''; and

(3) by inserting after paragraph (5) the following new paragraphs:

''(6) an individual travels in interstate or foreign commerce in furtherance of the offense; or

''(7) the mails or a facility in interstate or foreign commerce is used in furtherance of the offense,''.

TITLE V—FEDERAL CRIMINAL PROCEDURE REFORM

SEC. 501. OBSTRUCTION OF JUSTICE.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 1518. False pleadings

''In a criminal proceeding, any attorney who files in a court of the United States a brief, motion, answer, pleading, or other signed document that the attorney knows to contain a false statement of material fact or a false statement of law, shall be found guilty of obstruction of justice.''.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 73 of title 18, United States Code, is amended by adding the following new item:

''1518. False pleadings.''.

SEC. 502. CONDUCT OF FEDERAL PROSECUTORS.

Notwithstanding the ethical rules or the rules of the court of any State, Federal rules of conduct adopted by the Attorney General shall govern the conduct of prosecutions in the courts of the United States.

SEC. 503. FAIRNESS IN JURY SELECTION.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended by striking ''the Government is also entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges'' and inserting ''the Government is also entitled to 6 peremptory challenges. A defendant tried alone is entitled to 6 peremptory challenges, but defendants tried jointly are entitled to 10 peremptory challenges''.

SEC. 504. BALANCE IN THE COMPOSITION OF RULES COMMITTEES.

Section 2073 of title 28, United States Code, is amended—

(1) in subsection (a)(2), by adding at the end the following: ''On each such committee that makes recommendations concerning rules that affect criminal cases, including the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, the Federal Rules of Appellate Procedure, the Rules Governing Section 2254 Cases, and the Rules Governing Section 2255 Cases, the number of members who represent or supervise the representation of defendants in the trial, direct review, or collateral review of criminal cases shall not exceed the number of members who represent or supervise the representation of the Government or a State in the trial, direct review, or collateral review of criminal cases.''; and

(2) in subsection (b), by adding at the end the following: ''The number of members of the standing committees who represent or supervise the representation of defendants in the trial, direct review, or collateral review of criminal cases shall not exceed the number of members who represent or supervise the representation of the Government or a State in the trial, direct review, or collateral review of criminal cases.''.

SEC. 505. REIMBURSEMENT OF REASONABLE ATTORNEYS' FEES.

Section 526 of title 28, United States Code, is amended by adding at the end the following new subsection:

''(c)(1)(A) A current or former Department of Justice attorney, agent, or employee who supervises an agent who is the subject of a criminal or disciplinary investigation, instituted on or after the date of enactment of this subsection, arising out of acts performed in the discharge of his or her duties in prosecuting or investigating a criminal matter, who is not provided representation under Department of Justice regulations, shall be entitled to reimbursement of reasonable attorneys' fees incurred during and as a result of the investigation if the investigation does not result in adverse action against the attorney, agent, or employee.

''(B) A current or former attorney, agent, or employee who supervises an agent employed as or by a Federal public defender who is the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this subsection, arising out of acts performed in the discharge of his or her duties in defending or investigating a criminal matter in connection with the public defender program, who is not provided representation by a Federal public defender or the Administrative Office of the United States Courts, is entitled to reimbursement of reasonable attorneys' fees incurred during and as a result of the investigation if the investigation does not result in adverse action against the attorney, agent, or employee.

''(2) For purposes of paragraph (1), an investigation shall be considered not to result in adverse action against an attorney, agent, or employee if—

''(A) in the case of a criminal investigation, the investigation does not result in indictment of, the filing of a criminal complaint against, or the entry of a plea of guilty by the attorney, agent, or supervising employee; and

''(B) in the case of a disciplinary investigation, the investigation does not result in discipline or results in only discipline less serious than a formal letter of reprimand finding actual and specific wrongdoing.

''(3) The Attorney General shall provide notice in writing of the conclusion and result of an investigation described in paragraph (1).

''(4) An attorney, agent, or supervising employee who was the subject of an investigation described in paragraph (1) may waive his or her entitlement to reimbursement of attorneys' fees under paragraph (1) as part of a resolution of a criminal or disciplinary investigation.

''(5) An application for attorney fee reimbursement under this subsection shall be made not later than 180 days after the attorney, agent, or employee is notified in writing of the conclusion and result of the investigation.

''(6) Upon receipt of a proper application under this subsection for reimbursement of attorneys' fees, the Attorney General and the Director of the Administrative Office of the United States Courts shall award reimbursement for the amount of attorneys' fees that are found to have been reasonably incurred by the applicant as a result of an investigation.

''(7) The official making an award under this subsection shall make inquiry into the reasonableness of the amount requested, and shall consider—

''(A) the sufficiency of the documentation accompanying the request;

''(B) the need or justification for the underlying item;

''(C) the reasonableness of the sum requested in light of the nature of the investigation; and

''(D) current rates for equal services in the community in which the investigation took place.

''(8)(A) Reimbursements of attorneys' fees ordered under this subsection by the Attorney General shall be paid from the appropriation made by section 1304 of title 31, United States Code.

''(B) Reimbursements of attorneys' fees ordered under this section by the Director of the Administrative Office of the United States Courts shall be paid from appropriations authorized by section 3006A(i) of title 18, United States Code.

''(9) The Attorney General and the Director of the Administrative Office of the United States Courts may delegate their powers and duties under this subsection to an appropriate subordinate.''.

SEC. 506. MANDATORY RESTITUTION TO VICTIMS OF VIOLENT CRIMES.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''may order'' and inserting ''shall order''; and

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

''(4) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically or pecuniarily by unlawful conduct of the defendant during—

''(A) the criminal episode during which the offense occurred; or

''(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.'';

(2) in subsection (b)(1)(A) by striking ''impractical'' and inserting ''impracticable'';

(3) in subsection (b)(2) by inserting ''emotional or'' after ''resulting in'';

(4) in subsection (c) by striking ''If the Court decides to order restitution under this section, the'' and inserting ''The'';

(5) by striking subsections (d), (e), (f), (g), and (h); and

(6) by adding at the end the following new subsections:

''(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

''(A) the economic circumstances of the offender; or

''(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

''(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

''(A) the financial resources and other assets of the offender;

''(B) projected earnings and other income of the offender; and

''(C) any financial obligations of the offender, including obligations to dependents.

''(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

''(4) An in-kind payment described in paragraph (3) may be in the form of—

''(A) return of property;

''(B) replacement of property; or

''(C) services rendered to the victim or to a person or organization other than the victim.

''(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

''(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

''(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

''(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

''(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

''(A) any Federal civil proceeding; and

''(B) any State civil proceeding, to the extent provided by the law of the State.

''(h) A restitution order shall provide that—

''(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

''(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

''(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

''(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

''(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

''(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

''(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the

defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

''(k) An order of restitution may be enforced—

''(1) by the United States—

''(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

''(B) in the same manner as a judgment in a civil action; and

''(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

''(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.''.

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

''(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs.''; and

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

''(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.''.

SEC. 507. ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) CONFESSIONS.—Section 3501 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after the first sentence the following new sentence: ''The defendant shall have the burden of proving by a preponderance of the evidence that a confession was not voluntary.''; and

(2) in subsection (c) by striking ''and if such confession'' and all that follows through the end of the subsection.

(b) REASONABLE SEARCH OR SEIZURE.—

(1) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by inserting after section 3502 the following new section:

''§ 3502A. Admissibility of evidence obtained by search or seizure

''(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—Evidence obtained as a result of a search or seizure that is otherwise admissible in a Federal criminal proceeding shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution.

''(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR RULE.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule, or a rule of court procedure unless exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to chapter 131 of title 28.

''(c) RULE OF CONSTRUCTION.—This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.''.

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 223 of title 18, United States Code, is amended by inserting after the item for section 3502 the following new item:

''3502A. Admissibility of evidence obtained by search or seizure.''.

(c) ILLEGAL SEARCH AND SEIZURE.—

(1) IN GENERAL.—Title 28, United States Code, is amended by inserting after chapter 171, the following new chapter:

''CHAPTER 172—ILLEGAL SEARCH AND SEIZURE

''§ 2691. Definitions

''In this chapter—

''(1) the term 'Federal agency' includes an executive department, military department, independent establishment of the United States, and a corporation acting primarily as an instrumentality or agency of the United States, but does not include a contractor with the United States; and

''(2) the term 'investigative or law enforcement officer' means—

''(A) an officer of the United States who is empowered by law to execute searches, to seize evidence, or to make arrests for any violation of Federal law;

''(B) a person acting under or at the request of such an officer; or

''(C) a State or local law enforcement officer, if the case is prosecuted in a court of the United States.

''§ 2692. Tort claims; illegal search and seizure

''(a) IN GENERAL.—The United States shall be liable for damages resulting from a search or seizure conducted by an investigative or law enforcement officer, acting within the scope of the officer's office or employment, in violation of the fourth amendment to the Constitution.

''(b) ACTUAL AND PUNITIVE DAMAGES.—A person who is aggrieved by a violation described in subsection (a) may recover actual damages and such punitive damages as the court may award under subsection (c).

''(c) AWARD OF PUNITIVE DAMAGES.—Punitive damages may be awarded by the court in an amount not exceeding $10,000, upon consideration of all of the circumstances of the case, including—

''(1) the extent of the investigative or law enforcement officer's deviation from permissible conduct;

''(2) the extent to which the violation was willful, reckless, or grossly negligent;

''(3) the extent to which the aggrieved person's privacy was invaded;

''(4) the extent of the aggrieved person's physical, mental, and emotional injury;

''(5) the extent of any property damage; and

''(6) the effect that making an award of punitive damages would have in preventing future violations of the fourth amendment to the Constitution.

''(d) LIMITATION ON AWARD TO OFFENDER.—An award of nonpunitive damages under this section to a person who is convicted of an offense for which evidence of the offense was seized in violation of the fourth amendment to the Constitution shall be limited to damages for actual physical personal injury and actual property damage sustained as a result of the unconstitutional search and seizure.

''(e) AMOUNT OF AWARD.—

''(1) IN GENERAL.—Except as provided in paragraph (2), in an action brought pursuant to this section, a judgment, award, compromise, or settlement shall be in an amount that is not more than $30,000, including actual and punitive damages.

''(2) EXCEPTION.—The limitation provided in paragraph (1) shall not apply to a judgment, award, compromise, or settlement if the actual damages are in an amount that is greater than $30,000.

''(3) PREJUDGMENT INTEREST.—The United States shall not be liable for interest prior to judgment.

''(f) PERIOD OF LIMITATION.—An action under this section shall be brought within the period of limitation provided in section 2401(b).

''§ 2693. Sanctions against investigative or law enforcement officers

''An investigative or law enforcement officer who conducts a search or seizure in violation of the fourth amendment to the Constitution shall be subject to appropriate discipline in the discretion of the Federal agency employing the officer, if that agency determines, after notice and hearing, that the officer conducted the search or seizure lacking a good faith belief that the search or seizure was constitutional.

''§ 2694. Judgment as bar

''The remedy against the United States provided under this chapter shall be the exclusive civil remedy for a violation of the fourth amendment to the Constitution by any investigative or law enforcement officer acting within the scope of the officer's office or employment.

''§ 2695. Attorneys' fees and costs

''In an action brought under this chapter, the court may award any claimant who prevails in the action, other than the United States, reasonable attorney's fees and other litigation costs reasonably incurred in prosecuting the claim.

''§ 2696. Applicability of other tort claims procedures

''(a) IN GENERAL.—The procedures provided in sections 2672, 2675, 2677, 2678, 2679, and 2680 apply to an action brought under this chapter.

''(b) TREATMENT AS EMPLOYEE OF THE UNITED STATES.—For the purposes of the sections referred to in subsection (a), an investigative or law enforcement officer who conducts a search or seizure in violation of the fourth amendment to the Constitution shall be treated as if the officer were an 'employee of the United States'.

''(c) TREATMENT OF STATE OR LOCAL OFFICERS.—A State or local officer who violates the fourth amendment to the Constitution in a case that is later prosecuted in a court of the United States shall, for purposes of this section, be an employee of the United States.''.

(2) TECHNICAL AMENDMENT.—The part analysis for part VI of title 28, United States Code, is amended by inserting after the item relating to chapter 171 the following new item:

''172. Illegal search and seizure ..... **2691''.**

(d) JURISDICTION.—Section 1346 of title 28, United States Code, is amended by inserting after subsection (f) the following new subsection:

''(g) The district courts, together with the United States District for the Territory of

Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands, shall have exclusive original jurisdiction of any civil action on a claim against the United States, for money damages, brought under chapter 172.''.

(e) TECHNICAL AMENDMENT.—Section 1402(b) of title 28, United States Code, is amended by inserting ''or subsection (g)'' after ''subsection (b)''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply only to claims arising on or after the date of enactment of this Act.

SEC. 508. GENERAL HABEAS CORPUS REFORM.

(a) PERIOD OF LIMITATION.—Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

''(d) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

''(1) the date on which State remedies are exhausted;

''(2) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

''(3) the date on which the Federal constitutional right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is made retroactively applicable; or

''(4) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.''.

(b) APPEAL.—Section 2253 of title 28, United States Code, is amended to read as follows:

''§ 2253. Appeal

''(a) IN GENERAL.—In a habeas corpus proceeding or a proceeding under section 2255 before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is held.

''(b) VALIDITY OF WARRANT OR DETENTION.—There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of the detention of such person pending removal proceedings.

''(c) REQUIREMENT FOR CERTIFICATE OF PROBABLE CAUSE.—

''(1) REQUIREMENT.—Unless a circuit justice or judge issues a certificate of probable cause, an appeal may not be taken to the court of appeals from—

''(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or

''(B) the final order in a proceeding under section 2255.

''(2) SUBSTANTIAL SHOWING.—A certificate of probable cause may issue under paragraph (1) only if the petitioner has made a substantial showing of the denial of a Federal constitutional right.

''(3) SPECIFICATION OF ISSUES.—The certificate of probable cause under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).''.

(c) AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.—Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

''*Rule 22. Habeas corpus and section 2255 proceedings*

''(*a*) *Application for an Original Writ of Habeas Corpus*.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application shall be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge shall not be permitted. The petitioner may, pursuant to section 2253, appeal to the appropriate court of appeals from the order of the district court denying the writ.

''(*b*) *Necessity of Certificate of Probable Cause for Appeal*.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant may not proceed unless the Court of Appeals issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a panel of the Court of Appeals. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate of probable cause is not required.''.

(d) SECTION 2254 AMENDMENT.—Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

''(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

''(A) the applicant has exhausted the remedies available in the courts of the State; or

''(B)(i) there is an absence of available State corrective process; or

''(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

''(2) An application may be denied if the court is satisfied that the application is frivolous or malicious, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

''(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.'';

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

''(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings.'';

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

''(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made in the case by a State court after any procedure sufficient to develop an adequate record shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence.

''(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the Federal court shall not hold an evidentiary hearing on the claim unless the applicant shows that—

''(A) the claim relies on (i) a new rule of constitutional law, made retroactive by the Supreme Court, that was previously unavailable; or (ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

''(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the petitioner guilty of the underlying offense or eligible for the death penalty under State law.''; and

(5) by adding at the end the following new subsection:

''(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18, United States Code.''.

(e) SECTION 2255 AMENDMENTS.—Section 2255 of title 28, United States Code, is amended—

(1) by striking the second and the fifth paragraphs; and

(2) by adding at the end the following new paragraphs:

''A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

''(1) the date on which the judgment of conviction becomes final;

''(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

''(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Court and is made retroactively applicable; or

''(4) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

''In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18, United States Code.''.

(f) SECOND OR SUCCESSIVE PETITIONS.—

(1) CERTIFICATION.—A second or successive motion must be certified by a panel of the appropriate Federal Court of Appeals to contain—

(A) newly discovered evidence sufficient to undermine the court's confidence in the factfinder's determination of the prisoner's guilt of the offense or offenses for which the sentence was imposed; or

(B) a new rule of constitutional law, made retroactive by the Supreme Court, that was previously unavailable.

(2) CONFORMING AMENDMENT TO SECTION 2244(a).—Section 2244(a) of title 28, United States Code, is amended by striking ''and the petition'' and all that follows through ''by such inquiry.'' and inserting ''except as provided in section 2255.''.

(3) LIMITATIONS ON SECOND OR SUCCESSIVE PETITIONS.—Section 2244(b) of title 28, United States Code, is amended to read as follows:

''(b)(1) A claim presented in a second or successive habeas corpus petition that was

not presented in a prior petition shall be dismissed unless—

''(A) the petitioner shows that—

''(i) the claim relies on a new rule of constitutional law, made retroactive by the Supreme Court, that was previously unavailable; or

''(ii) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

''(B) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to undermine the court's confidence in the factfinder's determination of the applicant's guilt of the offense or offenses for which the sentence was imposed.

''(2)(A) Before a second or successive petition is filed in the district court, the petitioner must move in the appropriate court of appeals for an order authorizing the district court to consider the petition.

''(B) A motion in the court of appeals for an order authorizing the district court to consider a successive petition shall be determined by a three-judge panel of the court of appeals.

''(C) The court of appeals may authorize the filing of a successive petition only if it determines that the petitioner has made a prima facie showing that the petition satisfies the requirements of this section.

''(D) The grant or denial of an authorization by the court of appeals to file a second or successive petition shall not be appealable.

''(3) A district court shall dismiss any claim presented in a second or successive petition that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.''.

SEC. 509. TECHNICAL AMENDMENT.

Section 848(q) of title 21, United States Code, is amended by striking all references to section 2254.

SEC. 510. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

''CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

''§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

''(a) APPLICATION OF CHAPTER.—This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

''(b) ESTABLISHMENT OF APPOINTMENT MECHANISM.—This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

''(c) OFFER OF COUNSEL.—Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

''(1) appointing 1 or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

''(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

''(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

''(d) PREVIOUS REPRESENTATION.—No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

''(e) NO GROUND FOR RELIEF.—The ineffectiveness or incompetence of counsel during Federal or State collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

''§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

''(a) STAY.—Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

''(b) EXPIRATION OF STAY.—A stay of execution granted pursuant to subsection (a) shall expire if—

''(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court;

''(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and—

''(A) the time for filing a petition for certiorari has expired and no petition has been filed;

''(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

''(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

''(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

''(c) LIMITATION ON FURTHER STAY.—If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

''(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

''(2) the failure to raise the claim is—

''(A) the result of State action in violation of the Constitution or laws of the United States;

''(B) the result of the Supreme Court recognition of a new Federal right that is made retroactively applicable; or

''(C) based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal postconviction review;

''(3) the facts underlying the claim if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the petitioner guilty of the underlying offense or eligible for the death penalty under State law;

''(4) the court of appeals approves the filing of a second or successive petition that—

''(A) is the result of the Supreme Court recognition of a new Federal right that is made retroactively applicable; or

''(B) is based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal postconviction review; and

''(5) the facts underlying the claim if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the petitioner guilty of the underlying offense or eligible for the death penalty under State law.

''§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

''(a) FILING.—A petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within 180 days from the filing in the appropriate State court of record of an order under section 2256(c).

''(b) TOLLING.—The time requirements established by this section shall be tolled—

''(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

''(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

''(3) during an additional period not to exceed 30 days, if—

''(A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and

''(B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

''§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

''(a) REVIEW OF RECORD; HEARING.—Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall, within the time limits required by section 2267—

''(1) determine the sufficiency of the record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is—

''(A) the result of State action in violation of the Constitution or laws of the United States;

''(B) the result of the Supreme Court recognition of a new Federal right that is made retroactively applicable; or

''(C) based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State postconviction review; and

''(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

''(b) ADJUDICATION.—Upon the development of a complete evidentiary record, the district court shall rule on the claims that are properly before it, but the court shall not grant relief from a judgment of conviction or sentence on the basis of any claim that was fully and fairly adjudicated in State proceedings.

''§ 2260. Certificate of probable cause inapplicable

''The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

''§ 2261. Application to State unitary review procedure

''(a) IN GENERAL.—

''(1) DEFINITION.—For purposes of this section, the term 'unitary review procedure' means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack.

''(2) APPLICATION OF CHAPTER.—This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings.

''(3) STANDARDS OF COMPETENCY.—A rule of court or statute described in paragraph (2) must provide standards of competency for the appointment of counsel.

''(b) OFFER OF COUNSEL.—

''(1) IN GENERAL.—To qualify under this section, a unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose.

''(2) NO PREVIOUS REPRESENTATION.—No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

''(c) APPLICATION OF OTHER SECTIONS.—

''(1) IN GENERAL.—Sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section.

''(2) REFERENCES.—References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, the start of the 180-day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or the prisoner's counsel.

''§ 2262. Limitation periods for determining petitions

''(a) IN GENERAL.—The adjudication of any petition under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters.

''(b) TIME LIMITATIONS FOR CONSIDERATION BY THE DISTRICT COURTS OF HABEAS CORPUS PETITIONS IN CAPITAL CASES.—

''(1) IN GENERAL.—

''(A) FINAL DETERMINATION WITHIN 180 DAYS.—Except to the extent that a longer period of time is required in order that each of the parties will have been accorded at least as many days as provided in the rules in which to complete all actions, including preparation of briefs and, if necessary, a hearing prior to the submission of the case for decision, a district court shall render a final determination of any petition for a writ of habeas corpus brought under this chapter in a capital case not later than 180 days after the date on which the petition is filed.

''(B) DELAY.—(i) A district court may delay for not more than one additional 180-day period beyond the period specified in subparagraph (A), the rendering of a determination of a petition for a writ of habeas corpus if the court issues a written order making a finding, and stating the reasons for the finding, that the ends of justice that would be served by allowing the delay outweigh the best interests of the public and the petitioner in a speedy disposition of the petition.

''(ii) The factors, among others, that a court shall consider in determining whether a delay in the disposition of a petition is warranted are as follows:

''(I) Whether the failure to allow the delay would be likely to result in a miscarriage of justice.

''(II) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate briefing within the time limit established by subparagraph (A).

''(III) Whether the failure to allow a delay in a case, that taken as a whole, is not so unusual or so complex as described in clause (ii), would deny the petitioner reasonable time to obtain counsel, would unreasonably deny the petitioner or the government continuity of counsel, or would deny counsel for the petitioner or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

''(iii) No delay in disposition shall be permissible because of general congestion of the court's calendar.

''(iv) The court shall transmit a copy of any order issued under clause (i) to the Director of the Administrative Office of the United States Courts for inclusion in the report under paragraph (5).

''(2) APPLICATION.—The time limitations under paragraph (1) shall apply to—

''(A) an initial petition for a writ of habeas corpus;

''(B) any second or successive petition for a writ of habeas corpus; and

''(C) any redetermination of a petition for a writ of habeas corpus following a remand by the court of appeals or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

''(3) RULE OF CONSTRUCTION.—The time limitations under this section shall not be construed to entitle a petitioner to a stay of execution, to which the petitioner would otherwise not be entitled, for the purpose of litigating any petition or appeal.

''(4) FAILURE TO RENDER TIMELY DETERMINATION.—

''(A) NO GROUND FOR RELIEF.—The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

''(B) ENFORCEMENT.—The government may enforce a time limitation under this section by petitioning for a writ of mandamus to the court of appeals. The Court of Appeals shall act on the petition for a writ or mandamus not later than 30 days after the filing of the petition.

''(5) REPORT.—

''(A) IN GENERAL.—The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the district courts with the time limitations under this section.

''(B) CONTENTS.—The report described in subparagraph (A) shall include copies of the orders submitted by the district courts under paragraph (1)(B)(iv).

''(c) TIME LIMITATIONS FOR CONSIDERATION OF DISTRICT COURT DETERMINATIONS OF HABEAS CORPUS PETITIONS IN CAPITAL CASES.—

''(1) IN GENERAL.—

''(A) FINAL DETERMINATION WITHIN 120 DAYS.—A court of appeals shall hear and render a final determination of any appeal of an order granting or denying, in whole or in part, a petition brought under this chapter in a capital case not later than 120 days after the date on which the reply brief is filed, or if no reply brief is filed, not later than 120 days after the date on which the answering brief is filed.

''(B) HEARING EN BANC.—(i) A court of appeals shall decide whether to grant a petition for rehearing or other request for rehearing en banc not later than 30 days after the date on which the petition for rehearing is filed unless a responsive pleading is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the responsive pleading is filed.

''(ii) If a petition for rehearing or rehearing en banc is granted, the court of appeals shall hear and render a final determination of the appeal not later than 120 days after the date on which the order granting rehearing or rehearing en banc is entered.

''(2) APPLICATION.—The time limitations under paragraph (1) shall apply to—

''(A) an initial petition for a writ of habeas corpus;

''(B) any second or successive petition for a writ of habeas corpus; and

''(C) any redetermination of a petition for a writ of habeas corpus or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

''(3) RULE OF CONSTRUCTION.—The time limitations under this section shall not be construed to entitle a petitioner to a stay of execution, to which the petitioner would otherwise not be entitled, for the purpose of litigating any petition or appeal.

''(4) FAILURE TO RENDER TIMELY DETERMINATION.—

''(A) NO GROUND FOR RELIEF.—The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

''(B) ENFORCEMENT.—The government may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

''(5) REPORT.—The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the district courts and courts of appeals with the time limitations under this section.''.

(b) TECHNICAL AMENDMENT.—The part analysis for part IV of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

''154. Special habeas corpus procedures in capital cases ..... 2261.''.

TITLE VI—PREVENTION OF TERRORISM

SEC. 601. WILLFUL VIOLATION OF FEDERAL AVIATION ADMINISTRATION REGULATIONS.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, as amended by section 60021(a) of the Violent Crime Control and Safe Streets Act of 1968, is amended by adding at the end the following new section:

''§ 38. Violations of Federal aviation security regulations

''A person who willfully violates a security regulation under part 107 or 108 of title 14, Code of Federal Regulations (relating to airport and airline security) issued pursuant to section 44901 or 44903 of title 49, United States Code, or a successor part, shall be fined under this title, imprisoned not more than 1 year, or both.''.

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, as amended by section 719(b), is amended by adding at the end the following new item:

''38. Violations of Federal aviation security regulations.''.

SEC. 602. ASSAULTS, MURDERS, AND THREATS AGAINST FORMER FEDERAL OFFICIALS IN PERFORMANCE OF OFFICIAL DUTIES.

Section 115(a)(2) of title 18, United States Code, is amended by inserting '', or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or'' after ''assaults, kidnaps, or murders, or attempts to kidnap or murder''.

SEC. 603. WIRETAP AUTHORITY FOR ALIEN SMUGGLING AND RELATED OFFENSES AND INCLUSION OF ALIEN SMUGGLING AS A RICO PREDICATE.

(a) IN GENERAL.—Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c) by inserting after ''section 175 (relating to biological weapons),'' the following: ''or a felony violation under section 1028 (relating to production of false identification documentation), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents),'';

(2) by redesignating paragraphs (m), (n), and (o) as paragraphs (n), (o), and (p), respectively; and

(3) by inserting after paragraph (l) the following new paragraph:

''(m) a violation of (i) section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) (relating to alien smuggling), (ii) section 277 of the Immigration and Nationality Act (8 U.S.C. 1327) (relating to the smuggling of aliens convicted of aggravated felonies or of aliens subject to exclusion on grounds of national security), or (iii) section 278 of the Immigration and Nationality Act (8 U.S.C. 1328) (relating to smuggling of aliens for the purpose of prostitution);''.

(b) DEFINITION OF RACKETEERING.—Section 1961(1) of title 18, United States Code, is amended—

(1) by striking ''or'' before ''(E) any Act''; and

(2) by inserting after ''Currency and Foreign Transactions Reporting Act'' the following: '', or (F) any act (or conspiracy to commit any act) which is indictable under section 274(a) (1) of the Immigration and Nationality Act (8 U.S.C. 1324(a) (1)) (dealing with prohibitions on bringing in and harboring certain aliens)''.

SEC. 604. AUTHORIZATION FOR INTERCEPTIONS OF COMMUNICATIONS IN CERTAIN TERRORISM-RELATED OFFENSES.

Section 2516(1)(c) of title 18, United States Code, as amended by section 703, is further amended—

(1) in subsection (c), by inserting before ''or section 1992 (relating to wrecking trains)'' the following: ''section 2332 (relating to terrorist acts abroad), section 2332a (relating to weapons of mass destruction), section 2339A (relating to providing material support to terrorists), section 37 (relating to violence at airports),''; and

(2) by redesignating subparagraph (p) as subparagraph (q) and adding the following new subparagraph (p):

''(p) any violation of section 956 or section 960 of title 18, United States Code (relating to certain actions against foreign nations);''.

SEC. 605. PARTICIPATION OF FOREIGN AND STATE GOVERNMENT PERSONNEL IN INTERCEPTIONS OF COMMUNICATIONS.

Section 2518(5) of title 18, United States Code, is amended by inserting ''(including personnel of a foreign government or of a State or subdivision of a State)'' after ''Government personnel''.

SEC. 606. DISCLOSURE OF INTERCEPTED COMMUNICATIONS TO FOREIGN LAW ENFORCEMENT AGENCIES.

Section 2510(7) of title 18, United States Code, is amended by inserting before the semicolon the following: ''and, for purposes of section 2517(1)–(2), any person authorized to perform investigative, law enforcement, or prosecutorial functions by a foreign government''.

SEC. 607. ALIEN TERRORIST REMOVAL.

The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting the following new section:

''REMOVAL OF ALIEN TERRORISTS

''SEC. 242C. (a) DEFINITIONS.—As used in this section—

''(1) the term 'alien terrorist' means any alien described in section 241(a)(4)(B);

''(2) the term 'classified information' has the same meaning as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App. IV);

''(3) the term 'national security' has the same meaning as defined in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App. IV);

''(4) the term 'special court' means the court described in subsection (c) of this section; and

''(5) the 'special removal hearing' means the hearing described in subsection (e) of this section.

''(b) APPLICATION FOR USE OF PROCEDURES.—The provisions of this section shall apply whenever the Attorney General certifies under seal to the special court that—

''(1) the Attorney General or Deputy Attorney General has approved of the proceeding under this section;

''(2) an alien terrorist is physically present in the United States; and

''(3) removal of such alien terrorist by deportation proceedings described in sections 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information.

''(c) SPECIAL COURT.—(1) The Chief Justice of the United States shall publicly designate up to 7 judges from up to 7 United States judicial districts to hear and decide cases arising under this section, in a manner consistent with the designation of judges described in section 103(a) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1803(a)).

''(2) The Chief Justice may, in the Chief Justice's discretion, designate the same judges under this section as are designated pursuant to section 1803(a) of title 50, United States Code.

''(d) INVOCATION OF SPECIAL COURT PROCEDURE.—(1) When the Attorney General makes the application described in subsection (b), a single judge of the special court shall consider the application in camera and ex parte.

''(2) The judge shall invoke the procedures of subsection (e), if the judge determines that there is probable cause to believe that—

''(A) the alien who is the subject of the application has been correctly identified;

''(B) a deportation proceeding described in section 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information; and

''(C) the threat posed by the alien's physical presence is immediate and involves the risk of death or serious bodily harm.

''(e) SPECIAL REMOVAL HEARING.—(1) Except as provided in paragraph (4), the special removal hearing authorized by a showing of probable cause described in subsection (d)(2) shall be open to the public.

''(2) The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent such alien. Counsel may be appointed as described in section 3006A of title 18, United States Code.

''(3) The alien shall have a right to introduce evidence on his own behalf, and except as provided in paragraph (4), shall have a right to cross-examine any witness or request that the judge issue a subpoena for the presence of a named witness.

''(4) The judge shall authorize the introduction in camera and ex parte of any item of evidence for which the judge determines that public disclosure would pose a risk to the national security of the United States because it would disclose classified information.

''(5) With respect to any evidence described in paragraph (4), the judge shall cause to be delivered to the alien either—

''(A)(i) the substitution for such evidence of a statement admitting relevant facts that the specific evidence would tend to prove, or (ii) the substitution for such evidence of a summary of the specific evidence; or

''(B) if disclosure of even the substituted evidence described in subparagraph (A)

would create a substantial risk of death or serious bodily harm to any person, a statement informing the alien that no such summary is possible.

''(6) If the judge determines—

''(A) that the substituted evidence described in paragraph (4)(B) will provide the alien with substantially the same ability to make his defense as would disclosure of the specific evidence, or

''(B) that disclosure of even the substituted evidence described in paragraph (5)(A) would create a substantial risk of death or serious bodily harm to any person,

then the determination of deportation (described in subsection (f)) may be made pursuant to this section.

''(f) DETERMINATION OF DEPORTATION.—(1) If the determination in subsection (e)(6)(A) has been made, the judge shall, considering the evidence on the record as a whole, require that the alien be deported if the Attorney General proves, by clear and convincing evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

''(2) If the determination in subsection (e)(6)(B) has been made, the judge shall, considering the evidence received (in camera and otherwise), require that the alien be deported if the Attorney General proves, by clear, convincing, and unequivocal evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

''(g) APPEALS.—(1) The alien may appeal a determination under subsection (f) to the court of appeals for the Federal Circuit, by filing a notice of appeal with such court within 20 days of the determination under such subsection.

''(2) The Attorney General may appeal a determination under subsection (d), (e), or (f) to the court of appeals for the Federal Circuit, by filing a notice of appeal with such court within 20 days of the determination under any one of such subsections.

''(3) When requested by the Attorney General, the entire record of the proceeding under this section shall be transmitted to the court of appeals under seal. The court of appeals shall consider such appeal in camera and ex parte.''.

SEC. 608. TERRITORIAL SEA.

(a) TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.—The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

(b) ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.—Section 13 of title 18, United States Code (relating to the adoption of State laws for areas within Federal jurisdiction), is amended—

(1) in subsection (a), by inserting after ''title'' the following: ''or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, Territory, Possession, or District''; and

(2) by adding at the end the following new subsection:

''(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Territory, Possession, or District, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of that State, Territory, Possession, or District it would lie within if the boundaries of such State, Territory, Possession, or District were extended seaward to the outer limit of the territorial sea of the United States.''.

SEC. 609. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OVERSEAS.

(a) Section 46502(b) of title 49, United States Code is amended—

(1) in paragraph (b)(1), by striking '', and later found in the United States'';

(2) by amending paragraph (b)(2) to read as follows:

''(2) The courts of the United States shall have jurisdiction over the offense in paragraph (1) if—

''(A) a national of the United States was aboard the aircraft at the time of the offense;

''(B) an offender is a national of the United States; or

''(C) an offender is later found in the United States.''; and

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

''(3) For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''.

(b) Section 32(b) of title 18, United States Code, is amended—

(1) by striking '', if the offender is later found in the United States,''; and

(2) by adding at the end the following new paragraphs:

''(5) The courts of the United States shall have jurisdiction over an offense in this subsection if—

''(A) a national of the United States was on board, or would have been on board, the aircraft at the time of the offense;

''(B) an offender is a national of the United States; or

''(C) an offender is afterwards found in the United States.

''(6) For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a) (22)).''.

(c) Section 1116 of title 18, United States Code, is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

''(7) 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''; and

(2) in subsection (c), by striking the first sentence and inserting the following:

''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''.

(d) Section 112 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting '', 'national of the United States,'' before ''and''; and

(2) in subsection (e), by striking the first sentence and inserting the following:

''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''.

(e) Section 878 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting '', 'national of the United States,'' before ''and''; and

(2) in subsection (d), by striking the first sentence and inserting the following:

''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''.

(f) Section 1201(e) of title 18, United States Code, is amended—

(1) by striking the first sentence and inserting the following:

''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''; and

(2) by adding at the end the following:

''For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a) (22) of the Immigration and .'Nationality Act (8 U.S.C. 1101(a) (22)).''.

(g) Section 37(b)(2) of title 18, United States Code, is amended—

(1) by inserting ''(A)'' before ''the offender is later found in the States''; and

(2) by inserting ''or (B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(22))'' after ''the offender is later found in the United States''.

(h) Section 831(c)(2) of title 18, United States Code, is amended by striking ''the defendant is a national of the United States, as defined'' and inserting ''an offender or a victim is a national of the United States, as defined''.

(i) Section 175(a) of title 18, United States Code, is amended by inserting ''(as defined in section 101(a)(22) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(22))'' after ''national of the United States''.

SEC. 610. FEDERAL AVIATION ADMINISTRATION REPORTING RESPONSIBILITY.

(a) IN GENERAL.—Chapter 449 of title 49, United States Code, is amended by inserting after section 44901 the following new section:

''§ 44901A. Discoveries of controlled substances or cash in excess of $10,000

''Not later than 90 days after the date of the enactment of this section, the Administrator shall issue regulations requiring employees and agents referred to in subsection (a) to report to appropriate Federal and State law enforcement officers any incident in which the employee or agent, in the course of conducting screening procedures pursuant to subsection (a), discovers a controlled substance the possession of which may be a violation of Federal or State law, or any sizable sums of cash in excess of $10,000 the possession of which may be a violation of Federal or State law.''.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 449 of title 49, United States Code, is amended by inserting after the item relating to section 44901 the following new item:

''44901A. Discoveries of controlled substances or cash in excess of $10,000.''.

SEC. 611. INFORMATION TRANSFER.

Section 245A(c)(5)(C) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)(C))

is amended by striking ''except that the Attorney General'' and all that follows through ''section 8 of title 13, United States Code.'' and inserting ''except that the Attorney General—

''(i) may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien (as a result of an investigation of the alien by an investigative officer or law enforcement officer) that is necessary to locate and identify the alien if—

''(I) such disclosure may result in the discovery of information leading the location and identity of the alien; and

''(II) such disclosure (and the information discovered as a result of such disclosure) will be used only for criminal law enforcement purposes as against the alien whose file is being accessed;

''(ii) may furnish information under this section with respect to an alien to an official coroner (upon the written request of the coroner) for the purposes of permitting the coroner to identify a deceased individual; and

''(iii) may provide, in the Attorney General's discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed to the Secretary of Commerce under section 8 of title 13, United States Code.''.

SEC. 612. EXTRADITION.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended—

(1) by inserting ''(a)'' before ''The provisions of this chapter''; and

(2) by adding at the end the following new subsections:

''(b) The provisions of this chapter shall be construed to permit, in the exercise of comity, the surrender of persons, other than citizens, nationals, or permanent residents of the United States, who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies, in writing, that—

''(1) evidence has been presented by the foreign government that indicates that had the offenses been committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and

''(2) the offenses charged are not of a political nature.

''(c) As used in this section, the term 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''.

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after ''United States and any foreign government,'' the following: ''or in cases arising under section 3181(b),'';

(2) in the first sentence by inserting after ''treaty or convention,'' the following: ''or provided for under section 3181(b),''; and

(3) in the third sentence by inserting after ''treaty or convention,'' the following: ''or under section 3181(b),''.

SEC. 613. FEDERAL BUREAU OF INVESTIGATION REPORT.

Not later than January 31, 1997, the Director of the Director of the Federal Bureau of Investigations shall report to Congress on the effectiveness of section 2339A of title 18, United States Code (as added by section 120005(a) of the Violent Crime Control and Law Enforcement Act of 1994). The report shall include any recommendations of the Director for changes in existing law that are needed to improve the effectiveness of such section.

SEC. 614. INCREASED PENALTIES FOR TERRORISM CRIMES.

(a) Title 18, United States Code, is amended—

(1) in section 114, by striking ''maim or disfigure'' and inserting ''torture, maim, or disfigure''; and

(2) in section 371, by striking ''$10,000 or imprisoned not more than five years'' and inserting ''$10,000 in excess of the monetary gain from the conspiracy, or imprisoned not more than twenty years'';

(3) in section 755—

(A) by striking ''$2,000'' and inserting ''$5,000'';

(B) by striking ''two years'' and inserting ''five years''; and

(C) by striking ''$500'' and inserting ''$1,000'';

(4) in section 756, by striking ''$1,000 or imprisoned not more than one year'' and inserting ''$5,000 or imprisoned not more than five years'';

(5) in section 878(a), by striking ''by killing, kidnapping, or assaulting a foreign official, official guest, or internationally protected person'';

(6) in section 1113, by striking ''three years or fined'' and inserting ''seven years'';

(7) in section 1114, by inserting ''any member of the United States Armed Forces who is engaged in noncombat related official activities,'' after ''such marshal or deputy marshal'';

(8) in section 1116(a), by inserting ''or to death,'' after ''imprisonment for life,''; and

(9) in section 2332(c), by striking ''five'' and inserting ''ten''.

(b) Section 1472(l)(1) of title 49 App., United States Code is amended by striking ''one'' and inserting ''ten''.

SEC. 615. CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES BY PERSONS ACCOMPANYING THE ARMED FORCES.

(a) Title 18, United States Code, is amended by inserting after chapter 211 the following:

''CHAPTER 212—CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES

''§ 3261. Criminal offenses committed by persons formerly serving with, or presently employed by or accompanying, the Armed Forces outside the United States

''(a) Whoever, while serving with, employed by, or accompanying the Armed Forces outside the United States, engages in conduct which would constitute an offense punishable by imprisonment for more than one year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, shall be guilty of a like offense and subject to a like punishment.

''(b) Nothing contained in this chapter deprives courts-martial, military commissions, provost courts, or other military tribunals of concurrent jurisdiction with respect of offenders or offenses that by statute or by the law of war may be tried by courts-martial, military commissions, provost courts, or other military tribunals.

''(c) No prosecution may be commenced under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting such offense, except upon the approval of the Attorney General of the United States or the Deputy Attorney General of the United States (or a person acting in either such capacity), which function of approval may not be delegated.

''(d)(1) The Secretary of Defense may designate and authorize any person serving in a law enforcement position in the Department of Defense to arrest outside the United States any person described in subsection (a) of this section who there is probable cause to believe engaged in conduct which constitutes a criminal offense under such section.

''(2) A person arrested under paragraph (1) of this section shall be released to the custody of civilian law enforcement authorities of the United States for removal to the United States for judicial proceedings in relation to conduct referred to in such paragraph unless—

''(A) such person is delivered to authorities of a foreign country under section 3262 of this title; or

''(B) such person has had charges preferred against him under chapter 47 of title 10 for such conduct.

''§ 3262. Delivery to authorities of foreign countries

''(a) Any person designated and authorized under section 3261(d) of this title may deliver a person described in section 3261(a) of this title to the appropriate authorities of a foreign country in which such person is alleged to have engaged in conduct described in such subsection (a) of this section if—

''(1) the appropriate authorities of that country request the delivery of the person to such country for trial for such conduct as an offense under the laws of that country; and

''(2) the delivery of such person to that country is authorized by a treaty or other international agreement to which the United States is a party.

''(b) The Secretary of Defense shall determine what officials of a foreign country constitute appropriate authorities for the purpose of this section.

''§ 3263. Regulations

''The Secretary of Defense shall issue regulations governing the apprehension, detention, and removal of persons under this chapter. Such regulations shall be uniform throughout the Department of Defense.

''§ 3264. Definitions for chapter

''As used in this chapter—

''(1) a person is 'employed by the armed forces outside the United States' if he or she is employed as a civilian employee of a military department, as a Department of Defense contractor, or as an employee of a Department of Defense contractor, is present or residing outside the United States in connection with such employment, and is not a national of the host nation.

''(2) a person is 'accompanying the armed forces outside the United States' if he or she is a dependent of a member of the armed forces and is residing with the member outside the United States.''.

(b) The table of chapters at the beginning of part II of title 18, United States Code, is amended by inserting after the item relating to chapter 211 the following:

''212. Criminal Offenses Committed Outside the United States ..... 3261''.

TITLE VII—MISCELLANEOUS AND TECHNICAL PROVISIONS

Subtitle A—Elimination of Certain Programs

SEC. 701. ELIMINATION OF INEFFECTIVE PROGRAMS.

Subtitles A through S and subtitles U and X of title III, title V, and title XXVII of the Violent Crime Control and Law Enforcement Act of 1994, and the amendments made thereby, are repealed.

Subtitle B—Amendments Relating to Violent Crime Control

SEC. 711. VIOLENT CRIME AND DRUG EMERGENCY AREAS REPEAL.

Section 90107 of the Violent Crime Control and Law Enforcement Act of 1994 is repealed.

SEC. 712. EXPANSION OF 18 U.S.C. 1959 TO COVER COMMISSION OF ALL VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY AND INCREASED PENALTIES.

Section 1959(a) of title 18, United States Code, is amended—

(1) by inserting ''or commits any other crime of violence'' before ''or threatens to commit a crime of violence against'';

(2) in paragraph (4) by inserting ''committing any other crime of violence or for'' before ''threatening to commit a crime of violence'', and by striking ''five'' and inserting ''ten'';

(3) in paragraph (5) by striking ''ten'' and inserting ''twenty'';

(4) in paragraph (6) by striking ''or'' before ''assault resulting in serious bodily injury,'', by inserting ''or any other crime of violence'' after those same words, and by striking ''three'' and inserting ''ten''; and

(5) by inserting ''(as defined in section 1365 of this title)'' after ''serious bodily injury'' the first place it appears.

SEC. 713. AUTHORITY TO INVESTIGATE SERIAL KILLINGS.

(a) Chapter 33 of title 28, United States Code, is amended by adding after section 537 the following new section:

''§ 538. Investigation of serial killings

''The Attorney General and the Federal Bureau of Investigation may investigate serial killings in violation of the laws of a State or political subdivision, when such investigation is requested by the head of a law enforcement agency with investigative or prosecutive jurisdiction over the offense. For purposes of this section—

''(1) the term 'serial killings' means a series of three or more killings, at least one of which was committed within the United States, having common characteristics such as to suggest the reasonable possibility that the crimes were committed by the same actor or actors;

''(2) 'killing' means conduct that would constitute an offense under section 1111 of title 18, United States Code, if Federal jurisdiction existed;

''(3) and section 540, 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

(b) The table of contents for chapter 33 of title 28, United States Code, is amended by inserting after the item for section 537 the following:

''538. Investigation of serial killings.''.

SEC. 714. FIREARMS AND EXPLOSIVES CONSPIRACY.

(a) Section 924 of title 18, United States Codes, is amended by adding at the end the following new subsection:

''(o) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which was the object of the conspiracy.''.

(b) Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

''(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which was the object of the conspiracy.''.

SEC. 715. INCREASED PENALTIES FOR VIOLENCE IN THE COURSE OF RIOT OFFENSES.

Section 2101(a) of title 18, United States Code, is amended by striking ''Shall be fined under this title, or imprisoned not more than five years, or both'' and inserting ''Shall be fined under this title or (i) if death results from such act, be imprisoned for any term of years or for life, or both; (ii) if serious bodily injury (as defined in section 1365 of this title) results from such act, be imprisoned for not more than twenty years, or both; or (iii) in any other case, be imprisoned for not more than five years, or both''.

SEC. 716. PRETRIAL DETENTION FOR POSSESSION OF FIREARMS OR EXPLOSIVES BY CONVICTED FELONS.

Section 3156(a)(4) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ''; or''; and

(3) by adding after subparagraph (C) the following new subparagraph:

''(D) an offense that is a violation of section 842(i) or 922(g) of this title (relating to possession of explosives or firearms by convicted felons).''.

SEC. 717. ELIMINATION OF UNJUSTIFIED SCIENTER ELEMENT FOR CARJACKING.

Section 2119 of title 18, United States Code, is amended by striking '', with the intent to cause death or serious bodily harm''.

SEC. 718. THEFT OF VESSELS.

(a) Section 2311 of title 18, United States Code, is amended by adding at the end the following:

'' 'Vessel' means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.'';

(b) Sections 2312 and 2313 of title 18, United States Code, are each amended by striking ''motor vehicle or aircraft'' and inserting ''motor vehicle, vessel, or aircraft''.

SEC. 719. CLARIFICATION OF AGREEMENT REQUIREMENT FOR RICO CONSPIRACY.

Section 1962(d) of title 18, United States Code, is amended by adding at the end ''For purposes of this subsection, it is not necessary to establish that the defendant agreed personally to commit any acts of racketeering activity.''

SEC. 720. ADDITION OF ATTEMPT COVERAGE FOR INTERSTATE DOMESTIC VIOLENCE OFFENSE.

Section 2261(a) of title 18, United States Code, is amended—

(1) in subsection (a)(1) by inserting ''or attempts to do so,'' after ''thereby causes bodily injury to such spouse or intimate partner,''; and

(2) in subsection (a)(2) by inserting ''or attempts to do so,'' after ''thereby causes bodily injury to the person's spouse or intimate partner,''.

SEC. 721. ADDITION OF FOREIGN MURDER AS A MONEY LAUNDERING PREDICATE.

Section 1956(c)(7)(B)(ii) of title 18, United States Code, is amended by inserting ''murder,'' before ''kidnapping''.

SEC. 722. ASSAULTS OR OTHER CRIMES OF VIOLENCE FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting ''or other felony crime of violence against the person'' after ''murder''.

SEC. 723. THREATENING TO USE A WEAPON OF MASS DESTRUCTION.

Section 2332a(a) of title 18, United States Code, is amended by inserting ''or threatens'' before ''or attempts or conspires to use, a weapon of mass destruction''.

SEC. 724. TECHNICAL AMENDMENTS.

Section 60002 of the Violent Crime Control and Law Enforcement Act of 1994 is amended—

(1) by striking the words ''pursuant to this chapter'' in section 3596 of title 18; and

(2) by striking section 3597(a) of title 18 and replacing it with:

''(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death shall use appropriate Federal facilities for the purpose.''.

Subtitle C—Amendments Relating to Courts and Sentencing

SEC. 731. ALLOWING A REDUCTION OF SENTENCE FOR PROVIDING USEFUL INVESTIGATIVE INFORMATION ALTHOUGH NOT REGARDING A PARTICULAR INDIVIDUAL.

Section 3553(e) of title 18, United States Code, section 994(n) of title 28, United States Code, and Rule 35(b) of the Federal Rules of Criminal Procedure are each amended by striking ''substantial assistance in the investigation or prosecution of another person who has committed an offense'' and inserting ''substantial assistance in an investigation of any offense or the prosecution of another person who has committed an offense''.

SEC. 732. APPEALS FROM CERTAIN DISMISSALS.

Section 3731 of title 18, United States Code, is amended by inserting ''or any part thereof'' after ''as to any one or more counts''.

SEC. 733. ELIMINATION OF OUTMODED CERTIFICATION REQUIREMENT FROM THE GOVERNMENT APPEAL STATUTE.

Section 3731 of title 18, United States Code, is amended in the second paragraph by striking '', if the United States attorney certifies to the district court that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of a fact material in the proceeding''.

SEC. 734. CLARIFICATION OF MEANING OF OFFICIAL DETENTION FOR PURPOSES OF CREDIT FOR PRIOR CUSTODY.

Section 3585(b) of title 18, United States Code, is amended by adding at the end: ''For purposes of this subsection, 'official detention' does not include detention at a community-based treatment or correctional facility.''.

SEC. 735. LIMITATION ON REDUCTION OF SENTENCE FOR SUBSTANTIAL ASSISTANCE OF DEFENDANT.

(a) Section 994(n) of title 18, United States Code, is amended by adding the following at the end thereof: ''The power to reduce a sentence under this section authorizes a court to impose a sentence that is below a level established by statute as a minimum sentence only on motion of the government specifically seeking reduction below such level.''.

(b) Rule 35(b) of the Federal Rules of Criminal Procedure is amended by adding ''only if the motion of the government specifically seeks reduction below such level'' after ''minimum sentence''.

SEC. 736. IMPROVEMENT OF HATE CRIMES SENTENCING PROCEDURE.

Section 280003(b) of Public Law 103–322 is amended by striking ''the finder of fact at trial'' and inserting ''the court at sentencing''.

SEC. 737. CLARIFICATION OF LENGTH OF SUPERVISED RELEASE TERMS IN CONTROLLED SUBSTANCE CASES.

Sections 401(b)(1) (A), (B), (C), and (D) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (A), (B), (C), and (D)) are each amended by striking ''Any sentence'' and inserting ''Notwithstanding section 3583 of title 18, any sentence''.

SEC. 738. AUTHORITY OF COURT TO IMPOSE A SENTENCE OF PROBATION OR SUPERVISED RELEASE WHEN REDUCING A SENTENCE OF IMPRISONMENT IN CERTAIN CASES.

Section 3582(c)(1)(A) of title 18, United States Code, is amended by inserting ''(and may impose a sentence of probation or supervised release with or without conditions)'' after ''may reduce the term of imprisonment''.

SEC. 739. EXTENSION OF PAROLE COMMISSION TO DEAL WITH "OLD LAW" PRISONERS.

For the purposes of section 235(b) of Public Law 98–473 as it relates to chapter 311 of title 18, United States Code, and the United States Parole Commission, each reference in such section to ''ten years'' or a ''ten-year period'' shall be deemed a reference to ''fifteen years'' or a ''fifteen-year period'', respectively. Notwithstanding the provisions of section 4203 of title 18, United States Code, the United States Parole Commission is authorized to perform its functions with any quorum of Commissioners, or Commissioner, currently holding office, as the Commission may prescribe by regulation.

SEC. 740. CONFORMING AMENDMENTS RELATING TO SUPERVISED RELEASE.

(a) Sections 1512(a)(1)(C), 1512(b)(3), 1512(c)(2), 1513 (a)(1)(B), and 1513 (b)(2) are each amended by striking ''violation of conditions of probation, parole or release pending judicial proceedings'' and inserting ''violation of conditions of probation, supervised release, parole, or release pending judicial proceedings''.

(b) Section 3142 of title 18, United States Code, is amended—

(1) in subsection (d)(1), by inserting '', supervised release,'' after ''probation''; and

(2) in subsection (g)(3), by inserting ''or supervised release'' after ''probation''.

SEC. 741. REPEAL OF OUTMODED PROVISIONS BARRING FEDERAL PROSECUTION OF CERTAIN OFFENSES.

(a) Sections 659 and 2117 of title 18, United States Code, are each amended by striking the first sentence of the last undesignated paragraph;

(b) Sections 660 and 1992 of title 18, United States Code, are each amended by striking the last undesignated paragraph;

(c) Section 2101 of title 18, United States Code, is amended by striking subsection (c) and by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively;

(d) Section 80a–36 of title 15, United States Code, is amended by striking the last sentence;

(e) Section 1282 of title 15, United States Code, is repealed.

Subtitle D—Miscellaneous Amendments

SEC. 751. CONFORMING ADDITION TO OBSTRUCTION OF CIVIL INVESTIGATIVE DEMAND STATUTE.

Section 1505 of title 18, United States Code, is amended by inserting ''section 1968 of this title or'' before ''the Antitrust Civil Process Act''.

SEC. 752. ADDITION OF ATTEMPTED THEFT AND COUNTERFEITING OFFENSES TO ELIMINATE GAPS AND INCONSISTENCIES IN COVERAGE.

(a)(1) Section 153 of title 18, United States Code, is amended by inserting '', or attempts so to appropriate, embezzle, spend or transfer,'' before ''any property''.

(2) Section 641 of title 18, United States Code, is amended by striking ''or'' at the end of the first paragraph and by inserting after such paragraph the following: ''Whoever attempts to commit an offense described in the preceding paragraph; or''.

(3) Section 655 of title 18, United States Code, is amended by inserting ''or attempts to steal or so take,'' after ''unlawfully takes,''.

(4) Sections 656 and 657 of title 18, United States Code, are each amended—

(A) by inserting '', or attempts to embezzle, abstract, purloin, or willfully misapply,'' after ''willfully misapplies''; and

(B) by inserting ''or attempted to be embezzled, abstracted, purloined, or misapplied'' after ''misapplied''.

(5) Section 658 of title 18, United States Code, is amended by inserting ''or attempts so to remove, dispose of, or convert,'' before ''any property''.

(6) Section 659 of title 18, United States Code, is amended—

(A) in the first and third paragraphs by inserting ''or attempts to embezzle, steal, or so take or carry away,'' after ''carries away,''; and

(B) in the fourth paragraph by inserting ''or attempts to embezzle, steal, or so take,'' before ''from any railroad car''.

(7) Section 661 of title 18, United States Code, is amended—

(A) by inserting ''or attempts so to take and carry away,'' before ''any personal property''; and

(B) by inserting ''or attempted to be taken'' after ''taken'' each place it appears;

(8) Section 664 of title 18, United States Code, is amended by inserting ''or attempts to embezzle, steal, or so abstract or convert,'' before ''any of the moneys''.

(9) Section 665(a) of title 18, United States Code, is amended—

(A) by inserting '', or attempts to embezzle, so misapply, steal, or obtain by fraud,'' before ''any of the moneys''; and

(B) by inserting ''or attempted to be embezzled, misapplied, stolen, or obtained by fraud'' after ''obtained by fraud''.

(10) Section 666(a)(1)(A) of title 18, United States Code, is amended by inserting ''or attempts to embezzle, steal, obtain by fraud, or so convert or misapply,'' before ''property''.

(11) Section 1025 of title 18, United States Code, is amended—

(A) by inserting ''or attempts to obtain'' after ''obtains''; and

(B) by inserting ''or attempted to be obtained'' after ''obtained''.

(12) Section 1163 of title 18, United States Code, is amended by inserting ''attempts so to embezzle, steal, convert, or misapply,'' after ''willfully misapplies,''.

(13) Sections 1167 (a) and (b) of title 18, United States Code, are each amended by inserting ''or attempts so to abstract, purloin, misapply, or take and carry away,'' before ''any money''.

(14) Sections 1168 (a) and (b) of title 18, United States Code, are each amended by inserting ''or attempts so to embezzle, abstract, purloin, misapply, or take and carry away,'' before ''any moneys,''.

(15) Section 1707 of title 18, United States Code, is amended by inserting '', or attempts to steal, purloin, or embezzle,'' before ''any property'' and by inserting ''or attempts to appropriate'' after ''appropriates''.

(16) Section 1708 of title 18, United States Code, is amended in the second paragraph by inserting ''or attempts to steal, take, or abstract,'' after ''abstracts,'' and by inserting '', or attempts so to obtain,'' after ''obtains''.

(17) Section 1709 of title 18, United States Code is amended—

(A) by inserting ''or attempts to embezzle'' after ''embezzles''; and

(B) by inserting '', or attempts to steal, abstract, or remove,'' after ''removes''.

(18) Section 2113(b) of title 18, United States Code, is amended by inserting ''or attempts so to take and carry away,'' before ''any property'' each place it appears.

(b)(1) Section 477 of title 18, United States Code, is amended by inserting '', or attempts so to sell, give, or deliver,'' before ''any such imprint''.

(2) Section 479 of title 18, United States Code, is amended by inserting ''or attempts to utter or pass,'' after ''passes,''.

(3) Section 490 of title 18, United States Code, is amended by inserting ''attempts to pass, utter, or sell,'' before ''or possesses''.

(4) Section 513(a) of title 18, United States Code, is amended by inserting ''or attempts to utter,'' after ''utters''.

SEC. 753. CLARIFICATION OF SCIENTER REQUIREMENT FOR RECEIVING PROPERTY STOLEN FROM AN INDIAN TRIBAL ORGANIZATION.

Section 1163 of title 18, United States Code, is amended in the second paragraph by striking ''so''.

SEC. 754. LARCENY INVOLVING POST OFFICE BOXES AND POSTAL STAMP VENDING MACHINES.

Section 2115 of title 18, United States Code, is amended—

(1) by striking ''or'' before ''any building'';

(2) by inserting ''or any post office box or postal stamp vending machine within such a building,'' after ''used in whole or in part as a post office,''; and

(3) by inserting ''or in such box or machine,'' after ''so used''.

SEC. 755. CONFORMING AMENDMENT TO LAW PUNISHING OBSTRUCTION OF JUSTICE BY NOTIFICATION OF EXISTENCE OF A SUBPOENA FOR RECORDS IN CERTAIN TYPES OF INVESTIGATIONS.

Section 1510(b)(3)(B) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (i);

(2) by striking the period and inserting ''; or'' at the end of subparagraph (ii); and

(3) by adding the following new subparagraph:

''(iii) the Controlled Substances Act, the Controlled Substances Import and Export Act, or section 60501 of the Internal Revenue Code of 1986.''.

SEC. 756. CLOSING LOOPHOLE IN OFFENSE OF ALTERING OR REMOVING MOTOR VEHICLE IDENTIFICATION NUMBERS.

Section 511(c)(1) of title 18, United States Code, is amended —

(1) by inserting ''(i)'' after ''for purposes of identification''; and

(2) by inserting before the semicolon ''or

''(ii) which can be correlated to a particular motor vehicle or part''.

SEC. 757. APPLICATION OF VARIOUS OFFENSES TO POSSESSIONS AND TERRITORIES.

(a) Sections 241 and 242 of title 18, United States Code, are each amended by striking ''any State, Territory, or District'' and inserting ''any State, Territory, Commonwealth, Possession, or District''.

(b) Sections 793(h)(1) and 794(d)(1) of title 18, United States Code, are each amended by adding at the end the following: ''For the purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

(c) Section 925(a)(5) of title 18, United States Code, is amended by striking ''For the purpose of paragraphs (3) and (4)'' and inserting ''For the purpose of paragraph (3)''.

(d) Sections 1014 and 2113(g) of title 18, United States Code, are each amended by adding at the end the following: ''The term 'State-chartered credit union' includes a credit union chartered under the laws of a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.''.

(e) Section 1073 of title 18, United States Code, is amended by adding at the end of the first paragraph the following: ''For the purposes of clause (3) of this paragraph, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

(f) Section 1715 of title 18, United States Code, is amended by striking ''State, Territory, or District'' each place those words appear and inserting ''State, Territory, Commonwealth, Possession, or District''.

(g) Section 1716 of title 18, United States Code, is amended—

(1) in subsection (g)(2) by striking ''State, Territory, or the District of Columbia'' and inserting ''State'';

(2) in subsection (g)(3) by striking ''the municipal government of the District of Columbia or of the government of any State or territory, or any county, city or other political subdivision of a State'' and inserting ''any State, or any political subdivision of a State''; and

(3) by inserting a new subsection (j), as follows:

''(j) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

(h) Section 1761 of title 18, United States Code, is amended by adding at the end a new subsection, as follows:

''(d) For the purposes of this section, the term 'State' means a State of the United States and any commonwealth, territory, or possession of the United States.''.

(i) Section 3156(a) of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (3);

(2) by striking the period and inserting ''; and'' at the end of paragraph (4); and

(3) by adding a new paragraph (5), as follows:

''(5) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

(j) Section 102(26) of the Controlled Substances Act (21 U.S.C. 802(26)) is amended to read as follows:

''(26) the term 'State' means a State of the United States, the District of Columbia and any commonwealth, territory, or possession of the United States.''.

(k) Section 1121 of title 18, United States Code, is amended by inserting at the end a new subsection (c) as follows:

''(c) For the purposes of this section, the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

(l) Section 228(d)(2) of title 18, United States Code, is amended by inserting ''commonwealth,'' before ''possession or territory of the United States''.

SEC. 758. ADJUSTING AND MAKING UNIFORM THE DOLLAR AMOUNTS USED IN TITLE 18 TO DISTINGUISH BETWEEN GRADES OF OFFENSES.

(a) Sections 215, 288, 641, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 661, 662, 665, 872, 1003, 1025, 1163, 1361, 1707, 1711, and 2113 of title 18, United States Code, are each amended by striking ''$100'' each place it appears and inserting ''$1,000''.

(b) Section 510 of title 18, United States Code , is amended by striking ''$500'' and inserting ''$1,000''.

(c) Section 1864 of title 18, United States Code, is amended by striking ''$10,000'' and inserting ''$1,000''.

SEC. 759. CONFORMING AMENDMENT CONCERNING MARIJUANA PLANTS.

Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking ''except in the case of 100 or more marihuana plants'' and inserting ''except in the case of 50 or more marihuana plants''.

SEC. 760. ACCESS TO CERTAIN RECORDS.

Section 551 of title 47, United States Code, is amended by adding at the end the following new subsection:

''(i) LIMITED EXCEPTION FOR FEDERAL GRAND JURY PROCEEDING.—Nothing in this section shall apply to any subpoena or court order issued to a cable operator for basic subscriber information in connection with proceedings before a Federal grand jury. A court shall have authority to order a cable operator not to notify the subscriber of the existence of a subpoena or court order to which this subsection is applicable. For purposes of this subsection, the term 'basic subscriber information' means information stating whether or not a person is or was a subscriber and the name and address (past or present) of a subscriber.''

SEC. 761. CLARIFICATION OF INAPPLICABILITY OF 18 U.S.C. 2515 TO CERTAIN DISCLOSURES.

Section 2515 of title 18, United States Code, is amended by adding at the end the following: ''This section shall not apply to the disclosure by the United States, a State, or political subdivision in a criminal trial or hearing or before a grand jury of the contents of a wire or oral communication, or evidence derived therefrom, the interception of which was in violation of section 2511(2)(d) (relating to certain interceptions not under color of law).''.

SEC. 762. CLARIFYING OR CONFORMING AMENDMENTS ARISING FROM THE ENACTMENT OF PUBLIC LAW 103–322.

(a) Section 3286 of title 18, United States Code, is amended by striking ''any offense'' and inserting ''any non-capital offense''.

(b) Section 5032 of title 18, United States Code, is amended by striking ''1111, 1113'' and inserting ''1111, 1112, 1113''.

(c) Section 81 of title 18, United States Code, is amended by striking ''fined under this title or imprisoned not more than five years'' and inserting ''imprisoned not more than twenty years or fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed''.

(d)(1)(A) Chapter 213 of title 18, United States Code, is amended by adding at the end a new section, as follows:

''§ 3294. Arson offenses

''No person shall be prosecuted, tried, or punished for any noncapital offense under sections 81, 844 (f), (h), or (i) of this title unless the indictment is found or the information is instituted within 10 years after the date on which the offense was committed.''

(B) The chapter index for chapter 213 of title 18, United States Code, is amended by inserting at the end the following:

''3294. Arson offenses.''.

(2) Section 844(i) of title 18, United States Code, is amended by striking the last sentence.

(e) Section 704(b)(2) of title 18, United States Code, is amended by striking ''with respect to a Congressional Medal of Honor''.

(f) Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(1) by striking subsections (g)–(p), (g)(1)–(3), and (r); and

(2) by redesignating subsections (g)(4)–(10) as (f)(1)–(7).

(g) Sections 2261(b)(3) and 2262(b)(3) of title 18, United States Code, are each amended by inserting ''(as defined in section 1365 of this title)'' after ''serious bodily injury''.

(h)(1) Section 2261 of title 18, United States Code, is amended—

(A) in paragraph (a)(1) by striking ''with the intent to injure, harass, or intimidate'' and inserting ''with the intent to kill, injure, harass, or intimidate''; and

(B) in paragraphs (a)(1) and (a)(2) by inserting ''or death'' after ''and thereby causes bodily injury''.

(2) Section 2262 of title 18, United States Code, is amended—

(A) in paragraph (a)(1) by inserting ''or death'' after ''bodily injury''; and

(B) in paragraph (a)(2) by striking ''commits an act that injures'' and inserting ''commits an act that causes bodily injury or death to''.

SEC. 763. TECHNICAL AMENDMENTS.

(a) Section 112 of title 18, United States Code, is amended by striking ''fined not more than $10,000'' and inserting ''fined under this title''.

(b) Sections 152, 153, and 154 of title 18, United States Code, are each amended by striking ''fined not more than $5,000'' and inserting ''fined under this title''.

(c) Section 970 of title 18, United States Code, is amended by striking ''fined not more than $500'' and inserting ''fined under this title''.

(d) Sections 922 (a)(2) and (a)(3) of title 18, United States Code, are each amended by striking ''subsection (B)(3)'' and inserting ''subsection (b)(3)''.

(e) Section 844(h) of title 18, United States Code, is amended—

(1) by striking ''be sentenced to imprisonment for 5 years but not more than 15 years'' and inserting ''be sentenced to imprisonment for a minimum of 5 and a maximum of 15 years''; and

(2) by striking ''be sentenced to imprisonment for 10 years but not more than 25 years'' and inserting ''be sentenced to imprisonment for a minimum of 10 and a maximum of 25 years''.

(f) Section 3582(c)(1)(A)(i) of title 18, United States Code, is amended by inserting ''or'' after the semicolon.

(g) Section 2516(1)(l) of title 18, United States Code, is amended by striking ''or'' after the semicolon.

(h) Section 5032 of title 18, United States Code, is amended by inserting ''or as authorized under section 3401(g) of this title'' after ''shall proceed by information''.

(i) Section 1114 of title 18, United States Code, is amended by striking ''1112.,'' and inserting ''1112,''.

(j) Section 3553(f) of title 18, United States Code, is amended by striking ''section 1010 or 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 961, 963)'' and inserting ''section 1010 or 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 960, 963)''.

(k) Section 1961(1)(D) of title 18, United States Code, is amended by striking ''that title'' and inserting ''this title''.

(l) Section 1510(b)(2)(B) of title 18, United States Code, is amended by striking ''that subpoena'' the first place it appears and inserting ''that subpoena for records''.

(m) Section 3286 of title 18, United States Code, is amended—

(1) by striking ''2331'' and inserting ''2332;

(2) by striking ''2339'' and inserting ''2332a''; and

(3) by striking ''36'' and inserting ''37''.

(n) Section 2339A of title 18, United States Code is amended—

(1) by striking ''2331'' and inserting ''2332;

(2) by striking ''2339'' and inserting ''2332a'';

(3) by striking ''36'' and inserting ''37''; and

(4) by striking ''of an escape'' and inserting ''or an escape''.

(o) Section 2340(1) of title 18, United States Code, is amended by striking ''with custody'' and inserting ''within his or her custody''.

(p) Section 504 of title 18, United States Code, is amended—

(1) in paragraph (2) by striking ''The'' the first place it appears and inserting ''the''; and

(2) in paragraph (3) by striking ''importation, of motion-picture films'' and inserting ''importation of motion-picture films''.

(q) Section 924(a) of title 18, United States Code, is amended by redesignating the second paragraph (5) (relating to violations of section 922(x)) as paragraph (6).

SEC. 764. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SUMMARY OF PROPOSED ANTI-CRIME BILL—JANUARY 4, 1995

This is a summary of the major provisions of S. 3, the proposed Senate crime bill. The bill eliminates the ''pork'' contained in the 1994 Crime Bill, and restores to States the responsibility for local crime prevention measures by ensuring that local law enforcement agencies, not Washington bureaucrats, direct the use of federal law enforcement grants. The bill sets mandatory sentences for certain violent crimes, and authorizes additional funds for building prisons and for hiring and training policy officers. The bill also makes significant revisions in federal criminal procedure, including: a reform of habeas corpus law so that convicted criminals cannot abuse the appeals process, an assurance that relevant evidence will not be withheld from juries, and a criminal penalty for knowingly filing a pleading in federal criminal cases that contains material misstatements of law or fact. A section by section summary of the bill's major provisions is set forth below.

Should you have questions about the bill not answered by this summary, please call Mike O'Neill or Mike Kennedy of the Judiciary Committee Staff.

TITLE I—INCARCERATION OF VIOLET CRIMINALS

This title increases prison construction funding and provides limits for prisoner litigation.

SEC. 101. Prison Construction And Truth In Sentencing Grants.

This section amends the Violent Offender Incarceration and Truth in Sentencing Incentive Grants provisions of the Violent Crime Control and Law Enforcement Act of 1994 (1994 Crime Bill) (Title II, Subtitle A) by increasing the amount authorized for prison grants to states and ensuring that these grants will be used for the construction and operation of brick-and-mortar prisons. The bill removes conditions requiring the states to adopt specified corrections plans in order to qualify for the federal funds. It also increases the amount each qualifying state is guaranteed to receive and ensures that the grants will be distributed on a formula basis.

Authorized funding for prison grants is increased by approximately $1 billion over the levels authorized in the 1994 Crime Bill.

SEC. 102. Repeal.

This section repeals Subtitle B of title II of the 1994 Crime Bill, which authorized $150 million in discretionary grants for alternate sanctions for criminal juveniles.

SEC. 103. Civil Rights Of Institutionalized Persons.

This section improves upon the meager modifications made in the 1994 Crime Bill to the Civil Rights of Institutionalized Persons Act by adopting provisions passed last year by our House colleagues. These provisions remove the limits on a court's ability to stay prisoner litigation while administrative remedies are being exhausted, allow the courts to dismiss frivolous suits sua sponte, remove the requirement in current law that inmates participate in the formulation of the grievance procedures, and require inmates with assets to pay filing fees.

SEC. 104. Report On Prison Work Progress.

This section directs the Department of Justice to make recommendations for changing existing law so that more federal prisoners may be employed without adversely affecting the private sector or labor.

SEC. 105. Drug Treatment For Prisoners

This section repeals the sentence reduction ''incentive'' for federal prisoners who participate in prison drug treatment programs under the Substance Abuse Treatment in Federal Prisons section of the 1994 Crime Bill.

TITLE II—STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

This title provides block grants to the states to hire and train police officers and to develop new crime fighting technologies.

SEC. 201. Block Grant Program.

This section modifies the Public Safety Partnership and Community Policing Act of 1994 (Title I of the 1994 Crime Bill) and the policing grants provisions of the 1994 Crime Bill.

The 1994 provision is reformulated as the Law Enforcement Assistance Block Grants Act of 1995, which provides grants to state and local law enforcement agencies.

Grants under the program would be made to the states explicitly for the hiring and training of officers or the establishment and upgrading of technologies used to detect crime. States would be permitted to save the grant money disbursed in any given grant year in a trust fund for these purposes in years after the federal grant program ends.

Grants would be allocated to the states on a formula basis. For each grant year, each state would receive a base allocation of 0.6% of appropriated funds. The remaining appropriations will be allocated on the basis of state population as determined by the 1990 decennial census, as adjusted annually.

The total amount of the grants authorized would be increased approximately $1 billion over the levels authorized in the 1994 Crime Bill.

TITLE III—FEDERAL EMERGENCY LAW ENFORCEMENT ASSISTANCE ACT

SEC. 301. Federal Judiciary And Federal Law Enforcement.

This section amends title XIX of the 1994 Crime Bill by increasing appropriations for the Federal Bureau of Investigation and the United States Attorneys, while at the same time maintaining the funding levels established by the 1994 Crime Bill for the Federal Judiciary, the Department of Justice, and the Treasury Department.

SEC. 302. Drug Enforcement Administration.

This section amends section 180104 of the 1994 Crime Bill by increasing funding for the Drug Enforcement Administration.

TITLE IV—CRIMINAL PENALTIES

This title strengthens the penalties for several federal offenses. Most of these provisions passed the Senate as a part of its 1993 crime bill but were not included in the enacted 1994 Crime Bill.

SEC. 401. Serious Juvenile Crimes as Armed Career Criminal Act Predicates.

This section would make serious juvenile offenses predicate crimes under the Armed Career Criminal Act, permitting the court to subject juvenile repeat offenders to stricter sentences.

SEC. 402. Prosecution of Juveniles as Adults.

This section repeals the 1994 Crime Bill's weak provisions on trying serious juvenile criminals as adults and enacts similar provisions to those passed as a part of the Senate's 1993 Crime Bill. Under these provisions, the list of offenses for which juveniles may be prosecuted as adults is expanded to include drug conspiracies and importation, firearms transportation, firearms trafficking, and related conspiracies. The 1994 Crime Bill included only firearms offenses.

This section also enacts the Moseley-Braun provision from the Senate's 1993 bill, with a slight modification. Under this provision, any minor age 13 or older who is accused of certain serious offenses under federal law (murder, attempted murder, armed robbery, assault with intent to murder, aggravated sexual assault) must be tried as an adult in federal court. The juvenile could petition the court for resentencing upon attaining age 16. Unlike the 1993 provision, there is no requirement that the offender be armed with a firearm during certain offenses in order to qualify for mandatory adult prosecution.

SEC. 403. Availability Of Fines And Supervised Release For Juvenile Offenders.

This section makes a technical correction in the law, permitting courts to impose fines or conditions of supervised release on juveniles.

SEC. 404. Amendments Concerning Juvenile Records.

This section strengthens provisions permitting the FBI to create an identification record for juveniles who are convicted of committing a crime that, if committed by an adult, would be deemed a serious felony.

SEC. 405. Mandatory Minimum Prison Sentences For Persons Who Use Minors In Drug Trafficking Activities Or Sell Drugs To Minors.

This section establishes stiff mandatory minimum penalties of 10 years for a first offense and life imprisonment for a second offense for adults who employ minors in the distribution, sale, or manufacturing of drugs, or who sell drugs to minors.

SEC. 406. Mandatory Minimum Sentence Reform.

This section would prospectively replace the overly-broad ''reform'' of mandatory minimum sentences contained in the 1994 Crime Bill with the narrower approach needed to insure that such sentences are justly imposed. The provision is the same as that proposed by Republicans during the debate on the 1994 Crime Bill conference report.

In particular, defendants would not be excused from mandatory minimum sentencing requirements if they had one or more criminal history points, were involved in an offense that resulted in the death or serious injury of a victim, carried a firearm, owned the drugs, or financed any part of the drug deal.

SEC. 407. Increased Mandatory Minimum Sentences For Criminals Using Firearms.

This section increases the penalties for using or carrying a firearm during the commission of a crime by imprisonment for not less than 10 years, or, if the firearm is discharged, for not less than 20 years, or if the death of a person results, bepunished by death or by incarceration for not less than life.

SEC. 408. Arson Penalties.

This section increases the maximum penalties and fines for arson and increases the statute of limitations from 7 to 10 years.

SEC. 409. Interstate Travel Or Use Of Mails Or A Facility In Interstate Commerce To Further Kidnapping.

This section enables federal prosecution of Kidnapping cases where the perpetrators do

not transport the victim across state lines, but use interstate facilities during the commission of the crime.

TITLE V—FEDERAL CRIMINAL PROCEDURE REFORM

This title reforms certain aspects of criminal procedure. It establishes greater protection for witnesses and jurors; enacts meaningful habeas corpus reform; limits the exclusionary rule while at the same time providing better remedies for innocent citizens whose Fourth Amendment rights are violated; and permits the admission of voluntary confessions even when defense counsel is not present during the confession. This title further clarifies the obligations of attorneys practicing criminal law in federal court.

SEC. 501. Obstruction Of Justice.

This section makes it an obstruction of justice for an attorney to file in federal court any pleading in a criminal case that the filer knows to contain a false statement of material fact or law.

SEC. 502. Conduct of Federal Prosecutors.

This section establishes that the Attorney General has sole authority to promulgate the rules governing the conduct of federal prosecutors in federal court, notwithstanding the ethical rules or rules of the court adopted by any state.

SEC. 503. Fairness in Jury Selection.

This section amends Federal Rule of Criminal Procedure 24(b) by equalizing the number of peremptory challenges afforded the prosecution and defense (6 strikes per side). It preserves the 6 (prosecution) 10 (defense) split in trails involving two or more joined defendants.

SEC. 504. Balance In The Composition Of Rules Committees.

This section gives equal representation to prosecutors and the defense bar on the various rules committees of the Judicial Conference. Currently, prosecutors are underrepresented on these committees.

SEC. 505. Reimbursement of Reasonable Attorney's Fees.

This section permits the reimbursement of reasonable attorney's fees for current or former Department of Justice employees or federal public defenders who are subject to criminal investigation arising out of acts performed in the discharge of their duties.

SEC. 506. Mandatory Restitution To Victims Of Violent Crime.

Amends 18 U.S.C. 3663 by mandating federal judges to enter orders requiring defendants to provide restitution to the victims of their crimes.

SEC. 507. Admissibility of Certain Evidence.

This section clarifies and strengthens 18 U.S.C. 3501 by requiring a criminal defendant to prove, by a preponderance of the evidence, that a confession obtained by police officers was involuntary. If the defendant is unable to meet that burden, a voluntary confession will be admitted in court.

Section 507 also eliminates the exclusionary rule as it pertains to the Fourth Amendment and provides a tort remedy for those whose Fourth Amendment rights have been violated by an unreasonable search or seizure.

SEC. 508–510. General Habeas Corpus Reform.

This section incorporates reforms to curb the abuse of the statutory writ of habeas corpus, and to address the acute problems of unnecessary delay and abuse in capital cases. It sets a one year limitation on an application for a habeas writ and revises the procedures for consideration of a writ in federal court. It provides for the exhaustion of state remedies and bars habeas review of claims that have fully and fairly adjudicated in state court.

The revision in capital habeas practice also sets a time limit within which the district court must act on a writ, and provides the government with the right to seek a writ of mandamus if the district court refuses to act within the allotted time period. Successive petitions must be approved by a panel of the court of appeals and are limited to those petitions that contain newly discovered evidence that would seriously undermine the jury's verdict or that involve new constitutional rights that have been retroactively applied by the Supreme Court.

In capital cases, procedures are established for the appointment of counsel, conduct of evidentiary hearings, and the application of the procedures to state unitary review systems. Courts are directed to give habeas petitions in capital cases priority status and to decide those petitions within specified time periods.

TITLE VI—PREVENTION OF TERRORISM

This title strengthens the penalties for those engaged in terrorist acts.

Sec. 601. Willful Violation of Federal Aviation Administration Regulations

This section imposes criminal penalties for willful violations of FAA security regulations.

Sec. 602. Assaults, Murders, And Threats Against Former Federal Officials In Performance Of Official Duties

This section permits prosecution of assaults, murders, and threats made against former government officials arising from the discharge of their official duties while employed by the government.

Sec. 603. Wiretap Authority For Alien Smuggling And Related Offenses And Inclusion Of Alien Smuggling As A RICO Predicate

This section expands authority for issuing wiretaps to encompass alien smuggling offenses and includes alien smuggling as a RICO predicate crime.

Sec. 604. Authorization For Interceptions Of Communications In Certain Terrorism Related Offenses

This section authorizes the interception of communications in certain, limited, terrorism cases, including the wrecking of trains, providing material support to terrorists, and engaging in terrorist acts at airports.

Sec. 605. Participation Of Foreign And State Government Personnel In Interceptions Of Communications

This section permits the participation of state law enforcement officials and officials of foreign law enforcement agencies in intercepting communications.

Sec. 606. Disclosure Of Intercepted Communications To Foreign Law Enforcement Agencies

This section permits, under certain, limited circumstances, disclosure of intercepted communications to cooperating foreign law enforcement agencies.

Sec. 607. Alien Terrorist Removal

This section would ensure, through the use of a limited *ex parte* procedure, that the United States can expeditiously deport alien terrorists without disclosing national security secrets to them and their criminal partners.

Sec. 608. Territorial Sea

This section codifies the extension of United States territorial sea, as defined by a 1988 Presidential Proclamation. This area would then be included within the special maritime and territorial jurisdiction of the U.S. This section also adopts non-conflicting state law in the territorial sea.

Sec. 609. Clarification And Extension Of Criminal Jurisdiction Over Certain Terrorism Offenses Overseas

This section extends the United States' criminal jurisdiction over certain terrorism crimes committed overseas.

Sec. 610. Federal Aviation Reporting Responsibility

This section requires the Federal Aviation Administration to notify the Justice Department when it discovers large sums of cash and/or drugs during an inspection.

Sec. 611. Information Transfer

This section permits the Immigration and Naturalization Service to release certain confidential information on individual aliens for law enforcement purposes.

Sec. 612. Extradition

This section permits the Attorney General to extradite persons who are not U.S. citizens, nationals, or permanent residents to countries with which the United States does not have an extradition treaty.

Sec. 613. Federal Bureau Of Investigation Report

This section requires the FBI to investigate and report back to Congress on the effectiveness of a federal law prohibitingcontributions to terrorist organizations or their ''front'' groups in the United States.

SEC. 614. Increased Penalties for Terrorism Crimes.

This section increases penalties for a series of federal crimes, including amending the law against maiming and disfiguring to include torture and punishing an attempt to violate this section by up to $10,000 and/or 10 years, and adds protection to armed services personnel.

SEC. 615. Criminal Offenses Committed Outside The United States By Persons Accompanying The Armed Forces.

This section permits the removal for prosecution in the United States of criminal cases involving non-military persons who are accompanying the Armed Forces when they commit crimes overseas which are not prosecuted in the host country's courts.

TITLE VII—MISCELLANEOUS AND TECHNICAL PROVISIONS

Subtitle A—*Elimination of Certain Programs.*

SEC. 701. Elimination Of Ineffective Programs.

This section repeals the most 1994 Crime Bill's wasteful social spending, including subtitles A through S and subtitles U and X of Title III of the 1994 Crime Bill, and Title V of the 1994 Crime Bill. The provisions of the 1994 Bill relating to Substance Abuse Treatment in Federal Prisons, the Prevention, Diagnosis, and Treatment of Tuberculosis in Correctional Institutions, and the Violence Against Women Act are unaffected by this section.

Subtitle B—*Amendment Relating to Violent Crime Control.*

SEC. 711. Violent Crime and Drug Emergency Areas Repeal.

This section repeals the Violent Crime and Drug Emergency Areas Act in the 1994 Crime Bill (Section 90107). The repealed provision permits the President to designate an area a violent crime or drug emergency area, and to detail federal law enforcement personnel to assist state and local officials.

SEC. 712. Expansion of 18 U.S.C. 1959 To Cover Commission Of All Violent Crimes in Aid of Racketeering Activity And Increased Penalties.

This section closes loopholes in 18 U.S.C. 1959, the law punishing violent crimes in aid of racketeering. The amendment also increases the maximum penalties for certain

violations (e.g., kidnapping, conspiring to commit murder), and clarifies the definition of ''serious bodily injury.''

SEC. 713. Investigation Of Serial Killings.

This section authorizes the Federal Bureau of Investigation, at the request of state authorities, to participate in the identification and apprehension of serial killers.

SEC. 714. Firearms and Explosives Conspiracy.

This section amends the firearms and explosives chapter of Title 18 to provide generally that a conspiracy to commit a firearms or explosives offense in punishable by the same maximum term as that applicable to the substantive offense that was the object of the conspiracy.

SEC. 715. Increased Penalties For Violence In The Course Of Riot Offenses.

This section strengthens the federal anti-riot statute, 18 U.S.C. 2101, by increasing the penalties when death or serious bodily injury results from the defendant's actions in violation of the statute.

SEC. 716. Pretrial Detention For Possession Of Firearms or Explosives by Convicted Felons.

Clarifies law that permits pretrial detention for certain offenses to include those involving firearms or explosives.

SEC. 717. Elimination Of Unjustified Scienter Element For Carjacking.

Eliminates scienter requirement in 18 U.S.C. 2119, the so-called carjacking statute.

SEC. 718. Theft Of Vessels.

Defines ''vessel'' as watercraft for purposes of 18 U.S.C. 2311, 2312, 2323, and criminalizes the theft of such a ''vessel.''

SEC. 719. Clarification of Agreement Requirement For RICO Conspiracy.

Technical amendment that explains that government need not prove that RICO defendant personally agreed to commit any criminal racketeering acts.

SEC. 720. Addition Of Attempt Coverage For Interstate Domestic Violence Coverage.

Creates ''attempts'' crime in interstate domestic abuse cases.

SEC. 721. Addition Of Foreign Murder As A Money Laundering Precedent.

Adds murder as a money laundering predicate act.

SEC. 722. Assaults Or Other Crimes Of Violence For Hire.

Includes serious assaults in the ''murder for hire'' statute, 18 U.S.C. 2332.

SEC. 723. Threatening To Use A Weapon Of Mass Destruction.

Criminalizes a threat to use a weapon of mass destruction.

SEC. 724. Technical Amendments.

Amends section 60002 of the 1994 Crime Bill to eliminate State participation in carrying out a Federal sentence of death and directing that death sentences be carried out at appropriate Federal facilities.

Subtitle C—Amendments Relating To Courts And Sentencing.

SEC. 731. Allowing A Reduction Of Sentence For Providing Useful Information Although Not Regarding A Particular Individual

Permits a reduction in a sentence if the defendant provides substantial assistance in the investigation of ''any offense,'' rather than only allowing reductions when the defendant provides information in the investigation of ''another person.''

SECS. 732–733. These sections permit the Government to appeal from certain dismissals and eliminate the outmoded requirement that the Government obtain a certificate to appeal.

SEC. 734. Clarifies meaning of ''official detention'' for purposes of crediting a defendant for prior custody. Excludes credit given for detention at ''community-based treatment or correctional facilit[ies].''

SEC. 735. Limitation On Reduction Of Sentence For Substantial Assistance Of Defendant.

Requires that a court may order a reduction in the defendant's sentence for substantial assistance only when the Government requests such a reduction.

SEC. 736. Improvement Of Hate Crimes Sentencing Procedure.

Requires the sentencing judge, as opposed to the jury, to determine the facts relating to the ''hate crimes'' enhancement.

SEC. 737. Clarification Of Length Of Supervised Release Terms In Controlled Substance Cases.

Technical amendment that clarifies the length of supervised release terms in controlled substance cases. Resolves conflict among the courts of appeals to make clear that the limits of 18 U.S.C. 3583 do not control the longer supervised release terms provided in 18 U.S.C. 841.

SEC. 738. This section confers authority on courts to impose a sentence of supervised release on a prisoner who is released because of ''extraordinary and compelling reasons'' (e.g., suffering from a terminal illness) pursuant to 18 U.S.C. 3582(c)(1)(A).

SEC. 739. Temporarily extends Parole Commission beyond its presently scheduled expiration date of November 1, 1997, to deal with prisoners sentenced before the Sentencing Guidelines became effective.

SEC. 740. Conforming Amendments Relating To Supervised Release.

Technical amendments that conform certain statutes with the new supervised release scheme.

SEC. 741. Repeals outmoded provisions that bar Federal prosecution of certain offenses.

Subtitle D—Miscellaneous Amendments.

SEC. 751. Technical conforming amendment to obstruction of civil investigative demand statute.

SEC. 752. Addition Of Attempted Theft And Counterfeiting Offenses To Eliminate Gaps And Inconsistencies In Coverage.

Creates attempt crimes for embezzlement, uttering, and counterfeiting offenses.

SEC. 753. Technical amendment that clarifies scienter element for receiving property stolen from Indian tribal organizations.

SEC. 754. Larceny Involving Post Office Boxes And Postal Stamp Vending Machines.

Amends 18 U.S.C. 2115 to cover vandalism committed against postal vending machines and boxes not located on postal service property.

SEC. 755. Technical amendment that conforms law punishing obstruction of justice by notification of a subpoena for records in certain types of investigations.

SEC. 756. This section closes a loophole in the offense of altering or removing a motor vehicle identification number by protecting against the alteration of any number inscribed on a car that can be used to identify a particular vehicle or part.

SEC. 757. Application of Various Offenses To Possessions And Territories.

A number of federal statutes are ambiguous as to their coverage of crimes occurring in the territories, possessions, and commonwealths of the United States because they contain references to ''state'' law without any indication of whether they apply to territories or other non-state entities. This section merely clarifies the application of certain federal criminal statutes to territories, possessions, and commonwealths.

SEC. 758. This section adjusts and makes uniform the dollar amounts used in Title 18 to distinguish between grades of offenses. It also adjusts certain dollar amounts to account for inflation.

SEC. 759. This section corrects an inconsistency in the penalties relating to marijuana plants that exists between 21 U.S.C. 841(b) and 21 U.S.C. 960(b). The amendment follows the recommendation of the United States Sentencing Commission in that in cases involving 50 or more marijuana plants, each plant is treated as the equivalent of one kilogram of processed marijuana.

SEC. 760. Access to Certain Records.

This amendment to the cable television subscriber law brings that statute into conformity with all other federal customer privacy provisions, by recognizing an exception for information sought pursuant to a federal grant jury subpoena or a court order relating to a grand jury proceeding.

SEC. 761. Clarification Of Inapplicability of 18 U.S.C. 2515 To Certain Disclosures.

This section makes a carefully limited exception to 18 U.S.C. 2515, the statutory exclusionary rule for Title III of the Omnibus Crime Control and Safe Streets Act of 1968, so as to exempt situations in which private persons, not acting for any government authority, illegally recorded a communication, but the recording later lawfully comes into the possession of the government. This section permits the government to use such recordings at trial.

SEC. 762–763. These sections include conforming amendments related to the enactment of the 1994 Crime Bill and certain other technical amendments.

SEC. 764. A standard severability provision that applies to the entire act.

Mr. HATCH. Mr. President, I thank my friend from Kansas, the distinguished majority leader, for his kind words. I am pleased to join him in introducing S. 3, the Violent Crime Control and Law Enforcement Improvement Act of 1995. We have worked hard together to craft a bill that will give the American people the tough anti-crime legislation they deserve.

The people of Utah and across our Nation understand that the best crime prevention program is to ensure the swift apprehension of criminals and their certain and lengthy imprisonment. Congress can do better than the legislation it passed last year.

Our Nation's violent crime problem continues to be the top concern of the American people and rightly so. The crime clock is still ticking, and is ticking faster for violent crimes. In 1992, on average, a violent crime was committed every 22 seconds. According to the Uniform Crime Reports recently published by the FBI in 1993 a violent crime was committed every 16 seconds.

The latest data demonstrate that our violent crime crisis continues to worsen. According to the FBI, the murder rate in the United States increased 2.2 percent in 1993. And, for the first time, a murder victim was more likely to be killed by a stranger than by an acquaintance or a family member. (Crime

in the United States 1993, Uniform Crime Reports.)

The FBI also reports that there were 104,806 rapes in the United States reported in 1993. And while that is a slight decrease from the previous year, this number is still a 5 percent increase since 1989. (Crime in the United States 1993, Uniform Crime Reports.)

Additionally, the National Crime Victimization Survey, which is published by the Bureau of Justice Statistics and includes crimes not reported to the police, found that crimes of violence increased 4.5 percent in 1993, including a staggering 10.2 percent rise in aggravated assault and a 12.2 percent jump in attempted assaults with a weapon. (National Crime Victimization Survey, Table of Selected Data, BJS, October 1994.)

Moreover, this is not a crisis that affects only our Nation's urban centers. Indeed, some of the most rapid increases in crime are occurring in the Intermountain West, which includes my State of Utah. Overall, the Intermountain West experienced a 7.5 percent increase in violent crimes, and a 4.7 percent increase in the number of violent crimes per 100,000 persons in 1993 according to the FBI. Figures for Utah are nearly as grim. Our violent crime rate in Utah jumped 6.3 percent in 1993, and the rate per 100,000 persons jumped 3.6 percent. (Crime in the United States 1993, Uniform Crime Reports.) So while our population is rising, violent crime is rising even faster.

Thus, the specter of violent crime haunts the lives of most Americans and dramatically affects the way in which we live. Concern for personal safety and fear of violent crime cuts across racial and socioeconomic lines. In fact, violent crime disproportionately affects minorities and the poor. African-Americans are far more likely to be victims of crime than are many other Americans; in 1992 African-Americans suffered violent crime victimizations at a rate of 110.8 per 1,000 population, compared to 88.7 per 1,000 whites. (Source: BJS Bulletin, Criminal Victimization 1992)

It is a national tragedy that homicide is now the leading cause of death for African-America males aged 15 to 34. And low-income households are victimized by crime at almost twice the rate of more affluent households.

A responsible approach to the crime problem that includes sentencing reforms, increased funds for police and prisons, and changes in Federal criminal procedure, will provide the greatest benefits to the greatest number in our society.

This body has spent countless hours on this issue. Yet the result of those efforts, the 1994 crime bill, fell far short of what the American peole deserve. That bill wasted billions on duplicative social spending programs, devoted insufficient resources to the needed emergency build-up in prison space, created an unwieldy grant program which will fall far short of its stated goal of actually placing 100,000 additional State and local police officers on our streets, and failed to enact tough penalties for Federal violent and drug crimes.

Now the American people expect us begin the task anew, and battle crime with a program that holds criminals responsible for their acts and that begins to help State and local governments repair the rips in our social fabric that have contributed to our crime crisis.

The bill we introduce today has four primary objectives:

Increasing prison and law enforcement grants to the States to assist their efforts to deter and apprehend violent criminals, and to ensure that, when a criminal defendant is convicted, appropriate sentences are imposed and served;

Removing the wasteful social spending included in the 1994 crime bill and redirecting the funds to prison construction and Federal, State and local law enforcement, thus enabling our States and local communities to implement crime control strategies free from the interference of Washington bureaucrats;

Enhancing Federal criminal penalties to appropriate levels for terrorism and other crimes where the Federal Government has a significant legitimate prosecutorial role; and

Reforming habeas corpus procedures, the exclusionary rule, and other Federal criminal procedures to restore fairness and balance to the Federal criminal justice process.

To accomplish these objectives, our bill first increases the amount authorized for prison grants to States and ensures that these grants will be used for the construction and operation of brick-and-mortar prisons. The bill removes conditions requiring the States to adopt specified corrections plans in order to qualify for the Federal funds.

It also improves upon the reforms already made to reduce the flood of frivolous lawsuits by prisoners by adopting provisions passed last year by our House colleagues. These provisions remove the limits on a court's ability to stay prisoner litigation while administrative remedies are being exhausted, allow the courts to dismiss frivolous suits sua sponte, remove the requirement in current law that inmates participate in the formulation of the grievance procedures, and require inmates with assets to pay filing fees.

Second, our legislation reforms the policing grants included in the 1994 bill to make the program more responsive to the needs of our State and local governments.

Most independent estimates of the probable effect of the Community Policing grant program established in the 1994 crime bill conclude that it will fall far short of actually placing on the street the 100,000 new State and local police officers claimed by the provision's supporters. Moreover, it is open to serious question whether those who will be hired under the grants will be additional officers, or whether they will merely make up for natural attrition in our Nation's local police forces.

For these reasons, I believe that the Community Policing grant program is flawed. Under our legislation the program would be improved to give the States more flexibility in spending the funds. States could use those funds for hiring and training police officers or establishing and upgrading crime laboratories or exploring new crime-fighting technologies.

Unlike the grant program presently in place, there would be no matching requirement or per-officer spending cap, providing States and communities with the needed flexibility to hire and train the number of officers required to meet local needs. State and local governments are in the best position to assess their crime fighting needs. The Federal Government should therefore get out of their way and provide them with the flexibility to spend funds effectively to combat crime.

Third, our bill enhances the resources of our Federal law enforcement agencies. While much of the Nation's war on crime is fought at the State and local level, the Federal Government has a significant role to play. It is critical that Federal law enforcement agencies be provided with the resources to fulfill their duty to the American people.

For this reason, our bill includes authorization for critically needed funding for Federal law enforcement above what was authorized in the 1994 crime bill. This will ensure the ability of Federal law enforcement agencies to carry out their mission.

Fourth, this bill eliminates the wasteful social programs passed in the 1994 crime bill. These programs would have wasted billions of dollars on duplicative, top-down spending programs without reducing violent crime. Having Washington bureaucrats impose untested programs on the States would do little to prevent crime.

A portion of the funding authorized by these programs is redirected to prison grants, law enforcement block grants, and Federal law enforcement.

Fifth, our bill also includes several tough Federal criminal penalties either omitted from or weakened in the 1994 crime bill. For instance, it includes the provisions requiring tough mandatory minimum sentences for Federal crimes committed with a firearm and for the sale of drugs to minors or the use of a minor in the commission of a drug crime.

Our bill also replaces the overly broad reform of mandatory minimum sentences with an approach that will ensure the just imposition of those sentences. Thus, while providing less leeway to judges to avoid imposing minimum mandatory sentences than the 1994 crime bill, it allows such discretion where it is merited. The truly

first-time, nonviolent, low-level offender deserving of some measure of leniency will be treated more justly under our legislation, without providing a windfall to career drug dealers. I should note that our provision was overwhelmingly supported by the Senate in the last Congress.

Our legislation would also enact several other Federal criminal penalties which the Senate passed as a part of its 1993 crime bill but which were not included in the enacted 1994 crime bill. Among these provisions are the inclusion of serious juvenile drug offenses as predicate crimes under the Armed Career Criminal Act and the adult prosecution of serious juvenile offenders in appropriate Federal cases.

Sixth, our legislation would enact long-needed reforms to the Federal criminal justice system. Chief among these is a reform of habeas corpus procedures to ensure that lawful sentences of death are not perpetually delayed by endless, meritless appeals, while at the same time safeguarding the legitimate rights of defendants to ensure that the death penalty is not unjustly imposed.

Additionally, our bill would enact reforms to ensure the admissibility of certain evidence. Confessions voluntarily made will be admitted regardless of irrelevant surrounding circumstances. The present exclusionary rule will be eliminated and replaced with a tort remedy to protect the rights of law-abiding persons. Under this proposal, evidence discovered and seized by officers acting in good faith that their actions comported with the requirements of the fourth amendment will be admitted in court.

At the same time, our exclusionary rule reform will also provide new remedies for redress by innocent persons whose fourth amendment rights are violated. Those whose rights are violated by Federal law enforcement officers will have expanded rights to sue the offending agency for damages. Our reform will thus create the necessary disincentive contemplated by the fourth amendment for lawless searches without providing guilty defendants the windfall of the exclusion of relevant evidence. These reforms are critical if we are to prevent our cherished liberties from further devolving into merely a cynical shield for the guilty to avoid just punishment.

The legislation also includes provisions for obstruction of justice penalties for attorneys who knowingly file false statements in court in criminal proceedings, and to equalize, except in cases in which defendants are tried jointly, the number of peremptory challenges available to each side in a criminal case.

We also include in our bill provisions for restitution to victims of Federal crimes to insure that crime victims receive the restitution they are due from those who have preyed on them.

Seventh, our bill addresses the threat of terrorism against our people. Our bill incorporates most of the antiterrorism provisions of the 1993 Senate crime bill that were stricken during conference, including the Terrorist Alien Removal Act, and criminal penalties for the willful violation of regulations for the safety of civil aviation. Additionally, our bill updates and strengthens criminal penalties for engaging in certain violent terrorist acts.

Finally, our bill includes numerous miscellaneous and technical provisions to strengthen and clarify existing Federal law.

With this legislation, we have an opportunity to fulfill our commitment to the American people in a way which respects the competencies and powers of the State and Federal spheres of Government. Additionally, we are committed to ensuring that this legislation does not increase the Federal deficit. We believe that our bill provides the American people the crime control legislation they demand and deserve. I urge the support of my colleagues for this important legislation.

By Mr. DOLE (for himself, Mr. MCCAIN, Mr. COATS, Mr. KYL, Mr. HELMS, Mr. MURKOWSKI, Mr. ASHCROFT, Mr. BOND, Mr. GRAMS, AND MR. GRAMM):

S.4. A bill to grant the power to the President to reduce budget authority; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has 30 days to report or be charged.

THE LEGISLATIVE LINE-ITEM VETO ACT OF 1995

Mr. DOLE. Mr. President, I rise today to introduce legislation designed to give President Clinton the same tool to control spending that 41 Governors now enjoy. I am talking about the line-item veto.

Republicans have supported giving the President the line-item veto for years. During the 1980's, opponents of the line-item veto used to say that Republicans supported it only because the President happened to be a Republican at that time.

By introducing this bill as Senate bill No. 4, and making adoption of a legislative line-item veto a top priority for the 104th Congress, we hope to dispel that myth once and for all. We believe that any President of the United States, as Chief Executive, should be given more power over Federal spending.

This legislation would give the President the authority to rescind any combination of line items in an appropriations bill. The President's rescission proposal would take effect until a two-thirds majority in both Houses of Congress votes to overturn the President's decision.

Mr. President, several of our colleagues have worked long and hard on this issue. The distinguished Senator from Indiana [Senator COATS] and the distinguished Senator from Arizona [Senator MCCAIN] have worked tirelessly in support of this legislation for years. Each time the Senate has voted on the line-item veto, we have been able to garner a few more votes.

This may well be the year that we finally get the job done. I am pleased to report that the distinguished Chairman of the Budget Committee, Senator DOMENICI, has agreed to schedule a committee hearing and a mark-up on line-item veto legislation later this month. My hope is that working with the members of that committee—Democrat and Republican—Chairman DOMENICI will be able to get legislation adopted in committee and to the Senator floor that can serve as the blueprint for line-item veto legislation that can be approved by the full Senate, adopted in both Houses of Congress, and signed into law by the President this year.

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

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

S. 4

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Legislative Line Item Veto Act of 1995.''

SEC. 2. ENHANCEMENT OF SPENDING CONTROL BY THE PRESIDENT.

The Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

''TITLE XI—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

''PART A—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

''GRANT OF AUTHORITY AND CONDITIONS

''SEC. 1101. (a) IN GENERAL.—Notwithstanding the provisions of part B of title X and subject to the provisions of part B of this title, the President may rescind all or part of any budget authority, if the President—

''(1) determines that—

''(A) such rescission would help balance the Federal budget, reduce the Federal budget deficit, or reduce the public debt;

''(B) such rescission will not impair any essential Government functions; and

''(C) such rescission will not harm the national interest; and

''(2)(A) notifies the Congress of such rescission by a special message not later than 20 calendar days (not including Saturdays, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriations Act or a joint resolution making continuing appropriations providing such budget authority; or

''(B) notifies the Congress of such rescission by special message accompanying the submission of the President's budget to Congress and such rescissions have not been proposed previously for that fiscal year.

The President shall submit a separate rescission message for each appropriations bill under paragraph (2)(A).

''(b) RESCISSION EFFECTIVE UNLESS DISAPPROVED.—(1)(A) Any amount of budget authority rescinded under this title as set forth in a special message by the President shall be deemed canceled unless during the period described in subparagraph (B), a rescission disapproved bill making available all of the amount rescinded is enacted into law.

''(B) The period referred to in subparagraph (A) is—

''(i) a Congressional review period of 20 calendar days of session under part B, during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval;

''(ii) after the period provided in clause (i), an additional 10 days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and

''(iii) if the President vetoes the rescission disapproval bill during the period provided in clause (ii), an additional 5 calendar days of session after the date of the veto.

''(2) If a special message is transmitted by the President under this section during any Congress and the last session of such Congress adjourns sine die before the expiration of the period described in paragraph (1)(B), the rescission shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in paragraph (1)(B) (with respect to such message) shall run beginning after such first day.

''DEFINITIONS

''SEC. 1102. For purposes of this title the term 'rescission disapproval bill' means a bill or joint resolution which only disapproves a rescission of budget authority, in whole, rescinded in a special message transmitted by the President under section 1101.

''PART B—CONGRESSIONAL CONSIDERATION OF LEGISLATIVE LINE ITEM VETO RESCISSIONS

''PRESIDENTIAL SPECIAL MESSAGE

''SEC. 1111. Whenever the President rescinds any budget authority as provided in section 1101, the President shall transmit to both Houses of Congress a special message specifying—

''(1) the amount of budget authority rescinded;

''(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

''(3) the reasons and justifications for the determination to rescind budget authority pursuant to section 1101(a)(1);

''(4) to the maximum extend practicable, the estimated fiscal, economic, and budgetary effect of the rescission; and

''(5) all facts, circumstances, and considerations relating to or bearing upon the rescission and the decision to effect the rescission, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

''TRANSMISSION OF MESSAGES; PUBLICATION

''SEC. 1112. (a) DELIVERY TO HOUSE AND SENATE.—Each special message transmitted under sections 1101 and 1111 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

''(b) PRINTING IN FEDERAL REGISTER.—Any special message transmitted under sections 1101 and 1111 shall be printed in the first issue of the Federal Register published after such transmittal.

''PROCEDURE IN SENATE

''SEC. 1113. (a) REFERRAL.—(1) Any rescission disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

''(2) Any rescission disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this section.

''(b) Floor Consideration in the Senate.—

''(1) Debate in the Senate on any rescission disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

''(2) Debate in the Senate on any debatable motion or appeal in connection with such a bill shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

''(3) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 1, not counting any day on which the Senate is not in session) is not in order.

''(c) POINT OF ORDER.—(1) it shall not be in order in the Senate or the House of Representatives to consider any rescission disapproval bill that relates to any matter other than the rescission of budget authority transmitted by the President under section 1101.

''(2) It shall not be in order in the Senate or the House of Representatives to consider any amendment to a rescission disapproval bill.

''(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.''.

Mr. MCCAIN. Mr. President, I am pleased to join Majority Leader DOLE, Senator COATS, and many others in introducing the Legislative Line-Item Veto of 1995.

Mr. President, this is the same bill that I have sponsored for the last 8 years. However, I would like to describe the bill again at this time. The bill would do:

(1) It gives the President the power to identify, up to 20 days after an appropriations bill is sent to the President for his signature, items of spending within that bill that are wasteful, and to notify Congress that the President is eliminating or reducing the funds for those items.

(2) The President may veto—or in other words freeze—part or all of the funds for programs deemed wasteful.

(3) Such items are called enhanced rescissions or more commonly referred to as line-item vetoes.

(4) The Congress is required to overturn these line-item vetoes with simply majority votes in the House and Senate within 20 days or they automatically become effective.

(5) If the Congress disagrees with the President, it may pass a rescission disapproval bill.

(6) The President then has the opportunity to veto the rescission disapproval bill. In that case, the veto may be overridden by a two-thirds vote of the House and Senate.

(7) This bill would also allow the President a second chance to eliminate wasteful pork-barrel spending by allowing him to submit such enhanced rescissions with the budget submission at the beginning of the year. This second shot at proposing rescission ensures that the President has the opportunity to strike at pork-barrel spending that may not be obvious during the first rescission period.

Mr. President, this bill would not: allow the President to rescind money for entitlement like Social Security, Medicaid, or food stamps.

The bill amends part B of title X of the Impoundment Control Act of 1974. It does not amend part A of title X of the Impoundment Control Act of 1974. The language from part A of title X is retained. It specifies that:

> Nothing contained in this Act, or in any amendment made by this Act, shall be construed as * * * superseding any provision of law which requires the obligation of budget appropriation or the making of outlays thereunder.''

This language from part A of title X ensures that the President cannot rescind funds for entitlement.

THE GROWING PROBLEM OF PORK-BARREL POLITICS AND THE BUDGET

Mr. President, pork-barrel politics is nothing new. However, the Congress' addiction to pork has grown to obscene proportions. Something must be done and something must be done now.

For too long the Congress has addressed this issue by maintaining the status quo. In the meantime, our addiction was growing and growing.

And Mr. President, while we are ''getting our pork fix'' our children are being raised in a Nation that may soon have no choice but to go cold turkey. But Mr. President, it is not pork alone that is cause this problem. Pork is only one small part of the illness.

The disease that plagues us is our budget and spending habits.

If we continue funding carelessly and recklessly ignore budgetary constraints and economic realities—if we continue to ignore this problem—we risk our Nation's future.

Mr. President, let us review the facts regarding our Nation's fiscal health.

The Federal debt is approaching $4 trillion.

The cost of interest on that debt is now almost $200 billion a year. That is more money than the Federal Government will spend on education, science, law enforcement, transportation, food stamps, and welfare combined.

The Federal budget deficit set a record of $290 billion in 1992.

By 2003, the deficit is expected to leap to a staggering $653 billion and will have reached its largest fraction of gross domestic product in more than 50 years.

Mr. President, we must act to restore budgetary restraint in the Congress. An analysis of the past shows that after each of the last major budget deals, the deficit in fact increased, spending increased, and taxes increased. We must avoid this cycle.

If we are to avoid a repeat of the Carter and Bush years, we must work toward real budgetary reform that truly curbs spending. This is a considerable undertaking that will involve asking all, including many powerful coalitions, that they will have no choice but to do more with less. The control of the Nation's purse will become even more fierce if we instituted budgetary reform and limit spending.

One aspect of this is to give the President the line-item veto.

RECOGNIZING THE CONGRESS' DISEASE

Mr. President, if we are to take control of the budget process we must move bravely forward and be prepared to make many difficult choices.

Now is the time to rise above petty politics and turf wars. We must put institutional pride aside. And most importantly, we must put the local-specific needs of each of our constituents aside and look at the Nation as a whole. Now, Mr. President, is the time for statesmen.

We must reinstitute budgetary restraint and take firm action to control spending. This will involve implementing specific strategies and standing behind a commitment to decrease spending—no matter what the political climate. This will involve accepting one set of budgetary goals and not allowing them to float or be adjusted.

Mr. President, one glaring example of this lack of backbone is the now altered Gramm-Rudman-Hollings deficit targets. The Congress had sought when it passed the Gramm-Rudman-Hollings Act to impose mandatory spending caps on the Congress. During recent years, however, these fixed budget targets have become significantly relaxed.

Mr. President, when push came to shove, the Congress allowed these ceilings to be altered. Due to the pressure of Gramm-Rudman-Hollings on the Congress to curtail its spending, the Congress curtailed Gramm-Rudman-Hollings. As a result, the 1990 Budget Act was passed and new higher targets were established.

Now, 4 years into that agreement, deficits and spending are being allowed to spiral out of control without penalty. The outlook for the future looks even worse: massive cuts in defense, huge tax increases, and an increase in domestic spending. The problem of the deficit, although often mentioned in high political rhetoric, is not addressed and allowed to grow.

THE LINE-ITEM VETO AS PART OF THE SOLUTION: PROCESS REFORM

The only solution to our budgetary problems and our profligate spending habits is substantial process reform. One key aspect of that process reform must be the line-item veto. Mr. President for those who say there is no need for the line-item veto, I implore you to open your eyes to the facts. Like all addicts, we are afraid to admit our own problem.

But others have recognized our problems.

Ross Perot on Good Morning America stated:

* * * There's every reason to believe that if you give the Congress more money, it's like giving a friend who's trying to stop drinking a liquor store. The point is they will spend it. They will not use it to pay down the debt. If you don't get a balanced budget amendment, if you don't get a line-item veto for the president, we might as well take this money out to the edge of town and burn it, because it'll be thrown away.

Governor Clinton on Larry King Live:

We ought to have a line-item veto.

Candidate Bill Clinton in Putting People First:

Line-Item Veto. To eliminate pork-barrel projects and cut government waste, I will ask Congress to give me the line-item veto.

President Bill Clinton in his Inaugural Address:

Americans deserve better * * * so that power and privilege no longer shout down the voice of the people. Let us put aside personal advantage so that we can feel the pain and see the promise of America. Let us give this Capitol back to the people to whom it belongs.

According to the CATO Institute, December 9, 1992, Policy Analysis:

Ninety-two percent of the governors believe that a line-item veto for the President would help restrain federal spending. Eighty-eight percent of the Democratic respondents believe the line-item veto would be useful.

America's governors and former governors have a unique perspective on budget reform issues. Most of them have had practical experience with the line-item veto and balanced budget requirement in their states. The fact that most governors have found those budget tools useful in restraining deficits and unnecessary government spending suggests that they may be worth instituting on the federal level.

Additionally from the CATO Institute Study:

Keith Miller (R), former Governor, AK:

The line-item veto is a useful tool that a governor can use on occasion to eliminate blatantly ''pork barrel'' expenditures that can strain a budget. At the same time he must answer to the voters if he or she uses the veto irresponsibly. It is a certain restraint on the legislative branch.

Michael Dukakis (D), former Governor, MA:

The line item veto is helpful in stopping efforts to add riders and other extraneous amendments to the budget bill.

L. Douglas Wilder (D), Governor, VA:

To the detriment of the federal process, the President is not held accountable for a balanced budget. Congress takes control over budget development with its budget resolution, after which, the President may only approve or veto 13 appropriations bills. Without the line item veto the President has minimal flexibility to manage the federal budget after it is passed.

S. Ernest Vandiver (D), former Governor, GA:

Tremendous tool for saving money.

Ronald Reagan (R), former Governor, CA, former President:

When I was governor in California, the governor had the line-item veto, and so you could veto parts of a bill. The President can't do that. I think, frankly—of course, I'm prejudiced—government would be far better off if the President had the right of line-item veto.

The U.S. Chamber of Commerce:

supports the McCain bill or similar legislation providing for line item veto/enhanced rescission authority, as a means of curbing excessive and wasteful government spending, to provide for better prioritization of scarce resources, and to encourage deficit reduction without tax increases.

THE GREATER THREAT OF INACTION

Mr. President, many have characterized this legislation as a dangerous ploy, not as a true budgetary reform. This is not accurate and does not take into account the greater picture of the dangers presented by our out of control budget process.

What is dangerous is what is happening to the effective administration of the American Government. Pork-barrel spending is threatening our national security and consuming resources that could better be spent on tax cuts, deficit reduction, or health care.

I do not make the charge that pork-barrel spending is threatening our national security without a great deal of consideration. After last year's defense appropriation bill, it is unfortunately clear how dangerous pork-barrel spending can be to our national security. It should now be clear how urgent the need for the line-item veto is.

At a time when thousands of men and women who volunteered toserve their country have to leave military service because of changing priorities and declining defense budgets, we nonetheless are able to find money for $6.3 billion of pork in the defense appropriation bill. At a time when we need to restructure our forces and manpower to meet our post-cold war military needs, we squandered $6.3 billion of pointless projects with no military value like engines that will never by used, military museums, studies of military stress on families, military physical fitness centers, and even supercomputers. This $6.3 billion of pork is impairing our national security and harming our society.

Mr. President, every Congressman or Senator wants to get projects for his or her district. It is an institutional problem. I am not a saint. There are no saints in the City of Satan, but I am trying. I am trying to change a system that has failed. I am trying to make a difference. I am not here to cast aspersions on other Senators who secured pork-barrel projects for their States. I am not here to start a partisan fight.

I am here trying to reform Congress. It is a Congress that has piled up $3.7 trillion in debt. It is a Congress that is responsible for a $400 billion deficit this year. It is a Congress that has miserably failed the American people. It is an institution that desperately needs reform.

Anyone who feels that the system does not need reform need only examine the trend in level of our public debt. As I have stated in my analysis of the most recent budget plans, the deficit has continued to grow and spending continues to increase. In 1960, the Federal debt held by the public was $236.8 billion. In 1970, it was $283.2 billion. In 1980, it was $709.3 billion. In 1990, it was $3.2 trillion, and it is expected to surpass $4 trillion this year.

My colleagues may ask: Why is the line-item veto so important?

Because a President with a line-item veto could held stop the waste. Because a President with a line-item veto could play an active role in ensuring that valuable taxpayer dollars are spent effectively to meet our national security needs, our infrastructure needs, and other social needs without pointless pork-barrel spending.

According to a recent General Accounting Office [GAO] study, $70 billion could have been saved between 1984 and 1989, if the President had a line-item veto.

It is important because it can help reduce the deficit. It can change the way Washington operates. Mr. President, we cannot turn a blind eye to unnecessary spending when we cannot meet the needs of our service men and women. We cannot tolerate this kind of waste when Americans all over this country are experiencing economic hardship and uncertainty.

We cannot ignore the line-item veto, when it is self-evident how effective it could be in reducing the deficit. We cannot ignore any method of saving the taxpayer's hard-earned money.

The $6.3 billion of pork in the defense appropriation bill is not an insignificant sum. $6.3 billion would pay for the personnel and operating costs of 19,000 enlisted personnel in the Air Force for 1 year. It would pay for the operating costs of up to 16 carrier battle groups for 1 year. It would pay for the operating costs of eight to nine fully armored army divisions. It would pay for the operating costs of 14 to 15 light infantry divisions for 1 year. It would pay for the total operation of the soon to be closed Williams Air Force Base in Arizona for 50 years.

The American public deserves better than business as usual. As their elected representatives we have an obligation to end the practice of pork-barrel spending.

RETURN TO THE VIEWS OF THE FOUNDING FATHER AND THE CONSTITUTION

Mr. President, let me remind my colleagues that a President empowered with a veto is the system designed by the Founding Fathers. It was not considered a threat to our republican form of government by the Framers of the Constitution.

This bill in no way alters or violates any of the principles of the Constitution. It preserves wholly the right of the Congress to control our Nation's purse strings—a trust the Congress has often violated. This legislation, however does further the concept of checks and balances which is the heart of our divided government.

The veto was designed by the Founding Fathers to ensure that the President had some authority to reign over an unruly legislature. As grade schools learn, the veto is an important aspect of the Constitution. At the same time, these school children learn that the Congress has the right to override the President. This bill does nothing more than embrace that Constitutional tenet.

On the subject of the veto, according to Alexander Hamilton in ''Federalist No. 73'' the views of the Founding Fathers on executive veto power are as follows:

> It [the veto] not only serves as a shield to the executive, but it furnishes an additional security against the inaction of improper laws. It establishes a salutary check upon the legislative body, calculated to guard the community against the effects of faction, precipitancy, or any impulse unfriendly to the public good, which may happen to influence a majority of that body.

Given Congress' predilection for unfunded and/or pork barrel spending, omnibus spending bills, and continuing resolutions, it would seem only prudent and constitutional to provide the President with functional veto power.

The President must have more than the option of vetoing a spending bill and shutting down Government or simply submitting to congressional coercion.

Mr. President, let me emphasize that this bill is also known as enhanced rescission power. The Congress is not transferring power. We are proposing an end to business as usual. The taxpayer needs protection.

Furthermore, this strictly defined and limited line-item veto will not fundamentally upset the balance of power between the executive and legislative branches. And, it is consistent with the values expressed in our Federation Constitution.

Mr. President, criticism of the line-item veto has not stopped with the unfounded charge of upsetting the delicate balance of power between the President and Congress. Opponents claim that it would give the President the power to coerce the Congress. That is not true.

This measure in no way tips the checks and balance system so carefully crafted into the Constitution. The President is given very limited power by this bill. It is limited to appropriation bills and only for a limited time after their passage. Congress is guaranteed the opportunity to quickly overturn the President's rescissions. Opponents may hide behind the charge of coercion, but Congress would not submit to presidential extortion. They would expose the President's coercion, and overturn any offensive rescission.

Charges that the President would abuse this power are also misleading and unfounded.

Again, I will rely upon Alexander Hamilton, who posed this question to his contemporaries in ''Federalist No. 73'':

> If a magistrate so powerful and so well fortified as a British monarch would have scruples about the exercise of the power under consideration, how much greater caution may be reasonably expected in a President of the United States, clothed for the short period of four years with the executive authority of government wholly and purely republican?''

To summarize, this legislation will merely require the Congress to recognize the President's rescissions, and help reduce wasteful spending. It is not a means for Presidential abuse, but a means to end congressional abuse. It will give the President limited power in controlling spending and reducing the deficit. It should be self-evident to all Senators that controlling spending is something that the Congress is completely unable to do. I bring to the Senate's attention the $3.7 trillionpublic debt as irrefutable proof of our inability to control spending.

PRESIDENTIAL POWER USED TO IMPLEMENT BUDGETARY REFORM

This inability to control spending was aggravated in 1974 by the Budget Control and Impoundment Act. If opponents of the line-item veto are in search of a dangerous transfer of political power, they can end their search with that power grab by Congress.

Specifically, the Budget Control and Impoundment Act of 1974 weakened executive power by allowing the Congress the legal option of ignoring the spending cuts recommended by the President through simple inaction.

Since 1974, the Congress' attitude toward Presidential rescission has become one of near total neglect.

For example, President Ford proposed 150 rescissions, and Congress ignored 97. President Carter proposed 132 rescission, and Congress ignored 38. President Reagan proposed 601 recissions, and Congress ignored 384. President Bush has proposed 47 rescissions, and Congress ignored 45.

If the Congress had accepted the 564 Presidential rescissions that it has ignored since 1974, $40.4 billion would have been saved. This is not a trivial sum to a taxpayer, even if it is to a hardened Washington veteran.

The practice of ignoring Presidential rescissions is in contrast to the practice prior to the power grab by Congress in 1974.

Presidents Truman, Eisenhower, Kennedy, Johnson, and Nixon all impounded funds that Congress had appropriated for line-item projects. In the most telling example of Presidential impoundment as a means of controlling spending, President Johnson impounded $5.3 billion for many of his Great Society programs during the Vietnam war to quell inflation.

These modern Presidents were not alone in their exercise of rescission power. In 1801, President Jefferson refused to spend $50,000 on gunboats as

appropriated by Congress. He, of course, had good reason. When the gunboats were appropriated, a war with Spain was considered imminent. The war never materialized, and the threat posed by Spain ebbed. Circumstances changed, and Jefferson thought it was within his power to eliminate this unnecessary spending.

The money for gunboats was not spent, and money was not appropriated in 1802 for the gunboats.

Clearly, the Union did not fall because the President refused to waste taxpayers' money.

Until 1974, our Presidents had the power to decide whether appropriated moneys should be spent or not.

Thus, whether through rescission, impoundment, or deferral, the executive branch had a significant role in spending control prior to the Budget Control and Impoundment Act of 1974.

Again, Alexander Hamilton in ''Federalist No. 73'' sheds light on the role of executive veto power in our system of checks and balances:

> When men, engaged in unjustifiable pursuits, are aware that obstructions may come from a quarter which they cannot control, they will often be restrained by the apprehension of opposition from doing what they would with eagerness rush into if no such external impediments were to be feared. ''Those opposed to this amendment should consider that pithy statement, and question whether they may be simply defending ''unjustifiable pursuits'' like bovine flatulence studies, Abraham Lincoln Research and Interpretative Centers, unauthorized spending, or projects that ''demonstrate methods of eliminating traffic congestions.

Let me return to the broader picture of process reform. Many opponents claim that a President with line-item veto authority would not have any real ability to balance the budget or even significantly reduce the deficit. I will make no claims that this bill is the answer to all our budgetary problems.

As I earlier stated, the line-item veto is only one of many needed tools in our efforts to win the war. With roughly 1 trillion of entitlement spending in a budget of $1.5 trillion, it is clear that a line-item veto won't be the tool that solves all of our fiscal difficulties. Only a Congress with a political will not characteristic of recent Congress' will be able to balance the budget.

But, a President dedicated to restraining Federal spending could use line-item veto power as an effective toll to reduce Government spending and move closer to a balanced budget than we are today.

The GAO study makes my point. A President with line-item veto authority could have saved the American taxpayer $70 billion since 1974.

A determined President may not be able to balance the budget—only the voters can ultimately control Congress—but a determined President could make substantial progress toward real spending reduction.

A President with line-item veto authority could have played an active role in deficit reduction, and could have mitigated some of the fiscal dilemma our Nation now faces.

As we continue to face enormous budget deficits and annually search for ways to reduce spending, it seems self-evident that there is a place in our budget process for a President empowered with a line-item veto to provide the needed discipline to eliminate waste. With our public debt expected to approach $3.9 trillion this year and our Gross Domestic Product or roughly $5.7 trillion, it is obvious that our debt may soon surpass our output.

With that in mind, I hope the Senate would consider the following quote by a prescient figure in the Scottish Enlightenment, Alexander Tytler. He stated:

> A democracy cannot exist as a permanent form of government. It can exist only until a majority of voters discover that they can vote themselves largesse out of the public treasury. From that moment on, the majority always votes for the candidate who promises them the most benefit from the public treasury, with the result being that democracy always collapses over a loose fiscal policy.

If our debt surpasses our output, I fear that our democracy may just collapse over loose fiscal policy.

Mr. President, we must recognize our responsibility to change as the times dictate. We have sought to remedy what ails the budget process in the past. As I have sought to do here, it is time we re-examine that history. And Mr. President, I am convinced that a real examination of that history reveals that if we are to get our fiscal house in order we must change the process.

It is not an embarrassment to do so. And to do so should not be interpreted by anyone as a method to affix blame for our current deficit. As the President stated at his State of the Union Address, there is plenty of blame to go around. Now is the time to start anew. Now is the time to throw out games and gimmicks and embrace truth in budgeting. Now is the time to accept the facts as they are, and move forward. Now is the time to play straight with the process and fix it where we can fix it, embrace the positive aspects, and throw out those aspects of the process which are not serving us well.

This bill represents progress and change. The only threat it represents is to the power of the Appropriations Committee. On the other hand, inaction on budget process reform represents a threat to American democracy. I ask my colleagues to carefully weigh these threats before as they consider this their position.

Lastly, let me emphasize again that this legislation is not radical, extreme, or dangerous. For nearly 200 years our Nation's Presidents had some form of impoundment or line-item veto power. For nearly 20 years now this power has been out of balance.

I give credit to those who tried to change the system. I give credit to those who believe passionately on this issue and will was eloquently on the Senate floor on this subject. I believe their efforts were well intended, but all the arguments cannot hide the fatal flaw that the system as it now exists is not functioning properly. History now tells us it is time to change again and give the President the authority that 43 Governors possess. It is time to give the President the line-item veto.

This bill is only a small step, but one in the right direction. I urge my colleagues to support this measure.

By Mr. DOLE (for himself, Mr. HELMS, Mr. THURMOND, Mr. COHEN, Mr. WARNER, Mrs. HUTCHISON, Mr. MCCAIN, Mr. LOTT, Mr. NICKLES, and Mr. MACK):

S. 5. A bill to clarify the war powers of Congress and the President in the post-cold war period; to the Committee on Foreign Relations.

THE PEACE POWERS ACT OF 1995

Mr. DOLE. Mr. President, today I am pleased to stand with Senators HELMS, THURMOND, HATCH, COHEN, WARNER, HUTCHISON, MCCAIN, LOTT, and NICKLES to introduce the Peace Powers Act of 1995.

Twenty-two years ago, I voted for S. 440, the War Powers Act of 1973. The act passed 72–18. Only 2 of those 18 Senators are serving in the 104th Congress: The chairman of the Foreign Relations Committee, Senator HELMS, and the chairman of the Armed Services Committee, Senator THURMOND. The conference report later passed, and President Nixon's veto was overridden. On each of those votes, I was in the majority while Senator HELMS and Senator THURMOND were in the minority. After two decades, I now admit they were right, and I was wrong.

Today, on the first day of the 104th Congress, I am introducing legislation to repeal the War Powers Resolution. War Powers was an admirable effort. It was enacted in the aftermath of a divisive war. It was an attempt to prevent more ''Vietnams.'' But the War Powers Resolution did not end division between the executive and legislative branch—it provided a focus for such division and may have actually increased disputes between the branches. In my view, the focus was unhealthy: automatic termination of American troop deployments if Congress did not act. Congress spent hours debating ''imminent hostilities'' and other definitional matters—rather than the important policy issues relating to war and peace.

I have always believed that Congress has an important and central role in the decisions of war and peace. I believe any President should work to get Congress behind decisions to use force as early as possible. That's what President Bush did in 1991 before the war in the Persian Gulf.

S. 5 repeals the War Powers Act. S. 5 adds back into law the War Powers provisions on consultation and reporting, provisions which have worked reasonable well. When an American President

acts in defense of American interests, the President should have all the flexibility provided in the Constitution—not be subject to an automatic withdrawal ''trigger'' or a 60-day time clock.

S. 5 also addresses another aspect of the U.S. involvement in the post-cold war world: U.N. peacekeeping. S. 5 imposes significant new limits on peacekeeping policies which have jeopardized American interests, squandered resources—and cost lives. S. 5 limits the placing of American troops under foreign command. S. 5 also requires U.N. assessments for peacekeeping be reduced by the mount spent by the Department of Defense in direct or indirect support of peacekeeping activities. This addresses the absurd situation where the United States spends billions on Somalia, for example, and then receives a bill from the United Nations for millions more—as an assessment for our share of peacekeeping.

S. 5 addresses the out of control deficit voting which has occurred in the United Nations. S. 5 requires the administration to tell Congress how it will pay for peacekeeping operations before they vote for such operations and incur any obligation. S. 5 also makes clear that no resources can be committed in New York which have not been appropriated by Congress. The Congress is a little tired of being told we owe arrearages which the administration has made no efforts to finance. S. 5 says if you cannot pay for it, don't vote for it. Finally, S. 5 reaffirms Congress' commitment to the reduction of the U.S. assessment for U.N. peacekeeping to 25 percent—even if the United Nations tries to change U.S. interest or penalties.

S. 5 will be the subject of many hearings—in Foreign Relations, in Armed Services, and perhaps in other committees. Maybe certain provisions can be improved in the course of our review. I ask that a summary of the provisions of S. 5 be printed in the RECORD at the conclusion of my remarks.

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

S. 5

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Peace Powers Act of 1995''.

SEC. 2. REPEAL OF THE WAR POWERS RESOLUTION.

(a) WAR POWERS RESOLUTION.—The War Powers Resolution (Public Law 95–148; 50 U.S.C. 1541 et seq.) is repealed.

(b) CONFORMING REPEAL.—Section 1013 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (50 U.S.C. 1546a) is hereby repealed.

SEC. 3. CONSULTATION.

The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.

SEC. 4. REPORTING.

(a) INITIAL REPORTS.—In the absence of a declaration of war, in any case in which United States Armed Forces are introduced—

(1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances;

(2) into the territory, airspace, or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; or

(3) in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation;

the President shall submit within 48 hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating the introduction of United States Armed Forces;

(B) the constitutional and legislative authority under which such introduction took place; and

(C) the estimated scope and duration of the hostilities or involvement.

(b) ADDITIONAL INFORMATION.—The President shall provide such other information as the Congress may request in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

(c) PERIODIC REPORTS.—Whenever United States Armed Forces are introduced into hostilities or into any situation described in subsection (a) of this section, the President shall, so long as such armed forces continue to be engaged in such hostilities or situation, report to the Congress periodically on the status of such hostilities or situation as well as on the scope and duration of such hostilities or situation, but in no event shall he report to the Congress less often than once every 6 months.

SEC. 5. LIMITATION ON PLACEMENT OF UNITED STATES ARMED FORCES UNDER FOREIGN COMMAND FOR A UNITED NATIONS PEACEKEEPING ACTIVITY.

Section 6 of the United Nations Participation Act (22 U.S.C. 287d) is amended to read as follows:

''SEC. 6. (a) Any special agreement or agreements negotiated by the President with the Security Council providing for the numbers and types of United States Armed Forces, their degree of readiness and general locations, or the nature of facilities and assistance, including rights of passage, to be made available to the Security Council for the purpose of maintaining international peace and security in accordance with Article 43 of the United Nations Charter, shall be subject to the approval of the Congress by Act or joint resolution.

''(b) The President may not subordinate to the command or operational control of any foreign national any element of the United States Armed Forces participating in any United Nations peacekeeping activity unless—

''(1) the President satisfies the requirements of subsection (c); or

''(2) the Congress enacts an Act or joint resolution specifically authorizing such subordination.

''(c)(1) The requirements referred to in subsection (b)(1) are that the President submit to the designated congressional committees (at the time specified in paragraph (2) of this subsection) the following documents:

''(A) A determination by the President that—

''(i) the proposed subordination of United States Armed Forces to foreign command is in the national security interest of the United States;

''(ii) the unit commanders of the United States Armed Forces proposed for subordination to the command of foreign nationals will at all times retain the ability to report independently to higher United States military authorities;

''(iii) the United States will retain authority to withdraw the United States Armed Forces from the United Nations peacekeeping activity at any time and to take action it considers necessary to protect those forces if they are endangered; and

''(iv) the United States Armed Forces subordinated to the command of foreign nationals will at all times remain under United States administrative command for such purposes as discipline and evaluation.

''(B) The justification for the determination made pursuant to subparagraph (A)(i).

''(C) A memorandum of legal points and authorities explaining why the proposed foreign command arrangement does not violate the Constitution.

''(2) The documents described in paragraph (1) shall be submitted to the appropriate congressional committees not less than 15 days before any element of the United States Armed Forces is subordinated to the command and control of a foreign national, except that if the President determines that an emergency exists which prevents compliance with the requirement that notice be provided 15 days in advance, those documents shall be submitted in a timely manner but no later than 48 hours after such subordination.

''(d) For purposes of this section, the term 'appropriate committees of Congress' means—

''(1) the Committee on National Security, the Committee on Appropriations, and the Committee on International Relations of the House of Representatives; and

''(2) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate.''.

SEC. 6. REDUCTION OF UNITED NATIONS ASSESSMENTS TO THE UNITED STATES FOR PEACEKEEPING OPERATIONS.

(a) ANNUAL REPORT.—The President shall, at the time of submission of the budget to Congress for any fiscal year, submit to the appropriate committees of Congress a report on the total amount of funds appropriated for national defense purposes for any fiscal year after fiscal year 1995 that were expended during the preceding fiscal year to support or participate in, directly or indirectly, United Nations peacekeeping activities. Such report shall include a breakdown by United Nations peacekeeping operation of the amount of funds expended to support or participate in each such operation.

(b) LIMITATION.—In each fiscal year beginning with fiscal year 1996, funds may be obligated or expended for payment to the United Nations of the United States assessed share of peacekeeping operations for that fiscal year only to the extent that such assessed share exceeds the total amount identified in the report submitted pursuant to subsection (a) for the preceding fiscal year, reduced by the amount of any reimbursement or credit to the United States by the United Nations for the costs of United States support for, or participation in, United Nations peacekeeping activities for that fiscal year.

(c) DEFINITIONS.—As used in this section:

(1) The term ''United Nations peacekeeping activities'' means any international peacekeeping, peacemaking, peace-enforcing, or similar activity that is authorized by the United Nations Security Council under chapter VI or VII of the United Nations Charter.

(2) The term ''appropriate committees of Congress'' means—

(A) the Committee on National Security, the Committee on Appropriations, and the Committee on International Relations of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate.

SEC. 7. PRIOR CONGRESSIONAL NOTIFICATION OF SECURITY COUNCIL VOTES ON UNITED NATIONS PEACEKEEPING ACTIVITIES.

(a) NOTICE TO CONGRESS OF PROPOSED UNITED NATIONS PEACEKEEPING ACTIVITIES.—Section 4 of the United Nations Participation Act of 1945 (22 U.S.C. 287b) is amended—

(1) by redesignating subsection (e) as subsection (g); and

(2) by inserting after subsection (d) the following:

''(e) NOTICE TO CONGRESS OF PROPOSED UNITED NATIONS PEACEKEEPING ACTIVITIES.—(1) Except as provided in paragraph (2), at least 15 days before any vote in the Security Council to authorize any United Nations peacekeeping activity or any other action under the Charter of the United Nations (including any extension, modification, suspension, or termination of any previously authorized United Nations peacekeeping activity or other action) which would involve the use of United States Armed Forces or the expenditure of United States funds, the President shall submit to the designated congressional committees a notification with respect to the proposed action. The notification shall include the following:

''(A) A cost assessment of such action (including the total estimated cost and the United States share of such cost).

''(B) Identification of the source of funding for the United States share of the costs of the action (whether in an annual budget request, reprogramming notification, a rescission of funds, a budget amendment, or a supplemental budget request).

''(2)(A) If the President determines that an emergency exists which prevents submission of the 15-day advance notification specified in paragraph (1) and that the proposed action is in the national security interests of the United States, the notification described in paragraph (1) shall be provided in a timely manner but no later than 48 hours after the vote by the Security Council.

''(B) Determinations made under subparagraph (A) may not be delegated.

''(f) ADVERSE PERSONNEL ACTIONS AND CRIMINAL PENALTIES.—Any officer or employee of the United States Government who knowingly and willfully obligates or expends United States funds to carry out any Security Council action described in subsection (e) without the requirements of that subsection having been met shall be subject to the same adverse personnel actions and criminal penalties as are described in sections 1349 and 1350, respectively, of title 31, United States Code (originally enacted in the Anti-Deficiency Act).''.

SEC. 8. AVAILABILITY OF APPROPRIATIONS.

Section 4 of the United Nations Participation Act of 1945 (22 U.S.C. 2876), as amended by section 7, is further amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

''(g) AVAILABILITY OF APPROPRIATIONS.—(1) The authority to obligate United States funds to carry out any action pursuant to a United Nations Security Council resolution under chapter VI or VII of the United Nations Charter may be exercised only to the extent and in the amounts provided in appropriation Acts.

''(2) The President, acting through the United States Permanent Representative to the United Nations, should advise the Security Council of the requirement of this section on each occasion when the United States supports a Security Council resolution that may result in United States assessed contributions to the United Nations exceeding amounts currently available to be obligated for that purpose.''.

SEC. 9. LIMITATION ON ASSESSMENT PERCENTAGE FOR PEACEKEEPING ACTIVITIES.

Section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended by adding at the end the following new sentence: ''Any penalties, interest, or other charges imposed on the United States in connection with such contributions shall be credited as a part of the percentage limitation contained in the preceding sentence.''.

S. 5, THE PEACE POWERS ACT OF 1995—JANUARY 4, 1995

Repeals War Powers Resolution of 1973 in its entirety (section 2).

Consultation provisions added back: in advance in ''every possible instance'' and ''regularly'' while deployment underway (section 3, old section 3 of War Powers)

Reporting provisions added back: reports ''within 48 hours'' of deployments (section 4, old section 4 of War Powers).

Withdrawal triggers, ''time clocks'' and expedited procedures are gone (old sections 5–8 of War Powers, and a post-Chadha reference)

Strict limitation on placement of U.S. troops under foreign command for U.N. peacekeeping operations (section 5). Provides for presidential determination to allow placing troops under foreign command (to address constitutional concerns).

Mandatory credit for Defense Department spending (section 6) requires U.N. assessments be reduced by the amount DoD spent in direct or indirect support of U.N. peacekeeping activities.

Mandatory identification of funding before votes to establish, extend or expand peacekeeping operations (section 7) improves on current law which requires only a cost assessment but allows ''deficit voting.'' Section 8 also requires the President to make any determination to waive the advance notice, and adds penalties from the Anti Deficiency Act to votes not in accordance with this section.

Requires notice that U.S. resource commitments are subject to Congressional appropriations (section 8), places the U.N. on notice that the U.S. cannot commit funds which are not yet appropriated (parallel to legislation governing international financial institutions)

Reaffirms congressional mandate to reduce U.S. peacekeeping assessment to 25% (section 9), despite United Nations' plans to add late fees, penalties, etc.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. BREAUX, Ms. MIKULSKI, Mr. REID, Mr. ROCKEFELLER, Mr. DODD, Mr. KERRY, Mr. DORGAN, and Ms. MOSELEY-BRAUN):

S. 6. A bill to replace certain Federal job training programs by developing a training account system to provide individuals the opportunity to choose the type of training and employment-related services that most closely meet the needs of such individuals, and for other purposes; to the Committee on Labor and Human Resources.

WORKING AMERICANS OPPORTUNITY ACT

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

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

S. 6

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Working Americans Opportunity Act''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) increasing international competition, technological advances, and structural changes in the economy of the United States present new challenges to private firms and public policymakers in creating a skilled workforce with the ability to adapt to change and progress;

(2) a substantial number of Americans lose jobs due to the constantly changing world and national economies rather than cyclical downturns, with more than 2,000,000 full-time workers permanently displaced annually due to plant closures, production cutbacks, and layoffs;

(3) the current response of the Federal Government to dislocation and structural employment is a patchwork of categorical programs, with varying eligibility requirements and different sets of services and benefits;

(4) the lack of coherence among existing Federal programs creates administrative and regulatory obstacles that hamper the efforts of individuals who are seeking new jobs or reemployment;

(5) enacted in 1944, the Servicemen's Readjustment Act of 1944, popularly known as the GI Bill of Rights, helped millions of World War II veterans, and later, Korean and Vietnam War veterans, finance college educations and assisted in building the middle class of the United States;

(6) restructuring the current job training system, with respect to dislocated and disadvantaged workers, in a manner that is

conceptually similar to the GI Bill will help millions of Americans to become more competitive in today's dynamic world economy in which most Americans—

(A) can expect to move to new jobs a number of times, voluntarily or by layoff; and

(B) must upgrade their skills continuously;

(7) success in this ever-changing environment depends, in part, on an individual's effective management of the individual's career based on personal choice and reliable information;

(8) there is insufficient market information and assistance regarding access to job training opportunities that lead to good employment opportunities;

(9) only a small fraction of individuals eligible for current Federal job training are now served, and by removing obstacles and layers of administrative costs, more funds will be made available to individuals to enable such individuals to receive the training of their choice; and

(10) while the Federal Government proceeds to create a new marketplace for job training, the Federal Government must also maintain its commitment to providing intensive services to assist those individuals who are economically disadvantaged.

(b) PURPOSES.—It is the purpose of this Act to—

(1) enhance the choices available to dislocated workers, and the economically disadvantaged, who want to upgrade their work skills and learn new skills to compete in a changing economy;

(2) enable individuals to make choices that are best for the careers of such individuals;

(3) replace a number of Federal job training programs and employment-related services with a simple and direct training account voucher system that relies on individual choice and provides high-quality job market information;

(4) allow an individual to tailor training and education to the personal needs of such individual so that such individual may remain in long-term employment yet have the means to be flexible when necessary; and

(5) create a system that provides timely and reliable information to individuals to use to assist such individuals in making the best choices with respect to the use of vouchers for job training and employment-related services.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) DISLOCATED WORKERS.—

(A) IN GENERAL.—The term ''dislocated workers'' means individuals who—

(i) have been terminated or laid off or who have received a notice of termination or layoff from employment, are eligible for or have exhausted their entitlement to unemployment compensation, and are unlikely to return to their previous industry or occupation;

(ii) have been terminated or have received a notice of termination of employment, as a result of any permanent closure of or any substantial layoff at a plant, facility, or enterprise;

(iii) are long-term unemployed and have limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individuals reside, including older individuals who may have substantial barriers to employment by reason of age; or

(iv) were self-employed (including farmers and ranchers and fishermen) and are unemployed as a result of general economic conditions in the community in which they reside or because of natural disasters, subject to regulations prescribed by the Secretary.

(B) SPECIAL RULE.—The Secretary of Labor shall establish categories of self-employed individuals and of economic conditions and natural disasters to which subparagraph (A)(iv) applies.

(2) COMMUNITY-BASED ORGANIZATIONS.—The term ''community-based organizations'' means private nonprofit organizations that—

(A) are representative of communities or significant segments of communities; and

(B) provide education, training, and related services.

(3) ECONOMICALLY DISADVANTAGED ADULT.—The term ''economically disadvantaged adult'' means an individual who is age 18 and older and who has, or is a member of a family that has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) that, in relation to family size, was not in excess of the higher of—

(A) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 9902(2)) of title 42; or

(B) 70 percent of the lower living standard income level.

(4) GOVERNOR.—The term ''Governor'' means the chief executive of any State.

(5) PROVIDER.—The term ''provider'' means a public agency, private nonprofit organization, or private for-profit entity that delivers basic employment, educational, job training, employment-related, or supportive services.

(6) STATE.—The term ''State'' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

TITLE I—JOB TRAINING ACCOUNT SYSTEM

SEC. 101. ESTABLISHMENT.

Not later than January 1, 1996, the Secretary of Labor and the Secretary of Education shall jointly establish pursuant to the requirements of this Act a job training account system that provides vouchers to individuals for the purpose of the provision of job training and employment-related services.

SEC. 102. INDIVIDUAL CHOICE.

(a) IN GENERAL.—Upon notification of approval of an application under section 104, an individual may receive a voucher in the amount of $3,000 for 2-years beginning on the date on which an application is approved under section 104.

(b) USE OF TRAINING ACCOUNT VOUCHERS FOR JOB TRAINING AND EMPLOYMENT-RELATED SERVICES.—

(1) IN GENERAL.—An individual who is a recipient of a voucher under subsection (a) may use such voucher to purchase job training or employment-related services from providers that meet the requirements of section 106 or 107, whichever is applicable.

(2) AUTHORIZED JOB TRAINING AND EMPLOYMENT-RELATED SERVICES.—

(A) IN GENERAL.—The job training and employment-related services described in paragraph (1) may include—

(i) associate degree or nondegree programs at—

(I) two- and four-year colleges;

(II) vocational and technical education schools;

(III) private for-profit and not-for-profit training organizations;

(IV) public agencies and schools; and

(V) community-based organizations;

(ii) employer work-based training programs;

(iii) job search assistance;

(iv) in the case of individuals who are economically disadvantaged, preemployment training programs; or

(v) other appropriate employment-related services.

(B) SPECIAL RULE.—A recipient of a voucher under subsection (a) may not pay by voucher more than $750 for job search assistance services.

SEC. 103. ELIGIBILITY.

An individual shall be eligible to receive a voucher under this title if such individual is—

(1) a dislocated worker; or

(2) an economically disadvantaged adult.

SEC. 104. OBTAINING A VOUCHER.

(a) APPLICATION.—An individual who desires to participate in a training account program established under this title shall submit an application to a voucher application office described in subsection (b)(1) at such time, in such manner, and accompanied by such information as the Governor may reasonably require. The Governor shall, to the extent that appropriations are available, approve an application that meets the application requirements of regulations issued under section 105 and promptly notify such applicant of such approval.

(b) STATE-DESIGNATED VOUCHER APPLICATION OFFICES.—

(1) ESTABLISHMENT.—Each State shall designate or establish easily accessible voucher application offices within such State to assist in administering the training account system under this title. Such offices may be administered by private (for-profit or not-for-profit) or public entities.

(2) DUTIES.—Each voucher application office shall—

(A) provide applications for vouchers under this title to interested individuals, assist such individuals in completing such applications, and collect completed applications for determination of eligibility;

(B) provide performance-based information to applicants relating to service providers eligible to receive payment by voucher in accordance with section 106 or 107, whichever is applicable;

(C) carry out such other duties relating to the training account system as may be specified by the Governor or prescribed in regulations issued jointly by the Secretary of Labor and the Secretary of Education; and

(D) provide information on—

(i) the local economy and availability of employment;

(ii) profiles of local industries; and

(iii) details of local labor market demand.

(3) CONFLICT OF INTEREST STANDARDS.—The Secretary of Labor and the Secretary of Education shall jointly issue regulations establishing procedures to ensure that voucher application offices that are administered by an entity that is concurrently an eligible provider of services under the training account system provide information to voucher applicants relating to the other providers of services in the local area in an objective and equitable manner.

(c) SENSE OF THE CONGRESS.—It is the sense of the Congress that as States become more experienced with administering vouchers to eligible individuals that the voucher applications offices described in subsection (b) should be converted to one stop assistance centers described in section 301.

SEC. 105. OVERSIGHT AND ACCOUNTABILITY.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Labor and the Secretary of Education shall jointly issue regulations that—

(1) specify the—

(A) voucher application requirements;

(B) form of vouchers;

(C) use of such vouchers;

(D) method of redemption of such vouchers;

(E) most expeditious and effective process of distribution (consistent with the findings and purposes of this Act) of a voucher from the Federal Government to eligible individuals; and

(F) the arrangements necessary to phase in the training account system in each State in a timely manner;

(2) specify the duties and responsibilities of providers under a training account program established by a State under this title;

(3) include a role for a State in the oversight of such providers of such State;

(4) specify the Federal and State responsibilities in such oversight, including the enforcement responsibilities and the determination of administrative costs with respect to a State that establishes a training account program under this title;

(5) include provisions that encourage States to distribute in a regionally balanced manner, to the extent practicable, vouchers to individuals to purchase job training or employment-related services in such State; and

(6) specify the manner in which economically disadvantaged individuals will receive adequate counseling and support services necessary to take full advantage of the voucher assistance under this title.

(b) PUBLIC COMMENTS.—In promulgating regulations under subsection (a), the Secretary of Labor and the Secretary of Education shall provide the opportunity for comment from the public, including representatives of the business community, workers, and community-based organizations.

SEC. 106. ELIGIBILITY REQUIREMENTS FOR PROVIDERS OF JOB TRAINING.

(a) ELIGIBILITY REQUIREMENTS.—A provider of job training shall be eligible to receive payment by voucher under this title if such provider—

(1) is—

(A) eligible to participate in programs under title IV of the Higher Education Act of 1965; or

(B) determined to be eligible under the procedures described in subsection (b); and

(2) provides the performance-based information required pursuant to subsection (c).

(b) ALTERNATIVE ELIGIBILITY PROCEDURE.—

(1) IN GENERAL.—The Governor shall establish an alternative eligibility procedure for providers of job training desiring to receive payment by voucher under this title, but that are not eligible to participate in programs under title IV of the Higher Education Act of 1965.

(2) PROCEDURE REQUIREMENTS.—The procedure described in paragraph (1) shall establish minimum acceptable levels of performance for providers of job training based on factors and guidelines developed jointly by the Secretary of Labor and the Secretary of Education. Such factors shall be comparable in rigor and scope to those provisions of part H of title IV of the Higher Education Act of 1965 that are used to determine an institution of higher education's eligibility to participate in programs under such part as are appropriate to the type of provider seeking eligibility under this subsection and the nature of the education and training services to be provided.

(3) LIMITATION.—Notwithstanding paragraph (1), if the participation of an institution of higher education in any of the programs under title IV of the Higher Education Act of 1965 is terminated, such institution shall not be eligible to receive funds under this Act for a period of 2 years beginning on the date of such termination.

(c) PERFORMANCE-BASED INFORMATION.—

(1) CONTENTS.—The Secretary of Labor and the Secretary of Education, shall identify performance-based information that is to be submitted by providers of job training desiring to be eligible under this section. Such information may include information relating to—

(A) the percentage of students completing the programs conducted by a provider of job training;

(B) the rates of licensure of graduates of the programs conducted by such provider;

(C) the percentage of graduates of the programs conducted by such provider that meet skill standards and certification requirements endorsed by the National Skill Standards Board established under section 503 of the National Skills Standards Act of 1994;

(D) the rates of placement and retention in employment, and earnings of the graduates of the programs conducted by such provider;

(E) the percentage of graduates of the program conducted by such provider who obtained employment in an occupation related to such program conducted by such provider; and

(F) the warranties or guarantees provided by such provider relating to the skill levels or employment to be attained by graduates of the program conducted by such provider.

(2) ADDITIONS.—The Governor may, pursuant to the approval of the Secretary of Labor and the Secretary of Education, prescribe additional performance-based information that shall be submitted by providers of job training pursuant to this subsection.

(d) ADMINISTRATION.—

(1) STATE AGENCY.—The Governor shall designate a State agency to collect, verify, and disseminate the performance-based information submitted pursuant to paragraph (1) of subsection (c).

(2) APPLICATION.—A provider of job training desiring to be eligible to receive funds under this title shall submit the information required under subsection (c) to the State agency designated under paragraph (1) at such time and in such form as such State agency may require.

(3) LIST OF ELIGIBLE PROVIDERS.—The State agency designated under paragraph (1) shall compile a list of eligible providers, accompanied by the performance-based information submitted, and disseminate such list and information to the voucher application offices described under section 105(b)(1), assistance centers under section 301, and other appropriate entities within the State.

(4) ACCURACY OF INFORMATION.—

(A) IN GENERAL.—If the State agency determines that a provider of training services submitted inaccurate performance-based information under this subsection, then such provider shall be disqualified from receiving funds under this title for a period of 2 years beginning on the date of such determination, unless such provider can demonstrate to the satisfaction of the Governor or a designee of the Governor, that the information was provided in good faith.

(B) APPEAL.—The Governor shall establish a procedure for a provider of job training to appeal a determination by a State agency that results in a disqualification under subparagraph (A). Such procedure shall provide an opportunity for a hearing and prescribe appropriate time limits to ensure prompt resolution of the appeal.

(5) ASSISTANCE IN DEVELOPING INFORMATION.—The State agency designated under paragraph (1) may provide technical assistance to a provider of job training in developing the performance-based information required under subsection (c). Such assistance may include facilitating the utilization of State administrative records, such as unemployment compensation wage records, and other appropriate coordination activities.

(6) CONSULTATION.—The Secretary of Labor shall consult with the Secretary of Education regarding the eligibility of institutions of higher education or other providers of job training to participate in programs under this Act or under title IV of the Higher Education Act of 1965.

SEC. 107. ELIGIBILITY REQUIREMENTS FOR PROVIDERS OF EMPLOYMENT-RELATED SERVICES.

(a) IN GENERAL.—A provider of employment-related services shall be eligible to receive payment by voucher under this title if such provider—

(1) is determined to be eligible under procedures described in subsection (b); and

(2) provides the performance-based information required pursuant to subsection (c).

(b) PROCEDURES.—The Governor, after consultation with local elected officials and other appropriate entities in the State, shall establish eligibility procedures for providers of employment-related services in such State desiring to receive payment by voucher under this title. Such procedures shall establish minimum acceptable levels of performance for such providers based on factors and guidelines developed by the Secretary of Labor.

(c) PERFORMANCE-BASED INFORMATION.—The Secretary of Labor and the Secretary of Education shall identify performance-based information that is to be submitted by providers of employment-related services desiring to be eligible under this section.

SEC. 108. EVALUATION OF TRAINING ACCOUNT SYSTEM AND ASSISTANCE CENTERS.

The Secretary of Labor and the Secretary of Education shall annually—

(1) monitor the effectiveness of the training account system and the assistance centers established under section 301;

(2) evaluate the benefit of such system and centers to voucher recipients under this title and the taxpayer; and

(3) submit to the appropriate committees of Congress information obtained from such evaluation.

SEC. 109. APPORTIONMENT OF FUNDS.

(a) IN GENERAL.—The Secretary of Labor and the Secretary of Education shall, without in any way reducing the commitment of, or the level of effort by, the Federal Government to improve the education, employment, and earnings of all workers and jobseekers (particularly in hard-to-serve communities), jointly apportion funds appropriated under section 202 to each State for each fiscal year in accordance with subsection (b).

(b) CONSIDERATION OF FACTORS.—

(1) IN GENERAL.—An apportionment of funds under subsection (a) shall be based on the following factors:

(A) The relative number of unemployed individuals who reside in each State as compared to the total number of unemployed individuals in all the States.

(B) The relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States.

(C) The relative number of individuals who have been unemployed for 15 weeks or more and who reside in each State as compared to the total number of such individuals in all the States.

(D) The relative number of economically disadvantaged adults who reside in each State.

(2) DEFINITION.—For purposes of this subsection, the term ''excess number'' means the number which represents unemployed individuals in excess of 4.5 percent of the civilian labor force in the State.

(c) FUNDS FOR VOUCHERS.—

(1) IN GENERAL.—Except as provided in paragraph (2), not less than 75 percent of funds apportioned to a State under subsection (a) shall be made available in the

form of vouchers to individuals in the State who are eligible under section 103.

(2) WAIVER.—The Secretary of Labor may waive the requirement under paragraph (1) for a State if—

(A) such State provides job training and employment-related services other than the job training and employment-related services provided through vouchers; and

(B) such services are considered by the Secretary of Labor to be more beneficial to individuals in such State to meet the self-determined training needs of such individuals.

(d) NONVOUCHER EMPLOYMENT-RELATED SERVICES.—

(1) IN GENERAL.—The remaining balance of the funds apportioned under subsection (a) shall be used for employment-related services that are provided through means other than voucher and that increase the probability that such individuals will benefit from training and reenter the workforce.

(2) AUTHORIZED SERVICES.—The employment-related services described in paragraph (1) may include—

(A) skill assessments;

(B) testing;

(C) counseling;

(D) job development;

(E) work experience evaluation;

(F) job readiness training;

(G) basic skills education;

(H) supportive and supplemental services; and

(I) rapid response.

(3) AVAILABILITY OF SERVICES.—The services described in paragraph (2) and any other related services may be made available through assistance centers established under title III.

(e) SPECIAL RULE.—The Secretary of Labor and the Secretary of Education shall jointly determine the equitable distribution of voucher assistance and nonvoucher assistance under subsections (c) and (d), respectively, between dislocated workers and economically disadvantaged adults.

TITLE II—ELIMINATION OF FEDERAL JOB TRAINING PROGRAMS

SEC. 201. ELIMINATION OF PROGRAMS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the elimination and streamlining of Federal job training programs should be accomplished without in any way reducing the commitment of, or the level of effort by, the Federal Government to improve the education, employment, and earnings of all workers and jobseekers particularly in hard-to-serve communities.

(b) REPEALS OF EMPLOYMENT TRAINING PROGRAMS.—

(1) IN GENERAL.—The following provisions are repealed:

(A) Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)).

(B) Section 106(b)(7) of the Job Training Partnership Act (29 U.S.C. 1516(b)(7)).

(C) Section 123 of such Act (29 U.S.C. 1533).

(D) Section 204(d) of such Act (29 U.S.C. 1604(d)).

(E) Part A of title II of such Act (29 U.S.C. 1601 et seq.).

(F) Section 302(c) of such Act (29 U.S.C. 1652(c)).

(G) Part A of title III of such Act (29 U.S.C. 1661 et seq.).

(H) Sections 321 through 324 of such Act (29 U.S.C. 1662 through 1662c).

(I) Section 325 of such Act (29 U.S.C. 1662d).

(J) Section 325A of such Act (29 U.S.C. 1662d–1).

(K) Section 326 of such Act (29 U.S.C. 1662e).

(L) Sections 301 through 303 of such Act (29 U.S.C. 1651 et seq.).

(M) Subtitle C of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11441 et seq.).

(N) The Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2301 et seq.);

(O) Section 43 of the Airline Deregulation Act of 1978 (49 U.S.C. App. 1552)

(P) Title II of Public Law 95-250 (92 Stat. 172).

(2) EFFECTIVE DATE.—The repeals made by paragraph (1) shall take effect on January 1, 1996.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act for fiscal years 1996, 1997, and 1998 the same level of funds that were appropriated for the programs described in section 201(b) for fiscal year 1995.

TITLE III—INFORMATION FOR BETTER CHOICES

SEC. 301. ASSISTANCE CENTERS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—A State may, with the funds made available under section 109(d), make arrangements with private or public entities to establish assistance centers to provide voucher recipients under title I, jobseekers, employers, and workers information and employment-related services to increase the probability that such individuals will benefit from job training and make better use of other Federal job training assistance. An assistance center may serve as the location where individuals may apply to become eligible for voucher assistance under title I.

(2) LOCATION.—An assistance center may be located within an existing unemployment office.

(3) PUBLIC CONSULTATION.—A State that desires to establish an assistance center is encouraged to consult the public, including the business community, and workers, regarding the choice of services to be made available and the location of such center.

(b) AVAILABLE INFORMATION.—The information made available to individuals described in subsection (a) shall include data on—

(1) the local economy and availability of employment;

(2) profiles of local industries;

(3) details of local labor market demand;

(4) local demographic and socioeconomic characteristics;

(5) the performance of training and education providers; and

(6) private support service providers.

(c) EMPLOYMENT-RELATED SERVICES.—The employment-related services available to individuals described in subsection (a) may include—

(1) counseling;

(2) skills and employability assessment;

(3) job referral; and

(4) child care.

(d) OTHER SERVICES.—The Governor shall make available through the assistance centers information on and provide referrals to other Federal and State job training and employment-related service programs.

SEC. 302. ACCESS TO LABOR MARKET INFORMATION.

(a) FINDINGS.—The Congress finds that accurate, timely, and relevant data regarding employment, training, job skills, and education opportunities are useful for individuals making choices about the careers of such individuals.

(b) AUTHORITY.—

(1) IN GENERAL.—The Secretary of Labor and the Secretary of Education are authorized to make arrangements with public or private entities to develop and provide relevant labor market information to interested individuals, including voucher recipients under title I, jobseekers, employers, and workers.

(2) TYPE OF INFORMATION FOR COLLECTION.—The types of information to be developed and provided under paragraph (1) shall include the following:

(A) Regional labor market demand.

(B) Regional employment opportunities.

(C) Regional industries and employers.

(D) Demographic, socioeconomic, and economic characteristics of particular regions.

SEC. 303. DIRECT LOANS TO WORKING AMERICANS.

(a) FINDINGS.—The Congress finds that the Federal Direct Student Loan Program authorized by part D of title IV of the Higher Education Act of 1965, is a valuable financing tool for working Americans who desire to take advantage of training and education programs, consistent with the goals of such Americans, to learn new skills for careers that may bring higher salaries and improved quality of life.

(b) AWARENESS.—The Department of Education shall endeavor to make known the value and availability of direct loans through the Federal Direct Student Loan Program under part D of title IV of the Higher Education Act of 1965 through cooperative arrangements with training and educational training programs, assistance centers, State agencies, and other Federal agencies.

TITLE IV—REPORTS AND PLANS

SEC. 401. CONSOLIDATION AND STREAMLINING.

(a) REPORT ON CONSOLIDATING NONCOVERED FEDERAL JOB TRAINING PROGRAMS.—Not later than January 1, 1996, and each year thereafter, the Secretary of Labor and the Secretary of Education shall jointly prepare and submit to Congress a report on how additional Federal job training programs not covered by this Act can be consolidated into a more integrated and accountable workforce development system that better meets the needs of jobseekers, workers, and business.

(b) PLAN ON USE OF COMMON DEFINITIONS, MEASURES, STANDARDS, AND CYCLES.—Not later than 180 days after the date of enactment of this Act, the Secretary of Labor and the Secretary of Education shall jointly develop a plan that, wherever practicable, requires all Federal job training programs not covered by this Act to use common definitions, common outcome measures, common eligibility standards, and common funding cycles in order to make such training programs more accessible.

SEC. 402. REPORT RELATING TO INCOME SUPPORT.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) many dislocated workers and economically disadvantaged adults are unable to enroll in long-term job training because such workers and adults lack income support after unemployment compensation is exhausted;

(2) evidence suggests that long-term job training is among the most effective adjustment service in assisting dislocated workers and economically disadvantaged adults to obtain employment and enhance wages; and

(3) there is a need to identify options relating to how income support may be provided to enable dislocated workers and economically disadvantaged adults to participate in long-term job training.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary of Labor shall submit to the Congress a report that—

(1) examines the need for income support to enable dislocated workers and economically disadvantaged adults to participate in long-term job training;

(2) identifies options relating to how income support can be provided to such workers and adults; and

(3) contains such recommendations as the Secretary of Labor determines are appropriate.

Mr. KENNEDY. Mr. President, I join today with the distinguished Minority Leader, Senator DASCHLE, in co-sponsoring legislation critical to the health and economy of this Nation and to working families across this country.

I applaud Senator DASCHLE for the Democratic priorities set forth in the legislation he has introduced on this, the first day of the 104th Congress. As I traveled across Massachusetts over these past few months, it was clear that the priorities of the people are jobs and the economy, health care and education. These are their priorities, they are my priorities and they are the priorities shared by the Democratic leadership in the Senate, House, and White House.

I look forward to working together with the new Republican leadership. The challenges facing our Nation are not Republican or Democrat, and they require a bipartisan response.

The health care crisis continues to be our greatest challenge and must be our highest priority. To carry on the work begun in the last Congress, I join in cosponsoring the Affordable Health Care for All Americans Bill.

The crisis in health care has not gone away. Last year the number of Americans without health insurance coverage increased by another million. The rise in the nation's health spending was close to $100 billion. The escalating cost of Medicare and Medicaid continues to undermine our efforts to control the deficit. Worst of all, millions of families across the country have no confidence that the health insurance that protects them today will be there for them tomorrow if serious illness strikes.

It is not surprising that surveys find that Americans rank health care reform as a top priority for the new Congress. Every Member of the Senate has heard from hundreds, if not thousands, of Americans who have been devastated by uninsured illness. Every Member of the Senate has talked to hundreds of business owners, large and small, who say that uncontrolled health care costs are eating away at profits, decreasing competitiveness, and taking money away from needed wage increases. Every Member of the Senate knows that the tough choices we face to put our fiscal house in order would be immeasurably easier if health care costs were going up only as fast as the other parts of our economy. Every Member of the Senate knows that a major reason wages and living standards have stagnated for more than a decade is the continuing rise in health care costs. And every Member of the Senate knows that, once the political rhetoric and the disagreement over specifics is stripped away, the sickness in our health care system cannot be cured without decisive government action.

At its best, health care in the United States is superb. But the system we have created to pay for that care is a nineteenth century horse and buggy unsuited for America today. The dishonor roll of the gaps in our health care system is a long one.

Insurance companies selling health insurance to small businesses and individuals almost universally apply preexisting condition exclusions to the coverage they sell. That means you are not covered for treatment of the very health condition most likely to make you sick. More than 80 million Americans have pre-existing conditions that could be subject to this kind of exclusion if they have to change insurance policies.

In our non-system of health insurance financing, there is no guarantee of coverage or renewability. If you have a pre-existing condition, there is no guarantee you can buy coverage at any price. If you have coverage and become sick, there is nothing to keep your insurer from raising your premium out of sight or canceling your coverage. To avoid high risks, insurance companies redline whole neighborhoods, occupations, and businesses, and deny the chance for any protection at all.

Those who seem to have good coverage often find themselves without the protection they need when they read the fine print. They face lifetime limits on coverage, or an exclusion of the very service that is most important. Insurance that provides good coverage when you become sick often does little to encourage the preventive care that can keep you well.

Often, even if good coverage is available, it is not affordable. With good family plans costing $5,000 or $6,000 or more, too many Americans are priced out of the coverage they need. Few families, no matter how hard they work, can afford adequate health insurance if their employer does not contribute to the cost. That is why more than 30 million of the uninsured are members of working families. The breadwinners in these families work hard—40 hours a week, 52 weeks a year—but all their hard work cannot buy the protection they need for themselves and their loved ones, because their employer will not share in the cost. Families that have coverage today are only one pink slip away from losing it, or one management decision away from its cancellation or reduction.

Senior citizens and younger people with disabilities face two huge gaps in the system of retirement security that Medicare and Social Security are supposed to guarantee. They lack affordable coverage for the cost of long-term care and prescription drugs.

The cost of health care in America is out of control. Per person, we pay more than any other industrialized country—40 percent more than the Canadians, twice as much as the Germans and Japanese. The rapid escalation in the cost of health care is robbing American families of the wage gains they need to fulfill the American dream. It is a cancer on our economic future.

Last year we came closer than ever before to finally making the right to health care a reality for all Americans. Theodore Roosevelt first proposed a national health plan more than 80 years ago. President Bill Clinton and First Lady Hillary Clinton put this issue on the national agenda at a level of intensity that has never before been achieved. Four committees of Congress reported out bills guaranteeing coverage to every American. For the first time in our Nation's history, comprehensive health reform was debated on the floor of the Senate. And up to the last days of the session, a bipartisan coalition in the Senate struggled to shape a compromise that could break the gridlock. As I have said many times, if it was easy, it would have been accomplished long ago. It took four separate votes in successive sessions of Congress before Medicare was finally approved.

Our challenge is to pass a program that will meet the test of real reform—guaranteed, affordable, comprehensive coverage for every family and control of health care costs. Senator DASCHLE's bill demonstrates the high priority that our party gives to such reform and provides a basis for constructive action. His bill includes important insurance reforms. It will bring affordable health insurance for children within reach of millions of American families, and provide special help for temporarily unemployed workers who lose their coverage when they lose their job. It also provides 100 percent deductibility for small businesses, and addresses other important problems. I look forward to working with members on both sides of the aisles in passing this kind of down payment legislation this year.

As we look to the future, we must keep our eye on the ultimate objective: to assure that every family in America is guaranteed the basic right to health care. Every member of Congress has that guarantee. Every Canadian has it. Every French citizen has it. Every German has it. Every Japanese has it. In fact, every citizen of every other industrialized country except South Africa has it. It is time for us to give every family in America the peace of mind of knowing that uninsured illness will never turn their American dream into a nightmare.

I am also proud to join the Minority Leader in cosponsoring the Working Americans' Opportunity Act, and I also commend Senator BREAUX for his effective work in shaping this legislation.

Given today's rapidly changing economy, one of the top priorities of this Congress must be to reform and streamline existing job training programs to ensure that they provide realistic opportunities for workers to upgrade skills and increase their earning power over the course of their careers.

As we modernize our job training system, we must not, in any way, retreat

from the commitment that we have made to provide the basic skills and supports which make it possible for jobseekers and workers to actively participate in the labor market.

We need to respond to the new and powerful economic forces which are making labor markets more uncertain for the middle class. As a result of increased international competition, rapid technological change and reductions in defense, many men and women already in the labor force must be retrained to improve their skills and enable them to continue in productive careers. In the evolving modern economy, this kind of retraining may be needed more than once, and often several times over the course of people's careers.

A more flexible job training system is essential to respond to the ever-expanding number of two-income families and families with single heads of households who face the difficult challenge of balancing work and family responsibilities.

Over the past decade many private businesses have taken steps to re-engineer their operations to deal with the profound changes taking place in our economy. It is clearly time for the Federal Government to act as well, to improve the return we are receiving from the funds we invest in job training and to give workers a greater opportunity to succeed.

The Working American's Opportunity Act, S. 6, begins the important process of streamlining the existing complex job training system, in order to create more accessible, more effective, and more understandable assistance for workers.

Vouchers modeled on the G.I. Bill that transformed this Nation after World War II will be available for workers to select training programs most suited to their needs. States will be encouraged to establish ''one-stop-shopping'' centers for career counseling, job search assistance and performance assessments of training programs. To insure that workers have the most up-to-date information on emerging jobs and the skills required, national labor market information will be available. Taken together, these changes are excellent steps toward creating the kind of modern job training system the Nation needs, a system that is genuinely driven by the real requirements of workers, job seekers and businesses.

In the last session of Congress, we laid the groundwork for bipartisan efforts on job training reform by enacting the School-to-Work Opportunities Act. This legislation will be a catalyst for States and local communities to create better career opportunities for non-college bound youth. We need to apply that same bipartisan spirit to making job training programs more effective for adults.

In closing, I again commend Senator DASCHLE for his leadership in introducing these important bills. I look forward to working with him and with Senators on both sides of the aisle in the weeks and months ahead on these and other essential measures to make government more responsive to the people and to meet the many serious challenges we face.

Ms. MIKULSKI. Mr. President, I am proud to join as an original cosponsor in Senate bills 6–10 introduced today by the Democratic leader. They represent a solid effort to help working families, give help to those who first practice self help, get the Federal Government's fiscal house in order, and reform the Congress.

Since the November elections, some have been left with the impression that the Democratic Party has no vision for the future of our country, and that we have abandoned the concerns of the middle class. As a blue collar Senator who returns home each night to the city where I was born, I believe that these five legislative efforts dispel that myth.

These five items represent what we believe as Democrats are a downpayment on the concerns of middle America—job security and our standard of living, affordable health insurance, ending welfare as we know it, balancing the budget by cutting spending, and reforming the way Congress itself does business.

The first of these initiatives, S. 6, the Working Americans Opportunity Act, will enable working Americans to have available a lifetime opportunity of employment retraining. It will revamp job training programs by consolidating those programs that work and eliminating those that don't, providing job training opportunities and access to people who practice self help and need new skills for real work situations. Finally, it will not require new taxes or spending because it replaces, consolidates and eliminates nine existing programs and cuts government bureaucracy. Winning the war for America's future depends on whether Americans can have jobs today and jobs for the 21st century. We simply must have a skilled work force that is equipped and ready to compete for the high tech future. S. 6 will get us headed in that direction.

S. 7, the Family Health Insurance Protection Act, is a significant first step toward ensuring that all Americans have access to affordable, high-quality health insurance coverage. It will ensure that no one can be denied health insurance because of a pre-existing medical condition and protect workers who change jobs from losing their health coverage. It will also prohibit insurers from dropping customers or raising their rates once they become ill. It will reduce red tape and provide tax incentives to small businesses that provide health insurance. This legislation will let us begin to ensure health coverage for every American.

S. 8, the Teenage Pregnancy Prevention and Parental Responsibility Act, will make our welfare system a partner—with parents, teachers, and clergy—in keeping kids in school and off welfare. As the only social worker in the U.S. Senate, I have long fought to make our welfare programs reflect America's family values. This legislation will require unwed teenage mothers to live with an adult family member or in a supervised group home. It will also help communities to develop their own solutions to the problem of teen pregnancy. And finally, by strengthening our child support laws, this legislation will crack down on deadbeats who ignore their responsibility to their children—and leave taxpayers will the bill. It is time for us to stop wringing our hands about teen pregnancy and do something about it. S. 8 will help us reduce teen pregnancy without resorting to orphanages.

S. 9, the Fiscal Responsibility Act, will ensure that we are honest with the American public about balancing the budget. It will require the BudgetCommittees to report a budget resolution that shows exactly how we are to get to a balanced budget by the year 2003—without smoke and mirrors. This act will force Congress to match its budget balancing rhetoric with real action. The American public deserves to know exactly what a balanced budget will mean. It will force Congress to debate the real issues and bring honesty and open debate to one of the most critical issues facing the Congress and the country. I welcome this debate.

S. 10, the Comprehensive congressional Reform Act, is intended to help restore the confidence of the American people in their democratic institutions. It will make Congress live by the laws it imposes on everybody else, require strict disclosure of lobbyist activity, ban gifts from lobbyists and impose tough campaign finance reform. I am proud to have been among the first Members of Congress to win real congressional reform with the passage of my legislation last year to reform and modernize the appalling working conditions under which the more than 2,000 employees of the Architect of the Capitol labored. S. 10 will continue this progress toward real reform.

I commend our new Democratic Leader, the distinguished Senator from South Dakota, for developing this insightful and visionary package of measures. They symbolize his desire to tackle the tough issues which are foremost on the minds of Americans as we begin 1995.

While I do not necessarily support each provision within these measures, I believe that we should begin the debate on each of these subjects on the first day of this new Congress. I believe our party and this Congress needs to promote a shared national vision around jobs and those who practice selfhelp. I look forward to working with my colleagues to see that each of these matters is fully addressed by the 104th Congress.

Mr. ROCKEFELLER. Mr. President, giving American workers the opportunity to get the education and training they need to effectively compete in our modern workplace and highly competitive economy must be a priority. That is why I am joining Senator DASCHLE in introducing S. 6, the Working Americans Opportunity Act, and I commend him and my other colleagues involved in developing this important initiative.

While there are numerous Federal training programs in existence, there also are some valid questions about how effective these efforts are. It is time to deal with these questions and make the changes necessary to ensure that our programs work more efficiently and effectively, both for the participants and the American taxpayers who are footing the bills.

The Working Americans Opportunity Act is an important step in the right direction to improve our Federal training programs. This effort is designed to streamline existing Federal training programs and give participants more say over their job search process and training. The bill also proposes a critically needed investment in a ''national labor market information system'' so people can get their hands on current information that will tell them what fields offer real job opportunities. The bill promotes ''one-stop career centers'' to help Americans sort through training and career information in one place so they can make more organized decisions about their future.

In cosponsoring this bill, I want to emphasize my continued belief that America's—and West Virginia's—battle for the best jobs in world depends partly on our workers having the best skills and education. Competing in the global economy is a permanent fact of life. And both workers and the unemployed in West Virginia want to get the training they need to have good jobs.

But I also want to register a note of caution about the bill's use of ''vouchers'' as the way to link workers with training. I have some questions about this concept, because I do not want to see them turn into ''coupons'' for training that is not up to standard. Neither workers nor the American taxpayers will be well served if the new system does not assure high quality training in fields with real job opportunities. Achieving this goal will require a delicate balance and strong quality assurance within the new system. Throughout the legislative process, I will be working to further strengthen this legislation and promote education and training of the best quality for American workers.

Training and education are especially key issues for West Virginia and other regions still struggling with unemployment rates above the national average and facing major industrial restructuring. I know from experience that West Virginians are eager to work and willing to learn new skills in order to meet the challenges of our increasingly competitive work place. It is essential to ensure that Federal training programs meet such needs and provide real opportunities to workers who have been dislocated from their careers.

Our entire country benefits when an American worker gains new skills and becomes more productive so it is essential to invest in effective Federal training programs. The Working Americans Opportunity Act is a step in the right direction, and sends a strong signal about the need to move forward.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. REID, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. DODD, Mr. BREAUX, Ms. MOSELEY-BRAUN, Mr. PELL, Mrs. MURRAY, and Mr. INOUYE):

S. 7. A bill to provide for health care reform through health insurance market reform and assistance for small business and families, and for other purposes; to the Committee on Labor and Human Resources.

FAMILY HEALTH INSURANCE PROTECTION ACT

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

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

S. 7

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Family Health Insurance Protection Act''.

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

TITLE I—HEALTH INSURANCE MARKET REFORM

Subtitle A—Insurance Market Standards

SEC. 1001. NONDISCRIMINATION BASED ON HEALTH STATUS.

(a) IN GENERAL.—Except as provided in subsection (b) and section 1003(d), a health plan may not deny, limit, or condition the coverage under (or benefits of) the plan, or vary the premium, for an individual based on the health status, medical condition, claims experience, receipt of health care, medical history, anticipated need for health care services, disability, or lack of evidence of insurability.

(b) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

(1) IN GENERAL.—A health plan may impose a limitation or exclusion of benefits relating to treatment of a condition based on the fact that the condition preexisted the effective date of the plan with respect to an individual only if—

(A) the condition was diagnosed or treated during the 3-month period ending on the day before the date of enrollment under the plan;

(B) the limitation or exclusion extends for a period not more than 6 months after the date of enrollment under the plan;

(C) the limitation or exclusion does not apply to an individual who, as of the date of birth, was covered under the plan; or

(D) the limitation or exclusion does not apply to pregnancy.

(2) CREDITING OF PREVIOUS COVERAGE.—A health plan shall provide that if an individual under such plan is in a period of continuous coverage as of the date of enrollment under such plan, any period of exclusion of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in the period of continuous coverage.

(3) DEFINITIONS.—For purposes of this subsection:

(A) PERIOD OF CONTINUOUS COVERAGE.—

(i) IN GENERAL.—The term ''period of continuous coverage'' means the period beginning on the date an individual is enrolled under a health plan or an equivalent health care program and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

(ii) EQUIVALENT HEALTH CARE PROGRAM.—The term ''equivalent health care program'' means—

(I) part A or part B of the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.),

(II) the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.),

(III) the health care program for active military personnel under title 10, United States Code,

(IV) the veterans health care program under chapter 17 of title 38, United States Code,

(V) the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), as defined in section 1073(4) of title 10, United States Code, and

(VI) the Indian health service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

(B) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a health plan, a condition which was diagnosed, or which was treated, within the 3-month period ending on the day before the date of enrollment (without regard to any waiting period).

(c) LIMITATIONS PROHIBITED.—

(1) IN GENERAL.—A health plan may not impose a lifetime limitation on the provision of benefits under the plan.

(2) RULE OF CONSTRUCTION.—The prohibition contained in paragraph (1) shall not be construed as prohibiting limitations on the scope or duration of particular items or services covered by a health plan.

SEC. 1002. GUARANTEED ISSUE AND RENEWAL

(a) SMALL GROUP MARKET.—Each health plan offering coverage in the small group market shall guarantee each individual purchaser and small employer (and each eligible employee of such small employer) applying for coverage in such market the opportunity to enroll in the plan.

(b) LARGE EMPLOYER MARKET.—Each health plan offering coverage in the large employer market shall guarantee any individual eligible for coverage under the plan the opportunity to enroll in such plan.

(c) CAPACITY LIMITS.—Notwithstanding this section, a health plan may apply a capacity limit based on limited financial or provider capacity if the plan enrolls individuals in a manner that provides prospective enrollees with a fair chance of enrollment regardless of the method by which the individual seeks enrollment.

(d) RENEWAL OF POLICY.—

(1) SMALL GROUP MARKET.—A health plan issued to a small employer or an individual purchaser in the small group market shall be renewed at the option of the employer or individual, if such employer or individual purchaser remains eligible for coverage under the plan.

(2) LARGE EMPLOYER MARKET.—A health plan issued to an individual eligible for coverage under a large employer plan shall be renewed at the option of the individual, if such individual remains eligible for coverage under the plan.

(e) GROUNDS FOR REFUSAL TO RENEW.—A health plan may refuse to renew a policy only in the case of—

(1) the nonpayment of premiums;

(2) fraud on the part of the employer or individual relating to such plan; or

(3) the misrepresentation by the employer or individual of material facts relating to an application for coverage of a claim or benefit.

(f) NOTIFICATION OF AVAILABILITY.—Each health plan sponsor shall publicly disclose the availability of each health plan that such sponsor provides or offers in a small group market. Such disclosure shall be accompanied by information describing the method by which eligible employers and individuals may enroll in such plans.

SEC. 1003. RATING LIMITATIONS.

(a) IN GENERAL.—A health plan offering coverage in the small group market shall comply with the standards developed under this section.

(b) ROLE OF NAIC.—The Secretary shall request that the NAIC—

(1) develop specific standards in the form of a model Act and model regulations that provide for the implementation of the rating limitations described in subsection (d); and

(2) report to the Secretary concerning such standards within 6 months after the date of enactment of this Act.

(c) ROLE OF THE SECRETARY.—The Secretary, upon review of the report received under subsection (b)(2), shall not later than January 1, 1997, promulgate final standards implementing this section. Such standards shall be the applicable health plan standards under this section.

(d) RATING STANDARDS.—The standards described in this section shall provide for the following:

(1) A determination of factors that health plans may use to vary the premium rates of such plans. Such factors—

(A) shall be applied in a uniform fashion to all enrollees covered by a plan;

(B) shall include age (as specified in paragraph (3)), family type, and geography; and

(C) except as provided in paragraph (2)(A), shall not include gender, health status, or health expenditures.

(2)(A) Factors prohibited under paragraph (1)(C) shall be phased out over a period not to exceed 3 years after the effective date of this section.

(B) Other rating factors (other than age) may be phased out to the extent necessary to minimize market disruption and maximize coverage rates.

(3) Uniform age categories and age adjustment factors that reflect the relative actuarial costs of benefit packages among enrollees. By the end of the 3-year period beginning on the effective date of this section, for individuals who have attained age 18 but not age 65, the highest age adjustment factor may not exceed 3 times the lowest age adjustment factor.

(e) DISCOUNTS.—Standards developed under this section shall permit health plans to provide premium discounts based on workplace health promoting activities.

SEC. 1004. DELIVERY SYSTEM QUALITY STANDARDS.

(a) IN GENERAL.—Each health plan shall comply with the standards developed under this section.

(b) ROLE OF THE SECRETARY.—Not later than 9 months after the date of enactment of this Act, the Secretary, in consultation with the NAIC and other organizations with expertise in the areas of quality assurance (including the Joint Commission on Accreditation of Health Care Organizations, the National Committee for Quality Assurance, and peer review organizations), shall establish minimum guidelines specified in subsection (c) for the issuance by each State of delivery system quality standards. Such standards shall be the applicable health plan standards under this section.

(c) MINIMUM GUIDELINES.—The minimum guidelines specified in this subsection are as follows:

(1) Establishing and maintaining health plan quality assurance, including—

(A) quality management;

(B) credentialing;

(C) utilization management;

(D) health care provider selection and due process in selection; and

(E) practice guidelines and protocols.

(2) Providing consumer protection for health plan enrollees, including—

(A) comparative standardized consumer information with respect to health plan premiums and quality measures, including health care report cards;

(B) nondiscrimination in plan enrollment, disenrollment, and service provision;

(C) continuation of treatment with respect to health plans that become insolvent; and

(D) grievance procedures.

(3) Ensuring reasonable access to health care services, including access for vulnerable populations in underserved areas.

SEC. 1005. BENCHMARK BENEFITS PACKAGE.

(a) IN GENERAL.—With respect to an individual eligible for enrollment, a sponsor of a health plan—

(1) shall offer the benchmark benefits package described in subsection (b); and

(2) may offer any other health benefits package.

(b) BENCHMARK BENEFITS PACKAGE DESCRIBED.—

(1) IN GENERAL.—

(A) PACKAGE DESCRIBED.—The benchmark benefits package described in this subsection is a benefits package that covers all of the items and services under the categories of health care items and services specified by the Secretary under paragraph (2) when medically necessary or appropriate (as determined in accordance with paragraph (3)) and provides for a cost-sharing schedule specified by the Secretary under paragraph (4).

(B) ACTUARIAL VALUE.—The benchmark benefits package established by the Secretary under this subsection shall have an actuarial value that equals the actuarial value of the benefits package provided under the health benefits plan offered under chapter 89 of title 5, United States Code, with the highest enrollment during 1994, adjusted for a national population under 65 years of age (as determined by the Secretary).

(2) CATEGORIES OF HEALTH CARE ITEMS AND SERVICES.—

(A) IN GENERAL.—The categories of health care items and services specified by the Secretary under this paragraph shall include at least the categories described in section 1302(1) of the Public Health Service Act (42 U.S.C. 300e-1(a)) and section 8904(a) of title 5, United States Code. The Secretary may add or delete categories of health care items and services under this paragraph as medical practice changes.

(B) SPECIFYING ITEMS AND SERVICES.—

(i) IN GENERAL.—The Secretary shall specify the items and services under the categories specified under subparagraph (A).

(ii) PRIORITIES FOR THE SECRETARY.—In specifying items and services under this subparagraph the Secretary shall take into account the following:

(I) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—With respect to mental health and substance abuse services, the Secretary shall give priority to parity for such services with other medical services with respect to cost-sharing and duration of treatment.

(II) VULNERABLE POPULATIONS AND UNDERSERVED AREAS.—The Secretary shall give priority to the needs of children and vulnerable populations, including those populations in rural, frontier, and underserved areas.

(III) PREVENTION.—The Secretary shall give priority to improving the health of individuals through prevention.

(3) MEDICAL NECESSITY OR APPROPRIATENESS.—The Secretary shall establish general criteria for determining whether an item or service specified by the Secretary under paragraph (2)(B) is medically necessary or appropriate. Health plans shall make coverage decisions regarding procedures and technologies consistent with such general criteria.

(4) COST-SHARING.—The Secretary shall establish cost-sharing schedules to be provided by a benchmark benefits package. In establishing such cost-sharing schedules, the Secretary shall meet the following requirements:

(A) ANNUAL BASIS.—The Secretary shall review and update cost-sharing schedules as determined appropriate by the Secretary, but on at least an annual basis.

(B) PREVENTIVE SERVICES EXEMPTED.—The Secretary shall exempt from any cost-sharing schedules clinical preventive services and prenatal care services.

(C) DELIVERY SYSTEMS.—In establishing cost-sharing schedules for benchmark benefits packages, the Secretary shall ensure that the schedules permit a variety of delivery systems, including fee-for-service, preferred provider organizations, point of service, and health maintenance organizations.

SEC. 1006. RISK ADJUSTMENT.

Each health plan offering coverage in the small group market in a State shall participate in a risk adjustment program developed by such State under standards established by the Secretary.

SEC. 1007. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this title shall take effect on January 1, 1996.

(b) RATING LIMITATIONS, BENCHMARK BENEFITS PACKAGES, AND RISK ADJUSTMENTS.—The standards promulgated under sections 1003, 1005, and 1006 shall apply to plans that are issued or renewed after December 31, 1996.

Subtitle B—Establishment and Application of Standards

SEC. 1011. GENERAL RULES.

(a) CONSTRUCTION.—

(1) IN GENERAL.—A requirement or standard imposed on a health plan under this Act shall be deemed to be a requirement or standard imposed on the insurer or sponsor of such plan.

(2) PREEMPTION OF STATE LAW.—

(A) IN GENERAL.—No requirement of this title shall be construed as preempting any State law unless such State law directly conflicts with such requirement. The provision of additional consumer protections under State law as described in subparagraph (B) shall not be considered to directly conflict with any such requirement.

(B) CONSUMER PROTECTION LAWS.—State laws referred to in subparagraph (A) that are not preempted by this title include—

(i) laws that limit the exclusions or limitations for preexisting medical conditions to periods that are less than those provided for under section 1001;

(ii) laws that limit variations in premium rates beyond the variations permitted under section 1003; and

(iii) laws that would expand the small group market in excess of that provided for under this title.

(b) REGULATIONS.—The Secretary, in consultation with NAIC, and the Secretary of Labor are each authorized to issue regulations as are necessary to implement this Act.

SEC. 1012. ENCOURAGEMENT OF STATE REFORMS.

Nothing in this Act shall be construed as prohibiting States from enacting health care reform measures that exceed the measures established under this Act, including reforms that expand access to health care services, control health care costs, and enhance quality of care.

SEC. 1013. GRANTS TO STATES FOR SMALL GROUP HEALTH INSURANCE PURCHASING ARRANGEMENTS.

(a) IN GENERAL.—The Secretary shall make grants to States that submit applications meeting the requirements of this section for the establishment and operation of small group health insurance purchasing arrangements.

(b) USE OF FUNDS.—Grant funds awarded under this section to a State may be used to finance administrative costs associated with developing and operating a small group health insurance purchasing arrangement, including the costs associated with—

(1) engaging in marketing and outreach efforts to inform individuals and small employers about the small group health insurance purchasing arrangement, which may include the payment of sales commissions;

(2) negotiating with insurers to provide health insurance through the small group health insurance purchasing arrangement; or

(3) providing administrative functions, such as eligibility screening, claims administration, and customer service.

(c) APPLICATION REQUIREMENTS.—An application submitted by a State to the Secretary shall describe—

(1) whether the program will be operated directly by the State or through 1 or more State-sponsored private organizations and the details of such operation;

(2) program goals for reducing the cost of health insurance for, and increasing insurance coverage in, the small group market;

(3) the approaches proposed for enlisting participation by insurers and small employers, including any plans to use State funds to subsidize the cost of insurance for participating individuals and employers; and

(4) the methods proposed for evaluating the effectiveness of the program in reducing the number of uninsured in the State and on lowering the cost of health insurance for the small group market in the State.

(d) GRANT CRITERIA.—In awarding grants, the Secretary shall consider the potential impact of the State's proposal on the cost of health insurance for the small group market and on the number of uninsured, and the need for regional variation in the awarding of grants. To the extent the Secretary deems appropriate, grants shall be awarded to fund programs employing a variety of approaches for establishing small group health insurance purchasing arrangements.

(e) PROHIBITION ON GRANTS.—No grant funds shall be paid to States that do not meet the requirements of this title with respect to small group health plans, or to States with group purchasing programs involving small group health plans that do not meet the requirements of this title.

(f) ANNUAL REPORT BY STATES.—States receiving grants under this section shall report to the Secretary annually on the numbers and rates of participation by eligible insurers and small employers, on the estimated impact of the program on reducing the number of uninsured, and on the cost of insurance available to the small group market in the State.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000,000 for fiscal years 1996, 1997, and 1998.

(h) SECRETARIAL REPORT.—The Secretary shall report to Congress by not later than January 1, 1997, on the number and amount of grants awarded under this section, and include with such report an evaluation of the impact of the grant program on the number of uninsured and cost of health insurance to small group markets in participating States.

SEC. 1014. ENFORCEMENT OF STANDARDS.

(a) IN GENERAL.—Except as provided in subsection (b), each State shall require that each health plan issued, sold, offered for sale, or operated in such State meets the insurance reform standards established under this title pursuant to an enforcement plan filed by the State with, and approved by, the Secretary. If the State does not file an acceptable plan, the Secretary shall enforce such standards until a plan is filed and approved.

(b) SECRETARY OF LABOR.—With respect to any health plan for which the application of State insurance laws are preempted under section 514 of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144), the enforcement of the insurance reform standards established under this title shall be by the Secretary of Labor.

Subtitle C—Health Care Cost and Access Advisory Commission

SEC. 1021. HEALTH CARE COST AND ACCESS ADVISORY COMMISSION.

There is established a commission to be known as the Health Care Cost and Advisory Commission (in this subtitle referred to as the ''Commission'').

SEC. 1022. DUTIES OF COMMISSION.

(a) IN GENERAL.—The general duties of the Commission are to monitor and respond to trends in national health care spending and health insurance coverage. The Commission may be advised by individuals with expertise concerning the economic, demographic, and insurance market factors that affect the cost and availability of health insurance.

(b) ANNUAL REPORTS.—

(1) IN GENERAL.—The Commission shall report to Congress and the President annually on January 15 (beginning in 1999) on the status of health care spending and health insurance coverage in the nation.

(2) CONTENTS OF REPORT.—Each annual report shall include—

(A) findings regarding—

(i) the characteristics of the insured and uninsured, including demographic characteristics, working status, health status, and geographic distribution;

(ii) the effectiveness of insurance reforms on increasing access to health insurance and making health insurance more affordable; and

(iii) the effectiveness of cost containment strategies at the Federal and State levels and in the private sector; and

(B) recommendations for improving access to health insurance and reducing health care cost inflation.

SEC. 1023. OPERATION OF COMMISSION.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 11 members appointed by the President and confirmed by the Senate. Members shall be appointed not later than 90 days after the date of enactment of this Act.

(2) CHAIRPERSON.—The President shall designate 1 individual described in paragraph (1) who shall serve as Chairperson of the Commission.

(b) COMPOSITION.—The membership of the Commission shall include individuals with national recognition for their expertise in health care and health care markets. In appointing members of the Commission, the President shall ensure that no more than 6 members of the Commission are affiliated with the same political party.

(c) TERMS.—

(1) IN GENERAL.—The terms of members of the Commission shall be for 6 years, except that of the members first appointed, 4 shall be appointed for an initial term of 4 years and 4 shall be appointed for an initial term of 2 years.

(2) CONTINUATION IN OFFICE.—Upon the expiration of a term of office, a member shall continue to serve until a successor is appointed and qualified.

(d) VACANCIES.—

(1) IN GENERAL.—A vacancy in the Commission shall be filled in the same manner as the original appointment, but the individual appointed to fill the vacancy shall serve only for the unexpired portion of the term for which the individual's predecessor was appointed.

(2) NO IMPAIRMENT OF FUNCTION.—A vacancy in the membership of the Commission does not impair the authority of the remaining members to exercise all of the powers of the Commission.

(3) ACTING CHAIRPERSON.—The Commission may designate a member to act as Chairperson during any period in which there is no Chairperson designated by the President.

(e) MEETINGS; QUORUM.—

(1) MEETINGS.—The Chairperson shall preside at meetings of the Commission, and in the absence of the Chairperson, the Commission shall elect a member to act as Chairperson pro tempore.

(2) QUORUM.—Six members of the Commission shall constitute a quorum thereof.

(f) ADMINISTRATIVE PROVISIONS.—

(1) PAY AND TRAVEL EXPENSES.—

(A) PAY.—Each member shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(B) TRAVEL EXPENSES.—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(2) EXECUTIVE DIRECTOR.—

(A) IN GENERAL.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint an Executive Director.

(B) PAY.—The Executive Director shall be paid at a rate equivalent to a rate for the Senior Executive Service.

(3) STAFF.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Executive Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(B) PAY.—The Executive Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of 120 percent of the annual rate of basic pay payable for GS–15 of the General Schedule.

(C) DETAILED PERSONNEL.—Upon request of the Executive Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this Act.

(4) OTHER AUTHORITY.—

(A) CONTRACT SERVICES.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(B) LEASES AND PROPERTY.—The Commission may lease space and acquire personal property to the extent funds are available.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for the operation of the Commission.

Subtitle D—Definitions

SEC. 1031. DEFINITIONS.

(a) HEALTH PLAN.—For purposes of this title, the term ''health plan'' means a plan that provides, or pays the cost of, health benefits. Such term does not include the following, or any combination thereof:

(1) Coverage only for accidental death, dismemberment, dental, or vision.

(2) Coverage providing wages or payments in lieu of wages for any period during which the employee is absent from work on account of sickness or injury.

(3) A medicare supplemental policy (as defined in section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1)).

(4) Coverage issued as a supplement to liability insurance.

(5) Worker's compensation or similar insurance.

(6) Automobile medical-payment insurance.

(7) A long-term care insurance policy, including a nursing home fixed indemnity policy (unless the Secretary determines that such a policy provides sufficiently comprehensive coverage of a benefit so that it should be treated as a health plan).

(8) Any plan or arrangement not described in any preceding subparagraph which provides for benefit payments, on a periodic basis, for a specified disease or illness or period of hospitalization without regard to the costs incurred or services rendered during the period to which the payments relate.

(9) Such other plan or arrangement as the Secretary determines is not a health plan.

(b) TERMS AND RULES RELATING TO THE SMALL GROUP AND LARGE EMPLOYER MARKETS.—For purposes of this title:

(1) SMALL GROUP MARKET.—The term ''small group market'' means the market for health plans which is composed of small employers and individual purchasers.

(2) SMALL EMPLOYER.—The term ''small employer'' means, with respect to any calendar year, any employer if, on each of 20 days during the preceding calendar year (each day being in a different week), such employer (or any predecessor) employed less than 51 employees for some portion of the day.

(3) INDIVIDUAL PURCHASER.—The term ''individual purchaser'' means an individual who is not eligible to enroll in a health plan sponsored by a large or small employer.

(4) LARGE EMPLOYER MARKET.—The term ''large employer market'' means the market for health plans which is composed of large employers.

(5) LARGE EMPLOYER.—The term ''large employer''—

(A) means an employer that is not a small employer; and

(B) includes a multiemployer plan as defined in section 3(37) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)) and a plan which is maintained by a rural electric cooperative or a rural telephone cooperative association (within the meaning of section 3(40) of such Act (29 U.S.C. 1002(40)).

(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

(1) NAIC.—The term ''NAIC'' means the National Association of Insurance Commissioners.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

TITLE II—IMPROVING ACCESS TO HEALTH CARE COVERAGE

Subtitle A—Coverage Under Qualified Health Plans and Premium Assistance

PART 1—ACCESS TO QUALIFIED HEALTH PLANS

Subpart A—General Provisions

SEC. 2001. ESTABLISHMENT OF STATE PROGRAM.

In order to qualify for payments under part 2, each State shall establish a program under which the State—

(1) makes available at least 1 qualified health plan to each premium subsidy eligible individual residing in the State; and

(2) furnishes premium assistance to such individual in accordance with this part.

The program shall comply with requirements specified under regulations issued by the Secretary and may be in effect for calendar years beginning after 1996.

SEC. 2002. ASSISTANCE WITH HEALTH PLAN PREMIUMS.

(a) IN GENERAL.—An individual who has been determined by a State under subsection (b) to be a premium subsidy eligible individual (as defined in subpart B) shall be eligible for premium assistance in the amount determined under such subpart.

(b) DETERMINATION OF ELIGIBILITY.—

(1) IN GENERAL.—The Secretary shall issue regulations specifying requirements for each State program under this part with respect to determining eligibility for premium assistance, including measures to prevent individuals from knowingly making material misrepresentations of information or providing false information in applications for assistance under the program.

(2) EMPLOYER MAINTENANCE OF EFFORT.—In order to promote employer-based coverage, the Secretary shall issue regulations that provide that an eligible individual may not be a premium subsidy eligible individual described in subsection (a) if a significant employer contribution toward the premium under a qualified health plan is available to the individual.

(3) STATE MAINTENANCE OF EFFORT.—In order to promote State maintenance of effort, the Secretary shall issue regulations that provide that an eligible individual may not be a premium subsidy eligible individual described in subsection (a) until such individual has been determined to be ineligible for assistance under any other public health insurance program provided by a State or instrumentality thereof.

(c) LIMITATION ON USE OF ASSISTANCE.—A premium subsidy eligible individual who receives premium assistance under this part shall use such assistance only for payments toward the premium under a qualified health plan made available by the State under the program established under section 2001.

Subpart B—Premium Assistance to Eligible Individuals

SEC. 2011. AMOUNT OF PREMIUM ASSISTANCE.

(a) IN GENERAL.—The amount of premium assistance for a month for a premium subsidy eligible individual in a State is an amount equal to the lesser of—

(1) the applicable subsidy percentage multiplied by 1/12th of the annual premium paid for coverage under a qualified health plan in which the individual is enrolled; or

(2) the applicable subsidy percentage multiplied by 1/12th of the maximum subsidy amount (as determined under subsection (b)).

(b) MAXIMUM SUBSIDY AMOUNT.—For purposes of this section, the maximum subsidy amount for a State shall be the Secretary's estimate of the annual premium of the health plan with the highest enrollment offered under chapter 89 of title 5, United States Code, adjusted to reflect—

(1) coverage of the items and services and cost sharing under the benchmark benefits package; and

(2) the difference in expected health care spending of the population enrolled in such plan offered under such chapter 89 and of the population of premium subsidy eligible individuals in such State.

SEC. 2012. ASSISTANCE TO CHILDREN.

(a) ELIGIBILITY.—A child shall be considered a premium eligible individual under this part if such child—

(1) is not eligible for medical assistance under a State plan under title XIX of the Social Security Act;

(2) has not been enrolled in a health plan offered by an employer (under rules established by the Secretary) during the 6-month period ending on the date the individual submits an application to the State for premium assistance under this part, unless such employer coverage was discontinued as a result of a loss of employment by the individual's parent or guardian; and

(3) has a family income determined under section 2031(3) which does not exceed (except as provided under section 2021(b)(3))—

(A) with respect to 1997, 133 percent of the applicable Federal poverty level;

(B) with respect to 1998, 150 percent of the applicable Federal poverty level;

(C) with respect to 1999, 185 percent of the applicable Federal poverty level;

(D) with respect to 2000, 200 percent of the applicable Federal poverty level;

(E) with respect to 2001 and years thereafter, 240 percent of the applicable Federal poverty level.

(b) APPLICABLE SUBSIDY PERCENTAGE.—For the purposes of this part, the term ''applicable subsidy percentage'' for an individual described in subsection (a) means 100 percent reduced (but not below zero) by 1.82 percentage points for every 1 percentage point (or portion thereof) by which the premium subsidy eligible individual's family income exceeds 185 percent of the applicable Federal poverty level.

SEC. 2013. ASSISTANCE TO TEMPORARILY UNEMPLOYED INDIVIDUALS.

(a) ELIGIBILITY.—An eligible individual shall be considered a premium subsidy eligible individual under this part if such individual—

(1) has been employed continuously for a 6-month period ending within a month preceding the date the individual submits an application to the State for premium assistance under this part;

(2) has been covered under a health plan during such period of employment;

(3) is not eligible for medical assistance under a State plan under title XIX of the Social Security Act;

(4) has not received a premium subsidy under a program established under this subtitle for more than a 6-month period beginning with the date described in paragraph (1); and

(5) has a family income determined under section 2031(3) which does not exceed (except as provided under section 2021(b)(3))—

(A) with respect to 1997, 100 percent of the applicable Federal poverty level;

(B) with respect to 1998, 125 percent of the applicable Federal poverty level;

(C) with respect to 1999, 150 percent of the applicable Federal poverty level;

(D) with respect to 2000, 200 percent of the applicable Federal poverty level;

(E) with respect to 2001 and years thereafter, 240 percent of the applicable Federal poverty level.

(b) APPLICABLE SUBSIDY PERCENTAGE.—For the purposes of this part, the term ''applicable subsidy percentage'' for an individual described in subsection (a) means 100 percent reduced (but not below zero) by 1 percentage point for each 1 percentage point (or portion thereof) by which the premium subsidy eligible individual's family income exceeds 100 percent of the applicable Federal poverty level.

PART 2—AGGREGATE FEDERAL PAYMENTS

SEC. 2021. AGGREGATE FEDERAL PAYMENTS.

(a) IN GENERAL.—Subject to subsection (b), with respect to any quarter beginning on or after January 1, 1997, a State shall receive payments from the Secretary in an amount equal to the sum of—

(1) the total premium assistance paid on behalf of individuals eligible for such assistance under part 1 for enrollment in qualified health plans; and

(2) 75 percent of the total amount estimated by the Secretary to be expended by the State during such quarter for proper and efficient operation and administration of the program established under this subtitle.

(b) LIMITATIONS.—

(1) BUDGETARY.—

(A) IN GENERAL.—The total amount of payments under subsection (a) to all States with programs established under this subtitle for any calender year shall not exceed the estimate by the Congressional Budget Office on January 1, 1997, of the total amount of payments under subsection (a) for 1997 (assuming participation levels under full implementation of this subtitle), adjusted for such year by population growth and the increase in health care costs reflected in the cost of providing the benefits package under chapter 89 of title 5, United States Code.

(B) ALLOWABLE ADJUSTMENTS.—If the total payment to States under subsection (a) for any calender year is estimated to be limited under subparagraph (A), corresponding adjustments shall be made to the family income limits under sections 2012(a)(3) and 2013(a)(5) for such year.

(2) REDUCTION IN PAYMENTS FOR ADMINISTRATIVE ERRORS.—

(A) IN GENERAL.—In the case of administrative errors described in subparagraph (B), payments available to a State under subsection (a) shall be reduced by an amount determined appropriate by the Secretary.

(B) ADMINISTRATIVE ERRORS DESCRIBED.—The administrative errors described in this subparagraph include the following:

(i) An eligibility error rate for premium assistance to the extent the applicable error rate exceeds the maximum permissible error rate specified by the Secretary.

(ii) Misappropriations or other expenditures that the Secretary finds are attributable to malfeasance or misfeasance.

(c) REPORTS ON UNEMPLOYMENT.—If there are significant changes in the national unemployment level, the Director of the Office of Management and Budget (in consultation with the Secretary) shall issue a report to Congress on the implications for coverage under State programs established under this subtitle.

(d) AUDITS.—The Secretary shall conduct regular audits of the activities conducted under this subtitle.

(e) BUDGETARY TREATMENT.—This section constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide payments to the States in accordance with this section.

PART 3—DEFINITIONS AND DETERMINATIONS OF INCOME.

SEC. 2031. DEFINITIONS AND DETERMINATIONS OF INCOME.

For purposes of this subtitle:

(1) QUALIFIED HEALTH PLAN.—The term ''qualified health plan'' means a health plan providing the benchmark benefits package as described in section 1005.

(2) CHILD.—The term ''child'' means an individual who is under 19 years of age.

(3) DETERMINATIONS OF INCOME.—

(A) FAMILY INCOME.—The term ''family income'' means, with respect to an individual who—

(i) is not a dependent (as defined in subparagraph (B)) of another individual, the sum of the modified adjusted gross incomes (as defined in subparagraph (D)) for the individual, the individual's spouse, and children who are dependents of the individual; or

(ii) is a dependent of another individual, the sum of the modified adjusted gross incomes for the other individual, the other individual's spouse, and children who are dependents of the other individual.

(B) DEPENDENT.—The term ''dependent'' has the meaning given such term in section 152 of the Internal Revenue Code of 1986.

(C) MODIFIED ADJUSTED GROSS INCOME.—The term ''modified adjusted gross income'' means adjusted gross income (as defined in section 62(a) of the Internal Revenue Code of 1986)—

(i) determined without regard to sections 135, 162(l), 911, 931, and 933 of such Code, and

(ii) increased by—

(I) the amount of interest received or accrued by the individual during the taxable year which is exempt from tax, and

(II) the amount of the social security benefits (as defined in section 86(d) of such Code) received during the taxable year to the extent not included in gross income under section 86 of such Code.

The determination under the preceding sentence shall be made without regard to any carryover or carryback.

(D) RULES RELATING TO DISREGARD OF CERTAIN INCOME.—The Secretary may promulgate rules under which spousal income may be disregarded in instances in which a spouse is not part of a family unit.

(4) ELIGIBLE INDIVIDUAL.—

(A) IN GENERAL.—The term ''eligible individual'' means an individual who is residing in the United States and who is—

(i) a citizen or national of the United States; or

(ii) a lawful alien.

(B) EXCLUSION.—The term ''eligible individual'' shall not include an individual who is an inmate of a public institution (except as a patient of a medical institution).

(C) LAWFUL ALIEN.—The term ''lawful alien'' means an individual who is—

(i) an alien lawfully admitted for permanent residence,

(ii) an asylee,

(iii) a refugee,

(iv) an alien whose deportation has been withheld under section 243(h) of the Immigration and Nationality Act, or

(v) a parolee who has been paroled for a period of 1 year or more.

(5) POVERTY LINE.—The term ''poverty line'' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) that—

(A) in the case of a family of less than 5 individuals, is applicable to a family of the size involved; and

(B) in the case of a family of more than 4 individuals, is applicable to a family of 4 individuals.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 2032. REFERENCES TO INDIVIDUAL.

For purposes of this subtitle, any reference to an individual shall include a reference to the parent or guardian of such individual.

Subtitle B—Self-Employed Health Insurance Deduction

SEC. 2101. DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) PHASE-IN DEDUCTION.—Section 162(*l*) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended—

(1) by striking paragraph (6); and

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

''(1) ALLOWANCE OF DEDUCTION.—

''(A) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined as follows:

''If the taxable year begins in:	The applicable percentage is:
1994	25 percent
1997	50 percent
1998	75 percent
1999 or thereafter	100 percent.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

TITLE III—IMPROVING ACCESS IN RURAL AREAS

Subtitle A—Office of Rural Health Policy

SEC. 3001. OFFICE OF RURAL HEALTH POLICY.

(a) APPOINTMENT OF ASSISTANT SECRETARY.—

(1) IN GENERAL.—Section 711(a) of the Social Security Act (42 U.S.C. 912(a)) is amended—

(A) by striking ''by a Director, who shall advise the Secretary'' and inserting ''by an Assistant Secretary for Rural Health (in this section referred to as the 'Assistant Secretary'), who shall report directly to the Secretary''; and

(B) by adding at the end the following new sentence: ''The Office shall not be a component of any other office, service, or component of the Department.''.

(2) CONFORMING AMENDMENTS.—(A) Section 711(b) of the Social Security Act (42 U.S.C. 912(b)) is amended by striking ''the Director'' and inserting ''the Assistant Secretary''.

(B) Section 338J(a) of the Public Health Service Act (42 U.S.C. 254r(a)) is amended by striking ''Director of the Office of Rural Health Policy'' and inserting ''Assistant Secretary for Rural Health''.

(C) Section 464T(b) of the Public Health Service Act (42 U.S.C. 285p–2(b)) is amended in the matter preceding paragraph (1) by striking ''Director of the Office of Rural Health Policy'' and inserting ''Assistant Secretary for Rural Health''.

(D) Section 6213 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 1395x note) is amended in subsection (e)(1) by striking ''Director of the Office of Rural Health Policy'' and inserting ''Assistant Secretary for Rural Health''.

(E) Section 403 of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (42 U.S.C. 300ff–11 note) is amended in the matter preceding paragraph (1) of subsection (a) by striking ''Director of the Office of Rural Health Policy'' and inserting ''Assistant Secretary for Rural Health''.

(3) AMENDMENT TO THE EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by striking ''Assistant Secretaries of Health and Human Services (5)'' and inserting ''Assistant Secretaries of Health and Human Services (6)''.

(b) EXPANSION OF DUTIES.—Section 711(a) of the Social Security Act (42 U.S.C. 912(a)) is amended by striking ''and access to (and the quality of) health care in rural areas'' and inserting ''access to, and quality of, health care in rural areas, and reforms to the health care system and the implications of such reforms for rural areas''.

(c) TRANSFER OF DUTIES.—Effective January 1, 1996, the functions, powers, duties, and authority that were carried out in accordance with Federal law by the Office of Rural Health Policy in the Department of Health and Human Services are transferred to the Office of the Assistant Secretary for Rural Health in the Department of Health and Human Services.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

Subtitle B—Development of Telemedicine in Rural Underserved Areas

SEC. 3101. GRANTS FOR DEVELOPMENT OF RURAL TELEMEDICINE.

(a) IN GENERAL.—

(1) GRANTS AWARDED.—The Secretary, acting through the Office of Rural Health Policy, shall award grants to eligible entities that have applications approved under subsection (b) for the purpose of expanding access to health care services for individuals in rural areas through the use of telemedicine. Grants shall be awarded under this section to encourage the initial development of rural telemedicine networks, expand existing networks, link existing networks together, or link such networks to existing fiber optic telecommunications systems.

(2) ELIGIBLE ENTITY.—For purposes of this section, the term ''eligible entity'' includes hospitals and other health care providers in a health care network of community-based providers that includes at least 3 of the following:

(A) Community or migrant health centers.

(B) Local health departments.

(C) Community mental health centers.

(D) Nonprofit hospitals.

(E) Private practice health professionals, including rural health clinics.

(F) Other publicly funded health or social services agencies.

(b) APPLICATION.—To be eligible to receive a grant under this section an entity shall submit to the Secretary an application containing such information as the Secretary may require, including the anticipated need for the grant and the source and amount of non-Federal funds the entity would pledge for the project.

(c) PREFERENCE.—The Secretary shall, in awarding grants under this section, give preference to applicants that—

(1) are health care providers in rural health care networks or providers that propose to form such networks in medically underserved or health professional shortage areas;

(2) propose to use Federal funds to develop plans for, or to establish, telemedicine systems that will link rural hospitals and rural health care providers to other hospitals and health care providers; and

(3) demonstrate financial, institutional, and community support for the long range viability of the network.

(d) USE OF AMOUNTS.—Amounts received under a grant awarded under this section shall be utilized for the development of telemedicine networks. Such amounts may be used to cover the costs associated with the development of telemedicine networks and the acquisition of telemedicine equipment and modifications or improvements of telecommunications facilities as approved by the Secretary.

(e) PROHIBITED USES.—Amounts received under a grant awarded under this section may not be used for any of the following:

(1) Expenditures to purchase or lease equipment to the extent the expenditures would exceed more than 60 percent of the total grant funds.

(2) Expenditures for indirect costs (as determined by the Secretary) to the extent the expenditures would exceed more than 10 percent of the total grant funds.

SEC. 3102. REPORT AND EVALUATION OF TELEMEDICINE.

Not later than October 1, 1995, the White House Information Infrastructure Task Force shall prepare and submit to Congress a report that evaluates the cost effectiveness and utility of telemedicine and includes recommendations for a coordinated Federal strategy to increase access to health care through telemedicine.

SEC. 3103. REGULATIONS ON REIMBURSEMENT OF TELEMEDICINE.

Not later than July 1, 1996, the Secretary, in consultation with the Assistant Secretary for Rural Health and the Administrator of the Health Care Financing Administration, shall issue regulations concerning reimbursement for telemedicine services provided under title XVIII of the Social Security Act.

SEC. 3104. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for each of fiscal years 1996, 1997, 1998, 1999, and 2000, to carry out this subtitle.

SEC. 3105. DEFINITIONS.

For purposes of this subtitle:

(1) RURAL HEALTH CARE NETWORK.—The term ''rural health care network'' means a group of rural hospitals or other rural health care providers (including clinics, physicians and non-physicians primary care providers) that have entered into a relationship with each other or with nonrural hospitals and health care providers for the purpose of strengthening the delivery of health care services in rural areas or specifically to improve their patients' access to telemedicine services. At least 75 percent of hospitals and other health care providers participating in the network shall be located in rural areas.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

Subtitle C—Rural Health Plan Demonstration Projects

SEC. 3201. RURAL HEALTH PLAN DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Secretary of Labor, shall establish and implement not more than 3 demonstration projects for the designation of rural health plan areas. To be designated as a rural health plan area under this section, an area must be a rural area (as defined in section 1866(d)(2)(D) of the Social Security Act (42 U.S.C. 1395cc(d)(2)(D))) or an underserved nonurban area in accordance with other criteria specified by the Secretary of Health and Human Services.

(b) APPLICATION.—To be eligible to conduct a demonstration project under this section, an entity shall prepare and submit to the Secretary of Health and Human Services an application containing such information as the Secretary may require to ensure that project participants meet the goals described in subsection (d). An application submitted under this section shall—

(1) identify the area in which the demonstration project will be conducted; and

(2) provide assurances that the area described in paragraph (1) meets the requirements of subsection (a).

(c) REQUIREMENTS.—An entity offering a health plan (as defined in section 1031(a)) through a demonstration project under this section shall—

(1) have a recognized, long-standing relationship with the rural community in which the project is being conducted; and

(2) ensure that the plan meets the requirements for health plans under title I.

(d) GOALS.—The goals referred to in this subsection are as follows:

(1) To develop a reliable supply of health care providers and rural health service delivery infrastructures with a sound financial footing.

(2) To develop a mechanism to begin to provide the benefits of networking found in urban health systems to rural Americans living in rural health plan areas.

(e) REPORT.—Not later than 360 days after the date on which the first demonstration project is implemented under this section, and annually thereafter for each year in which a project is being conducted, the Secretary of Health and Human Services shall submit to Congress a report that evaluates the effectiveness of such projects. Such reports shall include any legislative recommendations determined appropriate by the Secretary.

Subtitle D—Antitrust Safe Harbors for Rural Health Providers

SEC. 3301. ANTITRUST SAFE HARBORS FOR RURAL HEALTH PROVIDERS.

(a) IN GENERAL.—The Attorney General of the United States, in consultation with the Commissioner of the Federal Trade Commission, shall establish policy guidelines to assist rural health care providers in complying with safe harbor requirements with respect to the conduct of activities relating to the provision of health care services in rural areas.

(b) DISSEMINATION OF INFORMATION.—The Attorney General, in consultation with the Commissioner of the Federal Trade Commission and the Assistant Secretary for Rural Health, shall develop methods for the dissemination of the guidelines established under subsection (a) to rural health care providers.

(c) PUBLICATION OF ADDITIONAL SAFE HARBORS.—Not later than 120 days after the date of enactment of this Act, the Attorney General shall publish in the Federal Register the guidelines established under subsection (a) together with any proposed additional safe harbors for rural providers of health care services.

TITLE IV—QUALITY AND CONSUMER PROTECTION

Subtitle A—Administrative Simplification

PART 1—PURPOSE AND DEFINITIONS

SEC. 4001. PURPOSE.

(a) IN GENERAL.—It is the purpose of this subtitle to promote administrative simplification, enhance the usefulness of health information, and protect privacy through the establishment of a national framework for health information.

(b) GOALS OF FRAMEWORK.—By standardizing data elements, code sets, and electronic transactions, and by assuring a secure environment for the transmission and exchange of health information, it is the goal of the national framework to reduce the burden of administrative complexity, paper work, and cost on the health care system, including the medicare program under title XVIII of the Social Security Act and the medicaid program under title XIX of such Act. It is the further goal of the national framework to enable the information routinely collected in the health care and claims processes to be used for other health related purposes, including promoting access and quality of care, achieving public health objectives, improving the detection of fraud and abuse, and advancing medical research.

SEC. 4002. DEFINITIONS.

(a) DEFINITIONS FOR TITLE.—For purposes of this title:

(1) HEALTH CARE PROVIDER.—The term ''health care provider'' means any person furnishing health care services or supplies.

(2) HEALTH INFORMATION.—The term ''health information'' means any information, whether oral or recorded in any form or medium that—

(A) is created or received by a health care provider, health plan, health oversight agency (as defined in section 4101), health researcher, public health authority (as defined in section 4101), employer, life insurer, school or university, or certified health information network service; and

(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

(3) HEALTH INFORMATION PROTECTION ORGANIZATION.—The term ''health information protection organization'' means a private entity or an entity operated by a State, certified under section 4022, that accesses standard data elements of health information through the health information network and—

(A) stores such information; and

(B) processes such information into nonidentifiable health information and discloses such information in accordance with subtitle B.

(4) HEALTH PLAN.—The term ''health plan'' has the meaning given such term in section 1031(a) except that such term shall include paragraphs (3), (4), (5), (6), (7), (8), and (9) of such section.

(5) NON-IDENTIFIABLE HEALTH INFORMATION.—The term ''non-identifiable health information'' means health information that is not protected health information as defined in section 4101.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(b) DEFINITIONS FOR SUBTITLE.—For purposes of this subtitle:

(1) CODE SET.—The term ''code set'' means any set of codes used for encoding data elements, such as tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes.

(2) COORDINATION OF BENEFITS.—The term ''coordination of benefits'' means determining and coordinating the financial obligations of health plans when health care benefits are payable under 2 or more health plans.

(3) HEALTH INFORMATION NETWORK.—The term ''health information network'' means the health information system that is formed through the application of the requirements and standards established under this subtitle.

(4) STANDARD.—The term ''standard'', when referring to an information transaction or to data elements of health information, means the transaction or data elements meet any standard adopted by the Secretary under part 2 that applies to such information transaction or data elements.

PART 2—STANDARDS FOR DATA ELEMENTS AND INFORMATION TRANSACTIONS

SEC. 4011. GENERAL REQUIREMENTS ON SECRETARY.

The Secretary shall adopt standards and modifications to standards under this subtitle relying, if possible, on standards in use and generally accepted or developed or modified by the standards setting organizations accredited by the American National Standard Institute (ANSI).

SEC. 4012. STANDARDS FOR HEALTH INFORMATION TRANSACTIONS AND DATA ELEMENTS.

(a) IN GENERAL.—The Secretary shall adopt standards for transactions, data elements, and code sets, to make uniform and able to be exchanged electronically health information that is—

(1) appropriate for the following financial and administrative transactions: claims (including coordination of benefits) or equivalent encounter information in the case of health care providers that do not file claims, claims attachments, enrollment and disenrollment, eligibility, payment and remittance advice, premium payments, first report of injury, claims status, and referral certification and authorization;

(2) related to other transactions determined appropriate by the Secretary consistent with the goals of improving the health care system and reducing administrative costs; and

(3) related to inquiries by a health information protection organization with respect to information standardized under paragraph (1) or (2).

(b) UNIQUE HEALTH IDENTIFIERS.—The Secretary shall adopt standards providing for a standard unique health identifier for each individual, employer, health plan, and health care provider for use in the health care system.

(c) CODE SETS.—

(1) IN GENERAL.—The Secretary shall, if possible, select code sets from among the code sets that have been developed, and shall establish efficient and low-cost procedures for distribution of code sets and modifications made to such code sets under section 4013(b).

(2) ADDITIONS AND MODIFICATIONS TO CODE SETS.—The Secretary shall ensure that procedures exist for the routine maintenance, testing, enhancement, and expansion of code sets to accommodate changes in biomedical science and health care delivery. Modified code sets shall be adopted not more frequently than once every 6 months.

(d) ELECTRONIC SIGNATURE.—The Secretary, in coordination with the Secretary of Commerce, shall promulgate regulations specifying procedures for the electronic transmission and authentication of signatures, compliance with which shall be deemed to satisfy Federal and State statutory requirements for written signatures with respect to information transactions required by this subtitle and written signatures on medical records and prescriptions.

(e) SPECIAL RULES FOR COORDINATION OF BENEFITS.—Any standards adopted under subsection (a) that relate to coordination of benefits shall provide that a claim for reimbursement for medical services furnished is tested by an algorithm specified by the Secretary against all records that are electronically available through the health information network relating to enrollment and eligibility for the individual who received such services to determine any primary and secondary obligers for payment.

PART 3—REQUIREMENTS WITH RESPECT TO CERTAIN TRANSACTIONS AND INFORMATION

SEC. 4021. REQUIREMENTS ON HEALTH PLANS AND HEALTH CARE PROVIDERS.

(a) IN GENERAL.—A health plan or health care provider shall conduct transactions described in section 4012(a) as standard transactions.

(b) COMPLIANCE.—Not later than 12 months after the date on which a standard is adopted under part 2, a health plan or health care provider shall comply with the requirement under subsection (a) with respect to such standard.

(c) RESPONSE TO ELECTRONIC INQUIRY.—If a health plan or health care provider conducts a transaction in compliance with subsection (a), such transaction and the standard data elements of such transaction shall be made available electronically, in accordance with section 4031, in response to an electronic inquiry from a health information protection organization.

SEC. 4022. STANDARDS AND CERTIFICATION FOR HEALTH INFORMATION PROTECTION ORGANIZATIONS.

(a) STANDARDS FOR OPERATION.—The Secretary shall establish standards with respect to the operation and certification of health information protection organizations, including standards ensuring that—

(1) such organizations have capabilities, policies, and procedures in place that are consistent with the privacy requirements under subtitle B; and

(2) such organizations, if part of a larger organization, have policies and procedures in place which isolate their information processing activities in a manner that prevents unauthorized access to such information by such larger organization.

(b) CERTIFICATION BY PRIVATE ENTITIES.—The Secretary may designate private entities to conduct the certification procedures established by the Secretary under this section.

PART 4—ACCESSING HEALTH INFORMATION

SEC. 4031. ACCESS FOR AUTHORIZED PURPOSES.

(a) IN GENERAL.—The Secretary shall adopt technical standards for appropriate persons to locate and access the health information that is available through the health information network. Such technical standards shall ensure that any request to locate or access information shall be authorized under subtitle B.

(b) GOVERNMENT AGENCIES.—

(1) IN GENERAL.—Health information protection organizations shall make available to a Federal or State agency pursuant to a Federal Acquisition Regulation (or an equivalent State system), any non-identifiable health information that is requested by such agency.

(2) CERTAIN INFORMATION AVAILABLE AT LOW COST.—If a health information protection organization described in paragraph (1) needs information from a health plan, health care provider, or other health information protection organization in order to comply with a request of a Federal or State agency under this Act, such plan, provider, or other organization shall make such information available to such organization for a charge that does not exceed the reasonable cost of transmitting the information.

(c) MODIFICATIONS TO STANDARDS.—Rules similar to rules under section 4012(c)(2) shall apply to modifications to standards under this part.

PART 5—PENALTIES

SEC. 4041. GENERAL PENALTY FOR FAILURE TO COMPLY WITH REQUIREMENTS AND STANDARDS.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary shall impose on any person that violates a requirement or standard imposed under this subtitle a penalty of not more than $1,000 for each violation. The provisions of section 1128A of the Social Security Act (42 U.S.C. 1320a-7a) (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil money penalty under this subsection in the same manner as such provisions apply to the imposition of a penalty under such section 1128A.

(b) LIMITATIONS.—

(1) NONCOMPLIANCE NOT DISCOVERED.—A penalty may not be imposed under subsection (a) if it is established to the satisfaction of the Secretary that the person liable for the penalty did not know, and by exercising reasonable diligence would not have known, that such person failed to comply with the requirement or standard described in subsection (a).

(2) FAILURES DUE TO REASONABLE CAUSE.—A penalty may not be imposed under subsection (a) if the failure to comply was due to reasonable cause and not to willful neglect, and the failure to comply is corrected during the time period established by the Secretary.

(3) REDUCTION.—In the case of a failure to comply which is due to reasonable cause and not to willful neglect, any penalty under subsection (a) that is not entirely waived under paragraph (2) may be waived to the extent that the payment of such penalty would be excessive relative to the compliance failure involved.

PART 6—MISCELLANEOUS PROVISIONS

SEC. 4051. EFFECT ON STATE LAW.

(a) IN GENERAL.—Except as provided in subsection (b), a provision, requirement, or standard under this subtitle shall supersede any contrary provision of State law, including—

(1) any law that requires medical or health plan records (including billing information) to be maintained or transmitted in writing, and

(2) a provision of State law which provides for requirements or standards that are more stringent than the requirements or standards under this subtitle;

except if the Secretary determines that the provision is necessary to prevent fraud and abuse, with respect to controlled substances, or for other purposes.

(b) PUBLIC HEALTH REPORTING.—Nothing in this subtitle shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.

SEC. 4052. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subtitle.

Subtitle B—Privacy of Health Information

PART 1—DEFINITIONS

SEC. 4101. DEFINITIONS.

For purposes of this subtitle:

(1) PROTECTED HEALTH INFORMATION.—The term ''protected health information'' means any information, including demographic information collected from an individual, whether oral or recorded in any form or medium, that—

(A) is created or received by a health care provider, health plan, health oversight agency, health researcher, public health authority, employer, life insurer, school or university, or health information protection organization; and

(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, and—

(i) identifies an individual; or

(ii) with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.

(2) DISCLOSE.—The term ''disclose'', when used with respect to protected health information, means to provide access to the information, but only if such access is provided to a person other than the individual who is the subject of the information.

(3) HEALTH INFORMATION TRUSTEE.—The term ''health information trustee'' means—

(A) a health care provider, health plan, health oversight agency, health information protection organization, employer, life insurer, or school or university insofar as it creates, receives, maintains, uses, or transmits protected health information;

(B) any person who obtains protected health information under section 4108, 4111, 4116, 4117, 4118, 4121, 4122, 4126, or 4131; and

(C) any employee or agent of a person covered under subparagraphs (A) or (B).

(4) HEALTH OVERSIGHT AGENCY.—The term ''health oversight agency'' means a person who—

(A) performs or oversees the performance of an assessment, evaluation, determination, or investigation relating to the licensing, accreditation, or certification of health care providers; or

(B)(i) performs or oversees the performance of an assessment, evaluation, determination, investigation, or prosecution relating to the effectiveness of, compliance with, or applicability of legal, fiscal, medical, or scientific standards or aspects of performance related to the delivery of, or payment for health care or relating to health care fraud or fraudulent claims for payment regarding health care; and

(ii) is a public agency, acting on behalf of a public agency, acting pursuant to a requirement of a public agency, or carrying out activities under a Federal or State law governing the assessment, evaluation, determination, investigation, or prosecution described in clause (i).

(5) PUBLIC HEALTH AUTHORITY.—The term ''public health authority'' means an authority or instrumentality of the United States, a State, or a political subdivision of a State that is—

(A) responsible for public health matters; and

(B) engaged in such activities as injury reporting, public health surveillance, and public health investigation or intervention.

(6) INDIVIDUAL REPRESENTATIVE.—The term ''individual representative'' means any individual legally empowered to make decisions concerning the provision of health care to an individual (if the individual lacks the legal capacity under State law to make such decisions) or the administrator or executor of the estate of a deceased individual.

(7) PERSON.—The term ''person'' includes an authority of the United States, a State, or a political subdivision of a State.

PART 2—AUTHORIZED DISCLOSURES

Subpart A—General Provisions

SEC. 4106. GENERAL RULES REGARDING DISCLOSURE.

(a) GENERAL RULE.—A health information trustee may disclose protected health information only for a purpose that is authorized under this subtitle.

(b) DISCLOSURE WITHIN A TRUSTEE.—A health information trustee may disclose protected health information to an officer, employee, or agent of the trustee for a purpose that is compatible with and related to the purpose for which the information was collected or received by that trustee.

(c) SCOPE OF DISCLOSURE.—Every disclosure of protected health information by a health information trustee shall be limited to the minimum amount of information necessary to accomplish the purpose for which the information is disclosed.

(d) NO GENERAL REQUIREMENT TO DISCLOSE.—Nothing in this subtitle that permits a disclosure of health information shall be construed to require such disclosure.

(e) USE AND REDISCLOSURE OF INFORMATION.—Protected health information about an individual that is disclosed under this subtitle may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual unless the action or investigation arises out of or is directly related to the law enforcement inquiry for which the information was obtained.

(f) IDENTIFICATION OF DISCLOSED INFORMATION AS PROTECTED INFORMATION.—When engaging in a permitted disclosure, a health information trustee shall clearly identify protected health information as such and as protected by this subtitle, unless the disclosure is made under section 4112 or is a routine disclosure made under a written agreement which satisfies this subsection.

(g) DIRECTORY INFORMATION.—A health care provider and a person receiving protected health information under section 4112 may disclose protected health information to any person if the information consists only of 1 or more of the following items:

(1) The the name of the individual who is the subject of the information.

(2) If the individual who is the subject of the information is receiving health care from a health care provider on a premises controlled by the provider—

(A) the location of the individual on the premises; and

(B) the general health status of the individual, described as critical, poor, fair, stable, or satisfactory, or in terms denoting similar conditions.

(h) NEXT OF KIN.—A health care provider or person who receives protected health information under section 4112 may disclose protected health information to the next of kin, an individual representative of the individual who is the subject of the information, or an individual with whom that individual has a close personal relationship if—

(1) the individual who is the subject of the information—

(A) has been notified of the individual's right to object and has not objected to the disclosure;

(B) is not competent to be notified about the right to object; or

(C) is subject to exigent circumstances such that it would not be practicable to notify the individual of the right to object; and

(2) the information disclosed relates to health care currently being provided to that individual.

(i) INFORMATION IN WHICH PROVIDERS ARE IDENTIFIED.—The Secretary may issue regulations protecting information identifying providers in order to promote the availability of health care services.

SEC. 4107. AUTHORIZATIONS FOR DISCLOSURE OF PROTECTED HEALTH INFORMATION.

(a) WRITTEN AUTHORIZATIONS.—A health information trustee may disclose protected health information pursuant to an authorization executed by the individual who is the subject of the information under regulations issued by the Secretary.

(b) WRITTEN OBJECTIONS TO DISCLOSURE.—Except if required by law, nothing in this subtitle that permits a disclosure shall allow such disclosure if the subject of the protected health information has previously objected to disclosure in writing.

SEC. 4108. HEALTH INFORMATION PROTECTION ORGANIZATIONS.

A health information trustee may disclose protected health information to a health information protection organization for the purpose of creating non-identifiable health information.

Subpart B—Specific Disclosures Relating to Patient

SEC. 4111. DISCLOSURES FOR TREATMENT AND FINANCIAL AND ADMINISTRATIVE TRANSACTIONS.

(a) HEALTH CARE TREATMENT.—A health care provider, health plan, employer, or person who receives protected health information under section 4112, may disclose protected health information to a health care provider for the purpose of providing health care to an individual.

(b) DISCLOSURE FOR FINANCIAL AND ADMINISTRATIVE PURPOSES.—A health care provider or employer may disclose protected health information to a health care provider or health plan for the purpose of providing for the payment for, or reviewing the payment of, health care furnished to an individual.

SEC. 4112. EMERGENCY CIRCUMSTANCES.

A health care provider, health plan, employer, or person who receives protected health information under this section may disclose protected health information in emergency circumstances when necessary to protect the health or safety of an individual from imminent harm.

Subpart C—Disclosure for Oversight, Public Health, and Research Purposes

SEC. 4116. OVERSIGHT.

A health information trustee may disclose protected health information to a health oversight agency for an oversight function authorized by law.

SEC. 4117. PUBLIC HEALTH.

A health care provider, health plan, public health authority, employer, or person who receives protected health information under section 4112 may disclose protected health information to a public health authority or other person authorized by law for use in a legally authorized—

(1) disease or injury reporting;

(2) public health surveillance; or

(3) public health investigation or intervention.

SEC. 4118. HEALTH RESEARCH.

(a) IN GENERAL.—A health information trustee may disclose protected health information to a health researcher if an institutional review board determines that the research project engaged in by the health researcher—

(1) requires use of the protected health information for the effectiveness of the project; and

(2) is of sufficient importance to outweigh the intrusion into the privacy of the individual who is the subject of the information that would result from the disclosure.

(b) RESEARCH REQUIRING DIRECT CONTACT.—A health care provider or health plan may disclose protected health information to a health researcher for a research project that includes direct contact with an individual who is the subject of protected health information if an institutional review board determines that direct contact is necessary and will be made in a manner that minimizes the risk of harm, embarrassment, or other adverse consequences to the individual.

(c) OBLIGATIONS OF RECIPIENT.—A person who receives protected health information under subsection (a) shall use such information solely for the purposes of the approved research project and shall remove or destroy, at the earliest opportunity consistent with the purposes of the project, information that would enable an individual to be identified.

Subpart D—Disclosure For Judicial, Administrative, and Law Enforcement Purposes

SEC. 4121. JUDICIAL AND ADMINISTRATIVE PURPOSES.

A health care provider, health plan, health oversight agency, or employer may disclose protected health information, subject to a court's rules of procedure—

(1) in connection with litigation or proceedings to which the individual who is the subject of the information is a party and in which the individual has placed the individual's physical or mental condition at issue;

(2) if the protected health information is developed in response to a court-ordered physical or mental examination; or

(3) pursuant to a law requiring the reporting of specific medical information to law enforcement authorities.

SEC. 4122. LAW ENFORCEMENT.

(a) IN GENERAL.—A health care provider, health plan, health oversight agency, employer, or person who receives protected health information under section 4112 may disclose protected health information to a law enforcement agency (other than a health oversight agency governed by section 4116) if the information is requested for use—

(1) in an investigation or prosecution of a health information trustee;

(2) in the identification of a victim or witness in a law enforcement inquiry; or

(3) in connection with the investigation of criminal activity committed against the trustee or on premises controlled by the trustee.

(b) WRITTEN CERTIFICATION.—If a law enforcement agency (other than a health oversight agency) requests that a health information trustee disclose protected health information under this section, such agency shall provide the trustee with a written certification that—

(1) specifies the information requested;

(2) states that the information is needed for a lawful purpose under this section; and

(3) is signed by a supervisory official of a rank designated by the head of the agency.

Subpart E—Disclosure Pursuant to Government Subpoena or Warrant

SEC. 4126. GOVERNMENT SUBPOENAS AND WARRANTS.

A health care provider, health plan, health oversight agency, employer, or person who receives protected health information under section 4112 may disclose protected health information under this section if the disclosure is pursuant to—

(1) an administrative subpoena or summons, a judicial subpoena or warrant, or a grand jury subpoena, and the trustee is provided written certification that section 4127 has been complied with by the person seeking the subpoena or summons; or

(2) an administrative subpoena or summons, a judicial subpoena or warrant, or a grand jury subpoena, and the disclosure otherwise meets the conditions of section 4116, 4117, 4118, 4121, or 4122.

SEC. 4127. ACCESS PROCEDURES FOR LAW ENFORCEMENT SUBPOENAS AND WARRANTS.

(a) PROBABLE CAUSE REQUIREMENT.—A government authority may not obtain protected health information about an individual under paragraph (1) or (2) of section 4126 for use in a law enforcement inquiry unless there is probable cause to believe that the information is relevant to a legitimate law enforcement inquiry being conducted by the government authority.

(b) WARRANTS.—A government authority that obtains protected health information about an individual under circumstances described in subsection (a) and pursuant to a warrant shall, not later than 30 days after the date the warrant was executed, serve the individual with, or mail to the last known address of the individual, a notice that protected health information about the individual was so obtained, together with a notice of the individual's right to challenge the warrant.

(c) SUBPOENA OR SUMMONS.—Except as provided in subsection (d), a government authority may not obtain protected health information about an individual under circumstances described in subsection (a) and pursuant to a subpoena or summons unless a copy of the subpoena or summons has been served on the individual on or before the date of return of the subpoena or summons, together with notice of the individual's right to challenge the subpoena or summons. No disclosure may be made until after the 15th day after the individual has been served or after a court order allowing disclosure.

(d) APPLICATION FOR DELAY.—

(1) IN GENERAL.—A government authority may apply ex parte and under seal to an appropriate court to delay (or extend a delay) serving a notice or copy of a warrant, subpoena, or summons required under subsection (b) or (c). The initial period of delay may not exceed 90 days.

(2) EX PARTE ORDER.—The court shall enter an ex parte order delaying or extending the delay of notice, an order prohibiting the disclosure of the request for, or disclosure of, the protected health information, and an order requiring the disclosure of the protected health information if the court finds that—

(A) the inquiry being conducted is within the lawful jurisdiction of the government authority seeking the protected health information;

(B) there is probable cause to believe that the protected health information being sought is relevant to a legitimate law enforcement inquiry;

(C) the government authority's need for the information outweighs the privacy interest of the individual who is the subject of the information; and

(D) there is reasonable ground to believe that receipt of notice by the individual will result in—

(i) endangering the life or physical safety of any individual;

(ii) flight from prosecution;

(iii) destruction of or tampering with evidence or the information being sought;

(iv) intimidation of potential witnesses; or

(v) disclosure of the existence or nature of a confidential law enforcement investigation or grand jury investigation is likely to seriously jeopardize such investigation.

SEC. 4128. CHALLENGE PROCEDURES FOR LAW ENFORCEMENT WARRANTS, SUBPOENAS, AND SUMMONS.

(a) MOTION TO QUASH.—Within 15 days after the date of service of a notice of execution or a copy of a warrant, subpoena, or summons of a government authority seeking protected health information about an individual under paragraph (1) or (2) of section 4126, the individual may file a motion to quash.

(b) STANDARD FOR DECISION.—The court shall grant a motion under subsection (a) unless the government demonstrates that there is probable cause to believe the protected health information is relevant to a legitimate law enforcement inquiry being conducted by the government authority and the government authority's need for the information outweighs the privacy interest of the individual.

Subpart F—Disclosure Pursuant to Party Subpoena

SEC. 4131. PARTY SUBPOENAS.

A health care provider, health plan, employer, or person who receives protected health information under section 4112 may disclose protected health information under this section if the disclosure is pursuant to a subpoena issued on behalf of a party who has complied with the access provisions of section 4132.

SEC. 4132. ACCESS PROCEDURES FOR PARTY SUBPOENAS.

A party may not obtain protected health information about an individual pursuant to a subpoena unless a copy of the subpoena together with a notice of the individual's right to challenge the subpoena in accordance with section 4133 has been served upon the individual on or before the date of return of the subpoena.

SEC. 4133. CHALLENGE PROCEDURES FOR PARTY SUBPOENAS.

(a) MOTION TO QUASH SUBPOENA.—After service of a copy of the subpoena seeking protected health information under section 4131, the individual who is the subject of the protected health information may file in any court of competent jurisdiction a motion to quash the subpoena.

(b) STANDARD FOR DECISION.—The court shall grant a motion under subsection (a) unless the respondent demonstrates that—

(1) there is reasonable ground to believe the information is relevant to a lawsuit or other judicial or administrative proceeding; and

(2) the need of the respondent for the information outweighs the privacy interest of the individual.

PART 3—PROCEDURES FOR ENSURING SECURITY OF PROTECTED HEALTH INFORMATION

Subpart A—Establishment of Safeguards

SEC. 4136. ESTABLISHMENT OF SAFEGUARDS.

A health information trustee shall establish and maintain appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of protected health information created or received by the trustee.

SEC. 4137. ACCOUNTING FOR DISCLOSURES.

A health information trustee shall create and maintain, with respect to any protected health information disclosed in exceptional circumstances, a record of the disclosure in accordance with regulations issued by the Secretary.

Subpart B—Review of Protected Health Information By Subjects of the Information

SEC. 4141. INSPECTION OF PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—Except as provided in subsection (b), a health care provider or health plan shall permit an individual who is

the subject of protected health information or the individual's designee to inspect any such information that the provider or plan maintains. A health care provider or health plan may require an individual to reimburse the provider or plan for the cost of such inspection.

(b) EXCEPTIONS.—A health care provider or health plan is not required by this section to permit inspection or copying of protected health information if any of the following conditions apply:

(1) MENTAL HEALTH TREATMENT NOTES.—The information consists of psychiatric, psychological, or mental health treatment notes, and the provider or plan determines, based on reasonable medical judgment, that inspection or copying of the notes would cause sufficient harm.

(2) ENDANGERMENT TO LIFE OR SAFETY.—The provider or plan determines that disclosure of the information could reasonably be expected to endanger the life or physical safety of any individual.

(3) CONFIDENTIAL SOURCE.—The information identifies or could reasonably lead to the identification of a person (other than a health care provider) who provided information under a promise of confidentiality to a health care provider concerning the individual who is the subject of the information.

(4) ADMINISTRATIVE PURPOSES.—The information is used by the provider or plan solely for administrative purposes and not in the provision of health care to the individual who is the subject of the information.

SEC. 4142. AMENDMENT OF PROTECTED HEALTH INFORMATION.

A health care provider or health plan shall, within 45 days after receiving a written request to correct or amend protected health information from the individual who is the subject of the information—

(1) correct or amend such information; or

(2) provide the individual with a statement of the reasons for refusing to correct or amend such information and include a copy of such statement in the provider's or plan's records.

SEC. 4143. NOTICE OF INFORMATION PRACTICES.

A health care provider or health plan shall provide written notice of the provider's or plan's information practices, including notice of individual rights with respect to protected health information.

PART 4—SANCTIONS

Subpart A—Civil Sanctions

SEC. 4151. CIVIL PENALTY.

(a) VIOLATION.—Any health information trustee who the Secretary determines has substantially failed to comply with this subtitle shall be subject, in addition to any other penalties that may be prescribed by law, to a civil penalty of not more than $10,000 for each such violation.

(b) PROCEDURES FOR IMPOSITION OF PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a-7a), other than subsections (a) and (b) and the second sentence of subsection (f) of that section, shall apply to the imposition of a civil monetary penalty under this section in the same manner as such provisions apply with respect to the imposition of a penalty under such section 1128A.

SEC. 4152. CIVIL ACTION.

(a) IN GENERAL.—An individual who is aggrieved by negligent conduct in violation of this subtitle may bring a civil action to recover—

(1) the greater of actual damages or liquidated damages of $5,000;

(2) punitive damages;

(3) a reasonable attorney's fee and expenses of litigation;

(4) costs of litigation; and

(5) such preliminary and equitable relief as the court determines to be appropriate.

(b) LIMITATION.—No action may be commenced under this section more than 3 years after the date on which the violation was or should reasonably have been discovered.

Subpart B—Criminal Sanctions

SEC. 4161. WRONGFUL DISCLOSURE OF PROTECTED HEALTH INFORMATION.

(a) OFFENSE.—A person who knowingly—

(1) obtains protected health information relating to an individual in violation of this subtitle; or

(2) discloses protected health information to another person in violation of this subtitle,

shall be punished as provided in subsection (b).

(b) PENALTIES.—A person described in subsection (a) shall—

(1) be fined not more than $50,000, imprisoned not more than 1 year, or both;

(2) if the offense is committed under false pretenses, be fined not more than $100,000, imprisoned not more than 5 years, or both; and

(3) if the offense is committed with intent to sell, transfer, or use protected health information for commercial advantage, personal gain, or malicious harm, fined not more than $250,000, imprisoned not more than 10 years, or both.

PART 5—ADMINISTRATIVE PROVISIONS

SEC. 4166. RELATIONSHIP TO OTHER LAWS.

(a) STATE LAW.—Except as provided in subsections (b), (c), and (d), this subtitle preempts State law.

(b) LAWS RELATING TO PUBLIC OR MENTAL HEALTH.—Nothing in this subtitle shall be construed to preempt or operate to the exclusion of any State law relating to public health or mental health that prevents or regulates disclosure of protected health information otherwise allowed under this subtitle.

(c) PRIVILEGES.—Nothing in this subtitle is intended to preempt or modify State common or statutory law to the extent such law concerns a privilege of a witness or person in a court of the State. This subtitle does not supersede or modify Federal common or statutory law to the extent such law concerns a privilege of a witness or person in a court of the United States. Authorizations pursuant to section 4107 shall not be construed as a waiver of any such privilege.

(d) CERTAIN DUTIES UNDER STATE OR FEDERAL LAW.—This subtitle shall not be construed to preempt, supersede, or modify the operation of—

(1) any law that provides for the reporting of vital statistics such as birth or death information;

(2) any law requiring the reporting of abuse or neglect information about any individual;

(3) subpart II of part E of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-81 et seq.) (relating to notifications of emergency response employees of possible exposure to infectious diseases); or

(4) any Federal law or regulation governing confidentiality of alcohol and drug patient records.

SEC. 4167. RIGHTS OF INCOMPETENTS.

Except as provided in section 4168, if an individual has been declared to be incompetent by a court of competent jurisdiction, the rights of the individual under this subtitle shall be exercised and discharged in the best interests of the individual through the individual's representative.

SEC. 4168. EXERCISE OF RIGHTS.

(a) INDIVIDUALS WHO ARE 18 OR LEGALLY CAPABLE.—In the case of an individual—

(1) who is 18 years of age or older, all rights of the individual shall be exercised by the individual; or

(2) who, acting alone, has the legal right, as determined by State law, to apply for and obtain a type of medical examination, care, or treatment and who has sought such examination, care, or treatment, the individual shall exercise all rights of an individual under this subtitle with respect to protected health information relating to such examination, care, or treatment.

(b) INDIVIDUALS UNDER 18.—Except as provided in subsection (a)(2), in the case of an individual who is—

(1) under 14 years of age, all the individual's rights under this subtitle shall be exercised through the parent or legal guardian of the individual; or

(2) 14, 15, 16, or 17 years of age, the rights of inspection and amendment, and the right to authorize disclosure of protected health information of the individual may be exercised either by the individual or by the parent or legal guardian of the individual.

Subtitle C—Enhanced Penalties for Health Care Fraud

SEC. 4201. ALL-PAYER FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Not later than January 1, 1996, the Secretary of Health and Human Services (in this subtitle referred to as the ''Secretary''), acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B of the Social Security Act (42 U.S.C. 1320a-7, 1320a-7a, and 1320a-7b) and other statutes applicable to health care fraud and abuse, and

(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts.

(2) REGULATIONS.—The Secretary and the Attorney General shall by regulation establish standards to carry out the program under paragraph (1).

(b) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is hereby established an account to be known as the ''Health Care Fraud and Abuse Control Account'' (in this section referred to as the ''Anti-Fraud Account'').

(B) TRANSFER OF AMOUNTS.—The Secretary of the Treasury shall transfer to the Anti-Fraud Account an amount equal to the sum of the following:

(i) Criminal fines imposed in cases involving a Federal health care offense (as defined in subparagraph (C)).

(ii) Administrative penalties and assessments imposed under titles XI, XVIII, and XIX of the Social Security Act (except as otherwise provided by law).

(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

(iv) Penalties and damages imposed under the False Claims Act (31 U.S.C. 3729 et seq.) (except as otherwise provided by law), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator or for restitution).

(C) For purposes of this paragraph, the term ''Federal health care offense'' means a violation of, or a criminal conspiracy to violate—

(i) section 1347 of title 18, United States Code;

(ii) section 1128B of the Social Security Act (42 U.S.C. 1320a-7b);

(iii) sections 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of title 18, United States Code, if the violation or conspiracy relates to health care fraud; and

(iv) section 501 or 511 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 and 1141), if the violation or conspiracy relates to health care fraud.

(2) USE OF FUNDS.—

(A) IN GENERAL.—Amounts in the Anti-Fraud Account shall be available without appropriation and until expended as determined jointly by the Secretary and the Attorney General of the United States in carrying out the health care fraud and abuse control program established under subsection (a) (including the administration of the program), and may be used to cover costs incurred in operating the program, including costs (including equipment, salaries and benefits, and travel and training) of—

(i) prosecuting health care matters (through criminal, civil, and administrative proceedings);

(ii) investigations;

(iii) financial and performance audits of health care programs and operations;

(iv) inspections and other evaluations; and

(v) provider and consumer education regarding compliance with the provisions of this subtitle.

(4) USE OF FUNDS BY INSPECTOR GENERAL.—The Inspector General is authorized to receive and retain for current use reimbursement for the costs of conducting investigations, when such restitution is ordered by a court, voluntarily agreed to by the payer, or otherwise.

SEC. 4202. APPLICATION OF FEDERAL HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO ALL FRAUD AND ABUSE AGAINST ANY HEALTH PLAN.

(a) APPLICATION OF CIVIL MONETARY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended as follows:

(1) In subsection (a)(1), by inserting ''or of any health plan (as defined in section 1128(i)),'' after ''subsection (i)(1)),''.

(2) In subsection (b)(1)(A), by inserting ''or under a health plan'' after ''title XIX''.

(3) In subsection (i)—

(A) in paragraph (2), by inserting ''or under a health plan'' before the period at the end, and

(B) in paragraph (5), by inserting ''or under a health plan'' after ''or XX''.

(b) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended by adding the following new paragraph:

''(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).''.

(c) HEALTH PLAN DEFINED.—Section 1128 of the Social Security Act (42 U.S.C. 1320a–7) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) HEALTH PLAN DEFINED.—For purposes of sections 1128A and 1128B, the term 'health plan' has the meaning given such term in section 1031(a) of the Family Health Insurance Protection Act.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 4203. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) GENERAL PURPOSE.—Not later than January 1, 1996, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by regulations issued by the Secretary.

(b) CONFORMING AMENDMENT.—Section 1921(d) of the Social Security Act (42 U.S.C. 1396r-2(d)) is amended by inserting ''and section 4203 of the Family Health Insurance Protection Act'' after ''section 422 of the Health Care Quality Improvement Act of 1986''.

SEC. 4204. HEALTH CARE FRAUD.

(a) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 1347. Health care fraud

''(a) Whoever knowingly executes, or attempts to execute, a scheme or artifice—

''(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

''(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person shall be imprisoned for any term of years.

''(b) For purposes of this section, the term 'health plan' has the meaning given such term in section 1128(i) of the Social Security Act (42 U.S.C. 1320a-7(i)).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1347. Health care fraud.''.

Subtitle D—Health Care Malpractice Reform

SEC. 4301. FEDERAL TORT REFORM.

(a) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in section 4302, this subtitle shall apply with respect to any medical malpractice liability action brought in any State or Federal court, except that this subtitle shall not apply to a claim or action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) applies to the claim or action.

(2) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in this subtitle shall be construed to—

(A) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(B) waive or affect any defense of sovereign immunity asserted by the United States;

(C) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(D) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(E) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(3) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this subtitle shall be construed to establish any jurisdiction in the district courts of the United States over medical malpractice liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

(b) DEFINITIONS.—For purposes of this subtitle:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term ''alternative dispute resolution system'' or ''ADR'' means a system that provides for the resolution of medical malpractice claims in a manner other than through medical malpractice liability actions.

(2) CLAIMANT.—The term ''claimant'' means any person who alleges a medical malpractice claim, and any person on whose behalf such a claim is alleged, including the decedent in the case of an action brought through or on behalf of an estate.

(3) HEALTH CARE PROFESSIONAL.—The term ''health care professional'' means any individual who provides health care services in a State and who is required by the laws or regulations of the State to be licensed or certified by the State to provide such services in the State.

(4) HEALTH CARE PROVIDER.—The term ''health care provider'' means any organization or institution that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(5) HEALTH PLAN.—The term ''health plan'' has the meaning given such term in section 1031(a).

(6) INJURY.—The term ''injury'' means any illness, disease, or other harm that is the subject of a medical malpractice liability action or a medical malpractice claim.

(7) MEDICAL MALPRACTICE LIABILITY ACTION.—The term ''medical malpractice liability action'' means a cause of action brought in a State or Federal court against a health care provider or health care professional by which the plaintiff brings a medical malpractice claim.

(8) MEDICAL MALPRACTICE CLAIM.—The term ''medical malpractice claim'' means a claim brought against a health care provider or health care professional in which a claimant alleges that injury was caused by the provision of (or the failure to provide) health care services, except that such term does not include—

(A) any claim based on an allegation of an intentional tort;

(B) any claim based on an allegation that a product is defective that is brought against any individual or entity that is not a health care professional or health care provider; or

(C) any claim brought pursuant to a health plan benefit determination review procedure.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 4302. STATE-BASED ALTERNATIVE DISPUTE RESOLUTION MECHANISMS.

(a) APPLICATION TO MALPRACTICE CLAIMS UNDER PLANS.—Prior to or immediately following the commencement of any medical malpractice action, the parties shall participate in the alternative dispute resolution system administered by the State under subsection (b). Such participation shall be in

lieu of any other provision of Federal or State law or any contractual agreement made by or on behalf of the parties prior to the commencement of the medical malpractice action.

(b) ADOPTION OF MECHANISM BY STATE.—Each State shall—

(1) maintain or adopt at least 1 of the alternative dispute resolution methods satisfying the requirements specified under subsection (c) and (d) for the resolution of medical malpractice claims; and

(2) clearly disclose to enrollees (and potential enrollees) of health plans the availability and procedures for consumer grievances, including a description of the alternative dispute resolution method or methods adopted under this subsection.

(c) SPECIFICATION OF PERMISSIBLE ALTERNATIVE DISPUTE RESOLUTION METHODS.—

(1) IN GENERAL.—The Secretary shall, by regulation, develop alternative dispute resolution methods for the use by States in resolving medical malpractice claims under subsection (a). Such methods shall include at least the following:

(A) ARBITRATION.—The use of arbitration, a nonjury adversarial dispute resolution process which may, subject to subsection (d), result in a final decision as to facts, law, liability, or damages.

(B) CLAIMANT-REQUESTED BINDING ARBITRATION.—For claims involving a sum of money that falls below a threshold amount set by the Secretary, the use of arbitration not subject to subsection (d). Such binding arbitration shall be at the sole discretion of the claimant.

(C) MEDIATION.—The use of mediation, a settlement process coordinated by a neutral third party without the ultimate rendering of a formal opinion as to factual or legal findings.

(D) EARLY NEUTRAL EVALUATION.—The use of early neutral evaluation, in which the parties make a presentation to a neutral attorney or other neutral evaluator for an assessment of the merits, to encourage settlement. If the parties do not settle as a result of assessment and proceed to trial, the neutral evaluator's opinion shall be kept confidential.

(2) STANDARDS FOR ESTABLISHING METHODS.—In developing alternative dispute resolution methods under paragraph (1), the Secretary shall assure that the methods promote the resolution of medical malpractice claims in a manner that is affordable, timely, consistent and fair, and reasonably convenient.

(3) WAIVER AUTHORITY.—Upon application of a State, the Secretary may grant the State the authority to fulfill the requirement of subsection (b) by adopting a mechanism other than a mechanism established by the Secretary pursuant to this subsection, except that such mechanism must meet the standards set forth in paragraph (2).

(d) FURTHER REDRESS.—Except with respect to the claimant-requested binding arbitration method set forth in subsection (c)(1)(B), and notwithstanding any other provision of a law or contractual agreement, a plan enrollee dissatisfied with the determination reached as a result of an alternative dispute resolution method applied under this section may, after the final resolution of the enrollee's claim under the method, initiate or resume a cause of action to seek damages or other redress with respect to the claim to the extent otherwise permitted under State law. The results of any alternative dispute resolution procedure are inadmissible at any subsequent trial, as are all statements, offers, and other communications made during such procedures, unless otherwise admissible under State law.

SEC. 4303. LIMITATION ON AMOUNT OF ATTORNEY'S CONTINGENCY FEES.

(a) IN GENERAL.—An attorney who represents, on a contingency fee basis, a plaintiff in a medical malpractice liability action may not charge, demand, receive, or collect for services rendered in connection with such action (including the resolution of the claim that is the subject of the action under any alternative dispute resolution system) in excess of—

(1) 33⅓ percent of the first $150,000 of the total amount recovered by judgment or settlement in such action; plus

(2) 25 percent of any amount recovered above the amount described in paragraph (1); unless otherwise determined under State law. Such amount shall be computed after deductions are made for all the expenses associated with the claim other than those attributable to the normal operating expenses of the attorney.

(b) CALCULATION OF PERIODIC PAYMENTS.—In the event that a judgment or settlement includes periodic or future payments of damages, the amount recovered for purposes of computing the limitation on the contingency fee under subsection (a) may, in the discretion of the court, be based on the cost of the annuity or trust established to make the payments. In any case in which an annuity or trust is not established to make such payments, such amount shall be based on the present value of the payments.

(c) CONTINGENCY FEE DEFINED.—For purposes of this section, the term ''contingency fee'' means any fee for professional legal services which is, in whole or in part, contingent upon the recovery of any amount of damages, whether through judgment or settlement.

SEC. 4304. PERIODIC PAYMENT OF AWARDS.

(a) IN GENERAL.—A party to a medical malpractice liability action may petition the court to instruct the trier of fact to award any future damages on an appropriate periodic basis. If the court, in its discretion, so instructs the trier of fact, and damages are awarded on a periodic basis, the court may require the defendant to purchase an annuity or other security instrument (typically based on future damages discounted to present value) adequate to assure payments of future damages.

(b) FAILURE OR INABILITY TO PAY.—With respect to an award of damages described in subsection (a), if a defendant fails to make payments in a timely fashion, or if the defendant becomes or is at risk of becoming insolvent, upon such a showing the claimant may petition the court for an order requiring that remaining balance be discounted to present value and paid to the claimant in a lump-sum.

(c) MODIFICATION OF PAYMENT SCHEDULE.—The court shall retain authority to modify the payment schedule based on changed circumstances.

(d) FUTURE DAMAGES DEFINED.—For purposes of this section, the term ''future damages'' means any economic or noneconomic loss other than that incurred or accrued as of the time of judgment.

SEC. 4305. ALLOCATION OF PUNITIVE DAMAGE AWARDS FOR PROVIDER LICENSING AND DISCIPLINARY ACTIVITIES.

(a) IN GENERAL.—With respect to the total amount of any punitive damages awarded in a medical malpractice liability action, 50 percent of such amount shall be paid to the State in which the action is brought (or, in a case brought in Federal court, in the State in which the health care services that caused the injury that is the subject of the action were provided) for the purposes of carrying out the activities described in subsection (b).

(b) ACTIVITIES DESCRIBED.—A State shall use amounts paid pursuant to subsection (a) to carry out activities to ensure the safety and quality of health care services provided in the State, including—

(1) licensing or certifying health care professionals and health care providers in the State;

(2) implementing health care quality assurance and quality improvement programs;

(3) carrying out programs to reduce malpractice-related costs for providers volunteering to provide services in medically underserved areas; and

(4) providing resources for additional investigation and disciplinary activities by the State licensing board.

(c) MAINTENANCE OF EFFORT.—A State shall use any amounts paid pursuant to subsection (a) to supplement and not to replace amounts spent by the State for the activities described in subsection (b).

TITLE V—BUDGET NEUTRALITY

SEC. 5001. ASSURANCE OF BUDGET NEUTRALITY.

Notwithstanding any other provision of this Act, no provision of, or amendment made by, this Act shall take effect until legislation is enacted which by its terms specifically provides for the Federal budget neutrality of this Act.

Mr. ROCKEFELLER. Mr. President, I am pleased to join the new Senate minority leader, TOM DASCHLE, along with Senator KENNEDY, REID, MIKULSKI, and DODD in sponsoring a health care bill that would begin to give millions of Americans improved health security.

While it should not come as a surprise to any of my colleagues that my preference would be to give all Americans guaranteed health care security, this bill includes important steps that will provide health security to some Americans through insurance reforms and, importantly, prioritizes health coverage for children and temporary assistance for workers in between jobs. S. 7 includes the essential building blocks for building a secure health care system.

Moving ahead on health care reform was identified by Senate Republicans as one of their top seven legislative priorities for the 104th Congress prior to last November's election. Each and every major provision in S. 7 was included in every serious health care reform proposal introduced by both Democrats and Republicans over the past 2 years. I believe this bill reflects the consensus that emerged last year on where and how to get started on reforming our health care system.

This past November voters did not tell Congress to put health care reform on the back burner. An election night survey found that health reform was identified by voters as a top priority issue for this Congress. According to the Kaiser/Harvard survey, ''health care was number one for voters in deciding who to vote for in the Congressional election, ahead of crime, and taxes.'' Fifty-six percent of voters said that Congress should take the lead in developing a health care reform plan. Only 20 percent of Americans said Congress should not try to see that more people have health insurance. Seventy-four percent said that Congress should either guarantee coverage for all

Americans or at least make a start by covering some groups who do not have health insurance. A majority of voters favored beginning with children first.

Mr. President, special interests and election year politics managed to greatly distort last year's debate on health care reform. As a result, many Americans are nervous about extremely ambitious reforms. But voters remain overwhelming in favor of moving ahead on health care. Only 25 percent of voters said Congress should leave our health care system alone.

If my colleagues on both sides of the aisle are truly interested in making a difference in the lives of middle-class Americans, if they are really interested in restoring peace of mind of millions of hard-working Americans, health reform is the way to do that.

Millions of middle-class working families would benefit from the insurance portability provisions in this bill that would allow them to change health insurance plans when they change jobs without having to qualify for a new pre-existing condition exclusion. For people with lapses in their insurance coverage, they would only to be a subject to a one-time 6 month preexisting condition exclusion period as long as they had continuous health coverage. For workers in between jobs, unable to afford health coverage, temporary health coverage would be available up to a maximum of 6 months. This would give millions of working families some piece of mind that they will not be forced to delay getting necessary medical care or being financially wiped out by even a minor injury or illness as they search for a new job.

This bill would ban insurance companies from canceling policies or hiking premiums when someone gets sick or injured and incurs large medical bills. Under current insurance practices, young and healthy people often get deep premium discounts. Discounts that quickly disappear over time or when they or a family member gets sick. There are also large differences in premium rates based on a person's age, sex, occupation, even based on a person's zip code. This bill would begin to set limits on how much premiums can differ based on these factors.

To minimize large swings in premiums during implementation of insurance rating reforms, this bill carefully and slowly phases-in its reforms. The prohibition on medical underwriting—which means charging people different premiums solely based on their health status—is phased-in over 3 years. At the same time, age bands are phased-in that would significantly narrow what insurance companies could charge people solely based on their age.

All but a few states have already moved ahead on small group insurance reforms but national uniformity is important so that insurance is portable for consumers across state lines and also to ease compliance by insurance companies that do business in more than one State. Forty percent of States have even adopted some version of community rating or modified community rating laws. While there has been some serious concerns raised about some erosion of insurance coverage that occurred when the state of New York implemented community rating, it is very important to note that New York implemented its community rating law without any sort of phase-in period.

Mr. President, I would like to emphasize to my colleagues that while coverage in the small group market in New York was estimated to have declined by 1.2 percent when community rating was implemented, the exact same percentage of people—1.2 percent—lost their health coverage the year prior to implementation of New York's rating reforms. Other states, such as Maine, New Jersey, and Vermont are experiencing net increases in coverage and other positive benefits from private insurance reform, such as a greater choice of products for small businesses to choose from.

Last year, a study commissioned by the Catholic Health Association, estimated that about 1.1 million people could gain coverage through insurance reforms. This mostly includes people who currently are locked out of the insurance market because of their medical history.

The reforms outlined in S. 7 would also provide predictability and stability to health premiums by limiting premium variability based on age, sex, health status, claims experience, occupation, and zip code. Cancer, a heart condition, or diabetes will no longer price working American families out of the insurance market.

Mr. President, I am especially pleased that this legislation emphasizes and prioritizes children. Looking out for America's children is nothing new. This imperative has been recognized time and time again. A bipartisan majority of Pepper Commission members said 5 years ago that the first step to comprehensive reform should be to cover children and pregnant women. I also had the profound privilege of chairing the National Commission on Children that made a similar recommendation. I introduced a bill with Senator HATCH, 4 years ago, to suggest this very idea.

It is incredibly important that children get early and regular health care. There is nothing more heartbreaking and more wrong about our country's health care system than putting parents in the position of trying to figure out whether or not they can afford to take a sick child to see a doctor.

Mr. President, of the 204,000 West Virginians that do not have health insurance one third are children. About 64,000 West Virginia children—about 94 percent of the uninsured children in my home state—would qualify for health insurance under this legislation.

Mr. President, I would also like to take a second to remind my colleagues that job-based coverage for children has diminished significantly over the past decade and a half. Two thirds of children without insurance have at least one parent who works full-time while another 13 percent have a parent who works part-time. Having a job is just not an assurance of reliable health insurance coverage.

The overall percentage of children with job-based insurance has dropped from 64 percent in 1987 to 59 percent in 1992—a decrease of 5 percent in just 6 years. Had coverage stayed at 1987 rates—more than 3 million children would have job-based coverage today. If current trends continue, only about half of our children will be covered by employer-sponsored coverage by 2000. If not for legislation enacted in the 1980's that expanded Medicaid coverage for poor children the number of uninsured children would be much, much higher today.

Mr. President, just 15 years ago, 40 percent of employers paid for dependent coverage in full. Five years ago, only about one-third of employers did. A decline in employer contributions means that many hardworking families just end up doing without because they can't afford the extra dollars themselves. This bill will help those families get health coverage for their children.

Not having health insurance reduces the number of times a child goes to the doctor. And not surprisingly, the frequency of doctor visits is directly correlated with a family's income. It is the low-wage working family making between $10,000 and $20,000 a year, barely able to make ends meet, whose children go to see a doctor least often. These are families who are not poor enough to qualify for Medicaid but can't afford private health insurance. Even routine pediatric care can consume 10 percent of a low wage working family's annual income.

Last year, the Finance Committee, on a bipartisan vote of 12–8, approved an amendment that would have accelerated and expanded coverage for children. Frankly, reforming our welfare system won't work unless we can make sure families won't be forced to quit their jobs in order to qualify for health benefits through the Medicaid program.

I am pleased that my colleague from rural South Dakota also included important rural health provisions in this legislation. Most of the provisions included in the rural health section are identical to measures included in a rural health amendment I authored along with Senator DASCHLE last August. Our rural health amendment was nearly unanimously agreed to when offered to pending health care reform legislation on the Senate floor. Again, reflecting an overwhelming consensus in this area.

I am also extremely pleased that this legislation will provide long awaited tax equity for self-employed individuals. Prior to January 1, 1994, the self-employed were allowed to deduct 25

percent of the costs of insuring themselves and their families. Since expiration of this law last year, the self-employed are prohibited from deducting any of their insurance premiums. This bill would allow the self-employed to deduct 100 percent of their health insurance costs. Currently, incorporated businesses can deduct the entire cost of their health insurance policies. This was also a priority identified 5 years ago by the Pepper Commission and a measure that has always enjoyed broad bipartisan support.

Mr. President, this legislation includes other important measures that have enjoyed popular and broad, bipartisan support, such as administrative simplification, patient confidentiality, malpractice reforms, and demonstration funding for the development of purchasing groups and telemedicine grants. I also share the commitment earlier stated by Minority Leader DASCHLE that this legislation if enacted would not contribute to the Federal deficit. As a member of the Finance Committee, I am committed to working on building a consensus for financing the coverage expansions for children, the temporarily unemployed, and tax equity for the self-employed outlined in this legislation.

I sincerely hope that the 104th Congress will truly be historic and be remembered for enacting serious and long overdue health reforms.

By Mr. DASCHLE (for himself, Mr. BREAUX, Ms. MIKULSKI, Mr. ROCKEFELLER, Mr. REID, Mr. KERRY, Mrs. MURRAY, Mr. DORGAN, Ms. MOSELEY-BRAUN, and Mr. ROBB):

S. 8. A bill to amend title IV of the Social Security Act to reduce teenage pregnancy, to encourage parental responsibility, and for other purposes; to the Committee on Finance.

TEEN PREGNANCY PREVENTION AND PARENTAL RESPONSIBILITY ACT

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

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

S. 8

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

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Teen Pregnancy Prevention and Parental Responsibility Act''.

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

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

TITLE I—ENDING THE CYCLE OF INTERGENERATIONAL DEPENDENCY

SEC. 101. SUPERVISED LIVING ARRANGEMENTS FOR MINORS.

(a) STATE PLAN REQUIREMENT.—Section 402(a)(43) (42 U.S.C. 602(a)(43)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''at the option of the State,'';

(2) in the matter preceding clause (i) of subparagraph (A), by striking ''subject to subparagraph (B)'' and inserting ''except as provided in subparagraph (B)(i)''; and

(3) in subparagraph (A)(i), by striking '', or reside in a foster home, maternity home, or other adult-supervised supportive living arrangement''.

(b) APPROPRIATE ADULT-SUPERVISED SUPPORTIVE LIVING ARRANGEMENTS.—Section 402(a)(43)(B) (42 U.S.C. 602(a)(43)(B)) is amended to read as follows:

''(B)(i) in the case of an individual described in clause (ii)—

''(I) the State agency shall assist such individual in locating an appropriate adult-supervised supportive living arrangement taking into consideration the needs and concerns of the individual, unless the State agency determines that the individual's current living arrangement is appropriate, and thereafter shall require that the individual (and child, if any) reside in such living arrangement as a condition of the continued receipt of aid under the plan (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate), or

''(II) if the State agency is unable, after making diligent efforts, to locate any such appropriate living arrangement, it shall provide for comprehensive case management, monitoring, and other social services consistent with the best interests of the individual (and child) while living independently; and

''(ii) for purposes of clause (i), an individual is described in this clause if—

''(I) such individual has no parent or legal guardian of his or her own who is living and whose whereabouts are known;

''(II) no living parent or legal guardian of such individual allows the individual to live in the home of such parent or guardian;

''(III) the State agency determines that the physical or emotional health of such individual or any dependent child of the individual would be jeopardized if such individual and such dependent child lived in the same residence with such individual's own parent or legal guardian; or

''(IV) the State agency otherwise determines (in accordance with regulations issued by the Secretary) that it is in the best interest of the dependent child to waive the requirement of subparagraph (A) with respect to such individual.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall be effective with respect to calendar quarters beginning on or after October 1, 1995.

(2) SPECIAL RULE.—In the case of a State that the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order to meet the additional requirements imposed by the amendments made by this Act, the State shall not be regarded as failing to comply with the requirements of such amendments before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of this paragraph, in the case of a State that has a 2-year legislative session, each year of the session shall be treated as a separate regular session of the State legislature.

SEC. 102. REINFORCING FAMILIES.

(a) IN GENERAL.—Title XX (42 U.S.C. 1397–1397e) is amended by adding at the end the following new section:

''SEC. 2008. ADULT-SUPERVISED GROUP HOMES.

''(a) ENTITLEMENT.—

''(1) IN GENERAL.—In addition to any payment under sections 2002 and 2007, beginning with fiscal year 1996, each State shall be entitled to funds under this section for each fiscal year for the establishment, operation, and support of adult-supervised group homes for custodial parents under the age of 19 and their children.

''(2) PAYMENT TO STATES.—

''(A) IN GENERAL.—Each State shall be entitled to payment under this section for each fiscal year in an amount equal to its allotment (determined in accordance with subsection (b)) for such fiscal year, to be used by such State for the purposes set forth in paragraph (1).

''(B) TRANSFERS OF FUNDS.—The Secretary shall make payments in accordance with section 6503 of title 31, United States Code, to each State from its allotment for use under this title.

''(C) USE.—Payments to a State from its allotment for any fiscal year must be expended by the State in such fiscal year or in the succeeding fiscal year.

''(D) TECHNICAL ASSISTANCE.—A State may use a portion of the amounts described in subparagraph (A) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, or administering the program funded under this section.

''(3) ADULT-SUPERVISED GROUP HOME.—For purposes of this section, the term 'adult-supervised group home' means an entity that provides custodial parents under the age of 19 and their children with a supportive and supervised living arrangement in which such parents would be required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children. An adult-supervised group home

may also serve as a network center for other supportive services that might be available in the community.

''(b) ALLOTMENT.—

''(1) CERTAIN JURISDICTIONS.—The allotment for any fiscal year to each of the jurisdictions of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands shall be an amount which bears the same ratio to the amount specified under paragraph (3) as the allotment that the jurisdiction receives under section 2003(a) for the fiscal year bears to the total amount specified for such fiscal year under section 2003(c).

''(2) OTHER STATES.—The allotment for any fiscal year for each State other than the jurisdictions of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands shall be an amount which bears the same ratio to—

''(A) the amount specified under paragraph (3), reduced by

''(B) the total amount allotted to those jurisdictions for that fiscal year under paragraph (1),

as the allotment that the State receives under section 2003(b) for the fiscal year bears to the total amount specified for such fiscal year under section 2003(c).

''(3) AMOUNT SPECIFIED.—The amount specified for purposes of paragraphs (1) and (2) shall be $95,000,000 for fiscal year 1996 and each subsequent fiscal year.

''(c) LOCAL INVOLVEMENT.—Each State shall seek local involvement from the community in any area in which an adult-supervised group home receiving funds pursuant to this section is to be established. In determining criteria for targeting funds received under this section, each State shall evaluate the community's commitment to the establishment and planning of the home.

''(d) LIMITATIONS ON THE USE OF FUNDS.—

''(1) CONSTRUCTION.—Except as provided in paragraph (2), funds made available under this section may not be used by the State, or any other person with which the State makes arrangements to carry out the purposes of this section, for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility.

''(2) WAIVER.—The Secretary may waive the limitation contained in paragraph (1) upon the State's request for such a waiver if the Secretary finds that the request describes extraordinary circumstances to justify the waiver and that permitting the waiver will contribute to the State's ability to carry out the purposes of this section.

''(e) TREATMENT OF INDIAN TRIBES.—

''(1) IN GENERAL.—An Indian tribe may apply to the Secretary to establish, operate, and support adult-supervised group homes for custodial parents under the age of 19 and their children in accordance with an application procedure to be determined by the Secretary. Except as otherwise provided in this subsection, the provisions of this section shall apply to Indian tribes receiving funds under this subsection in the same manner and to the same extent as the other provisions of this section apply to States.

''(2) ALLOTMENT.—If the Secretary approves an Indian tribe's application, the Secretary shall allot to such tribe for a fiscal year an amount which the Secretary determines is the Indian tribe's fair and equitable share of the amount specified under paragraph (3) for all Indian tribes with applications approved under this subsection (based on allotment factors to be determined by the Secretary). The Secretary shall determine a minimum allotment amount for all Indian tribes with applications approved under this subsection. Each Indian tribe with an application approved under this subsection shall be entitled to such minimum allotment.

''(3) AMOUNT SPECIFIED.—The amount specified under this paragraph for all Indian tribes with applications approved under this subsection is $5,000,000 for fiscal year 1996 and each subsequent fiscal year.

''(4) INDIAN TRIBE DEFINED.—For purposes of this section, the term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native entity which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians.''.

(b) RECEIPT OF PAYMENTS BY ADULT-SUPERVISED GROUP HOMES.—

(1) IN GENERAL.—Section 402(a)(43)(A)(ii) (42 U.S.C. 602(a)(43)(A)(ii)) is amended by striking ''or other adult relative'' and inserting ''other adult relative, or adult-supervised group home receiving funds under section 2008''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to calendar quarters beginning on or after October 1, 1995.

(c) RECOMMENDATIONS ON USAGE OF GOVERNMENT SURPLUS PROPERTY.—Not later than 6 months after the date of the enactment of this Act, after consultation with the Secretary of Defense, the Secretary of Housing and Urban Development, and the Administrator of the General Services Administration, the Secretary of Health and Human Services shall submit recommendations to the Congress on the extent to which surplus properties of the United States Government may be used for the establishment of adult-supervised group homes receiving funds under section 2008 of the Social Security Act.

SEC. 103. REQUIRED COMPLETION OF HIGH SCHOOL OR OTHER TRAINING FOR TEENAGE PARENTS.

(a) IN GENERAL.—Section 402(a)(19)(E) (42 U.S.C. 602(a)(19)(E)) is amended to read as follows:

''(E)(i) in the case of a custodial parent who has not attained 19 years of age, has not successfully completed a high-school education (or its equivalent), and is required to participate in the program (including an individual who would otherwise be exempt from participation in the program solely by reason of clauses (iii), (v), or (vii) of subparagraph (C)), the State agency shall—

''(I) require such parent to participate in—

''(aa) educational activities directed toward the attainment of a high school diploma or its equivalent on a full-time (as defined by the educational provider) basis; or

''(bb) an alternative educational or training program (that has been approved by the Secretary) on a full-time (as defined by the provider) basis; and

''(II) provide child care in accordance with section 402(g) with respect to the family;

''(ii)(I) to the extent that the program is available in the political subdivision involved and State resources otherwise permit, in the case of a custodial parent who is 19 years of age, has not successfully completed a high-school education (or its equivalent), and is required to participate in the program (including an individual who would otherwise be exempt from participation in the program solely by reason of subparagraph (C)(iii)), the State agency (subject to subclause (II)) shall require such parent to participate in an educational activity; and

''(II) the State agency may—

''(aa) require a parent described in subclause (I) (notwithstanding the part-time requirement in subparagraph (C)(iii)(II)) to participate in educational activities directed toward the attainment of a high school diploma or its equivalent on a full-time (as defined by the educational provider) basis; or

''(bb) require a parent described in subclause (I) to participate in training or work activities in lieu of the educational activities under such subclause if such parent fails to make good progress in successfully completing such educational activities or if it is determined (prior to any assignment of the individual to such educational activities) pursuant to an educational assessment that participation in such educational activities is inappropriate for such parent;''.

(b) STATE OPTION TO PROVIDE ADDITIONAL INCENTIVES AND PENALTIES TO ENCOURAGE TEEN PARENTS TO COMPLETE HIGH SCHOOL AND PARTICIPATE IN PARENTING ACTIVITIES.—

(1) STATE PLAN.—Section 402(a)(19)(E) (42 U.S.C. 602(a)(19)(E)), as amended by subsection (a), is further amended—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' after the semicolon at the end of clause (ii); and

(C) by adding after clause (ii) the following new clause:

''(iii) at the option of the State, some or all custodial parents and pregnant women who have not attained 19 years of age (or at the State's option, 21 years of age) and who are receiving aid under this part shall be required to participate in a program of monetary incentives and penalties, consistent with subsection (j);''.

(2) ELEMENTS OF PROGRAM.—Section 402 (42 U.S.C. 602) is amended by adding at the end the following new subsection:

''(j)(1) If a State opts to conduct a program of monetary incentives and penalties to encourage custodial parents and pregnant women who have not attained 19 years of age (or at the State's option, 21 years of age) to complete their high school (or equivalent) education and participate in parenting activities, the State shall amend its State plan—

''(A) to specify the one or more political subdivisions (or other clearly defined geographic area or areas) in which the State will conduct the program, and

''(B) to describe its program in detail.

''(2) A program under this subsection—

''(A) may, at the option of the State, require full-time participation by such custodial parents and pregnant women in secondary school or equivalent educational activities, or participation in a course or program leading to a skills certificate found appropriate by the State agency or parenting education activities (or any combination of such activities and secondary education);

''(B) shall require that the needs of such custodial parents and pregnant women shall be reviewed and the program will assure that, either in the initial development or revision of such individual's employability plan, there will be included a description of the services that will be provided to the individual and the way in which the program and service providers will coordinate with the educational or skills training activities in which the individual is participating;

''(C) shall provide monetary incentives for more than minimally acceptable performance of required educational activities; and

''(D) shall provide penalties (which may be those required by subsection (a)(19)(G) or, with the approval of the Secretary, other monetary penalties that the State finds will better achieve the objectives of the program) for less than minimally acceptable performance of required activities.

''(3) When a monetary incentive is payable because of the more than minimally acceptable performance of required educational activities by a custodial parent, the incentive

shall be paid directly to such parent, regardless of whether the State agency makes payment of aid under the State plan directly to such parent.

''(4)(A) For purposes of this part, monetary incentives paid under this subsection shall be considered aid to families with dependent children.

''(B) For purposes of any other Federal or federally-assisted program based on need, no monetary incentive paid under this subsection shall be considered income in determining a family's eligibility for or amount of benefits under such program, and if aid is reduced by reason of a penalty under this subsection, such other program shall treat the family involved as if no such penalty has been applied.

''(5) The State agency shall from time to time provide such information with respect to the State operation of the program as the Secretary may request.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall be effective with respect to calendar quarters beginning on or after October 1, 1995.

(2) SPECIAL RULE.—In the case of a State that the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order to meet the additional requirements imposed by the amendments made by this Act, the State shall not be regarded as failing to comply with the requirements of such amendments before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of this paragraph, in the case of a State that has a 2-year legislative session, each year of the session shall be treated as a separate regular session of the State legislature.

SEC. 104. DRUG TREATMENT AND COUNSELING AS PART OF THE JOBS PROGRAM.

(a) IN GENERAL.—Section 402(a)(19) (42 U.S.C. 602(a)(19)) is amended—

(1) by striking ''and'' at the end of subparagraph (G);

(2) by inserting ''and'' after the semicolon at the end of subparagraph (H);

(3) by adding after subparagraph (H), the following new subparagraph:

''(I) that, in the case of a custodial parent who has not attained 19 years of age (including an individual who would otherwise be exempt from participation in the program solely by reason of clauses (iii), (v), or (vii)) of subparagraph (C)), whose employability plan (described in section 482(b)) reflects the need for treatment for substance abuse, the State agency shall—

''(i) require such individual to participate in substance abuse treatment; and

''(ii) notwithstanding any other provision of law, after providing an individual required to participate in treatment under this subparagraph with proper notice, make the provisions of section 402(a)(19)(G) applicable to any individual who fails or refuses to accept such treatment;''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall be effective with respect to calendar quarters beginning on or after October 1, 1995.

(2) SPECIAL RULE.—In the case of a State that the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order to meet the additional requirements imposed by the amendments made by this Act, the State shall not be regarded as failing to comply with the requirements of such amendments before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of this paragraph, in the case of a State that has a 2-year legislative session, each year of the session shall be treated as a separate regular session of the State legislature.

TITLE II—PARENTAL RESPONSIBILITY

SEC. 201. PERFORMANCE-BASED INCENTIVES.

(a) INCENTIVE ADJUSTMENTS TO FEDERAL MATCHING RATE.—

(1) IN GENERAL.—Title IV (42 U.S.C. 601 et seq.) is amended by inserting after section 458 the following new section:

''INCENTIVE ADJUSTMENTS TO MATCHING RATE FOR STATEWIDE PATERNITY ESTABLISHMENT

''SEC. 458A. (a) INCENTIVE ADJUSTMENT.—

''(1) IN GENERAL.—In order to encourage and reward State paternity establishment efforts, the Federal matching rate for payments to a State under section 455(a)(1)(A), for each fiscal year beginning on or after October 1, 1997, shall be increased by a factor reflecting the incentive adjustment (if any) determined in accordance with paragraph (2) with respect to the Statewide paternity establishment percentage.

''(2) STANDARDS.—The Secretary shall establish in regulations—

''(A) the levels of accomplishment, and rates of improvement as alternatives to such levels, with respect to the Statewide paternity establishment percentages which States must attain to qualify for an incentive adjustment under this section; and

''(B) the amounts of incentive adjustment that shall be awarded to States achieving specified accomplishment or improvement levels with respect to Statewide paternity establishment percentages, which amounts shall be graduated, ranging up to 5 percentage points, in connection with the State's Statewide paternity establishment percentage.

''(3) DETERMINATION OF INCENTIVE ADJUSTMENT.—The Secretary shall, pursuant to regulations, determine the amount (if any) of incentive adjustment due each State on the basis of the levels of accomplishment (and rates of improvement) with respect to performance indicators specified by the Secretary pursuant to this section.

''(4) FISCAL YEAR SUBJECT TO INCENTIVE ADJUSTMENT.—The total percentage point increase determined pursuant to this section with respect to a State program in a fiscal year shall apply as an adjustment to the applicable percent under section 455(a)(2) for payments to such State for the succeeding fiscal year.

''(b) STATEWIDE PATERNITY ESTABLISHMENT PERCENTAGE.—For purposes of this section, the term 'Statewide paternity establishment percentage' means, with respect to a fiscal year, the ratio (expressed as a percentage) of—

''(1) the total number of out-of-wedlock children in the State under one year of age for whom paternity is established or acknowledged during the fiscal year, to

''(2) the total number of children born out-of-wedlock in the State during such fiscal year.''.

(2) TITLE IV–D PAYMENT ADJUSTMENT.—Section 455(a)(2) (42 U.S.C. 655(a)(2)) is amended—

(A) by striking the period at the end of subparagraph (C) and inserting a comma; and

(B) by adding after subparagraph (C) the following:

''increased by the incentive adjustment factor (if any) determined by the Secretary pursuant to section 458A.''.

(3) CONFORMING AMENDMENTS.—Section 454(22) (42 U.S.C. 654(22)) is amended—

(A) by inserting ''or incentive adjustments under section 458A'' after ''section 458''; and

(B) by inserting ''or any increases in Federal payments to the State resulting from such incentive adjustments'' after ''any such incentive payments''.

(b) FEDERAL FINANCIAL PARTICIPATION FOR ALL PATERNITY ESTABLISHMENT SERVICES.—

(1) IN GENERAL.—Section 455(a)(1) (42 U.S.C. 655(a)(1)) is amended by adding at the end the following: ''In determining the total amounts expended by any State during a quarter, for purposes of this subsection, there shall be included any amounts expended for paternity determination services made available to any individual who did not file an application in accordance with section 454(6).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective with respect to calendar quarters beginning on or after October 1, 1995.

SEC. 202. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

(a) IN GENERAL.—Section 466(a) (42 U.S.C. 666(a)) is amended by adding at the end the following new paragraph:

''(12) AUTHORITY TO WITHHOLD OR SUSPEND LICENSES.—Procedures under which the State has (and uses in appropriate cases) authority (subject to appropriate due process safeguards) to withhold or suspend, or to restrict the use of driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue child support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall be effective with respect to calendar quarters beginning on or after October 1, 1995.

(2) SPECIAL RULE.—In the case of a State that the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order to meet the additional requirements imposed by the amendments made by this Act, the State shall not be regarded as failing to comply with the requirements of such amendments before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of this paragraph, in the case of a State that has a 2-year legislative session, each year of the session shall be treated as a separate regular session of the State legislature.

SEC. 203. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) (42 U.S.C. 666(a)(5)) is amended—

(1) by striking ''(5)'' and inserting ''(5) PROCEDURES CONCERNING PATERNITY ESTABLISHMENT.—'';

(2) in subparagraph (A)—

(A) by striking ''(A)'' and inserting ''(A) ESTABLISHMENT PROCESS AVAILABLE FROM BEFORE BIRTH UNTIL AGE 18.—'';

(B) by moving clause (ii) 2 ems to the right; and

(C) by adding after clause (ii) the following new clause:

''(iii) Procedures which permit the initiation of proceedings to establish paternity before the birth of the child concerned.'';

(3) in subparagraph (B)—

(A) by striking ''(B)'' and inserting ''(B) PROCEDURES CONCERNING GENETIC TESTING.—(i)'';

(B) in clause (i), as redesignated, by inserting '', where such request is supported by a sworn statement by such party setting forth

facts establishing a reasonable possibility of the requisite sexual contact'' before the period at the end;

(C) by inserting after clause (i), as so redesignated, the following new clause:

''(ii) Procedures which require the State agency, in any case in which such agency orders genetic testing—

''(I) to pay costs of such tests, subject to recoupment (where the State so elects) from the putative father if paternity is established; and

''(II) to obtain additional testing in any case where an original test result is disputed, upon request and advance payment by the disputing party.'';

(4) by striking subparagraph (C) and inserting:

''(C) VOLUNTARY ACKNOWLEDGMENT PROCEDURE.—Procedures for a simple civil process for voluntarily acknowledging paternity under which—

''(i) the benefits, rights, and responsibilities of acknowledging paternity are explained to unwed parents;

''(ii) due process safeguards are afforded; and

''(iii) hospitals and other health care facilities providing inpatient or outpatient maternity and pediatric services are required, as a condition of participation in the State program under title XIX—

''(I) to explain to unwed parents the matters specified in clause (i);

''(II) to make available the voluntary acknowledgment procedure required under this subparagraph; and

''(III) in the case of hospitals providing maternity services—

''(aa) to have facilities for obtaining blood or other genetic samples from the mother, putative father, and child for genetic testing;

''(bb) to inform the mother and putative father of the availability of such testing (at their expense); and

''(cc) to obtain such samples upon request of both such individuals;'';

(5) by striking subparagraphs (D) and (E) and inserting:

''(D) LEGAL STATUS OF ACKNOWLEDGMENT.—Procedures under which—

''(i) a voluntary acknowledgment of paternity creates, at State option, either—

''(I) a conclusive presumption of paternity, or

''(II) a rebuttable presumption which becomes a conclusive presumption within one year, unless rebutted or invalidated by an intervening determination which reaches a contrary conclusion;

''(ii) at the option of the State, notwithstanding clause (i), upon the request of a party, a determination of paternity based on an acknowledgment may be vacated on the basis of new evidence, the existence of fraud, or the best interests of the child; and

''(iii) a voluntary acknowledgment of paternity is admissible as evidence of paternity, and as a basis for seeking a support order, without requiring any further proceedings to establish paternity.

''(E) BAR ON ACKNOWLEDGMENT RATIFICATION PROCEEDINGS.—Procedures under which no judicial or administrative proceedings are required or permitted to ratify an unchallenged acknowledgment of paternity.'';

(6) by striking subparagraph (F) and inserting:

''(F) ADMISSIBILITY OF GENETIC TESTING RESULTS.—Procedures—

''(i) requiring that the State admit into evidence, for purposes of establishing paternity, results of any genetic test that is—

''(I) of a type generally acknowledged, by accreditation bodies designated by the Secretary, as reliable evidence of paternity; and

''(II) performed by a laboratory approved by such an accreditation body;

''(ii) providing that any objection to genetic testing results must be made in writing not later than a specified number of days before any hearing at which such results may be introduced into evidence (or, at the option of the State, not later than a specified number of days after receipt of such results); and

''(iii) providing that, if no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.''; and

(7) by adding after subparagraph (H) the following new subparagraphs:

''(I) TEMPORARY SUPPORT ORDER BASED ON PROBABLE PATERNITY IN CONTESTED CASES.—Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, where there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

''(J) PROOF OF CERTAIN SUPPORT AND PATERNITY ESTABLISHMENT COSTS.—Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and constitute prima facie evidence of amounts incurred for such services and testing on behalf of the child.

''(K) WAIVER OF STATE DEBTS FOR COOPERATION.—Procedures under which the tribunal establishing paternity and support has discretion to waive rights to all or part of amounts owed to the State (but not to the mother) for costs related to pregnancy, childbirth, and genetic testing and for public assistance paid to the family where the father cooperates or acknowledges paternity before or after genetic testing.

''(L) STANDING OF PUTATIVE FATHERS.—Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.''.

(b) TECHNICAL AMENDMENT.—Section 468 (42 U.S.C. 668) is amended by striking ''a simple civil process for voluntarily acknowledging paternity and''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall be effective with respect to calendar quarters beginning on or after October 1, 1996.

(2) SPECIAL RULE.—In the case of a State that the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order to meet the additional requirements imposed by the amendments made by this Act, the State shall not be regarded as failing to comply with the requirements of such amendments before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of this paragraph, in the case of a State that has a 2-year legislative session, each year of the session shall be treated as a separate regular session of the State legislature.

SEC. 204. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466 (42 U.S.C. 666) is amended—

(1) in subsection (a)(2), by striking the first sentence and inserting: ''Expedited administrative and judicial procedures (including the procedures specified in subsection (f)) for establishing paternity and for establishing, modifying, and enforcing support obligations.''; and

(2) by adding after subsection (e) the following new subsection:

''(f) EXPEDITED PROCEDURES.—(1) ADMINISTRATIVE ACTION BY STATE AGENCY.—Procedures which give the State agency the authority (and recognize and enforce the authority of State agencies of other States), without the necessity of obtaining an order from any other judicial or administrative tribunal (but subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal), to take the following actions relating to establishment or enforcement of orders:

''(A) ESTABLISH AND MODIFY SUPPORT AMOUNT.—To establish and modify the amount of support awards in all cases in which services are being provided under this part.

''(B) GENETIC TESTING.—To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).

''(C) DEFAULT ORDERS.—To enter a default order, upon a showing of service of process and any additional showing required by State law—

''(i) establishing paternity, in the case of any putative father who refuses to submit to genetic testing; and

''(ii) establishing or modifying a support obligation, in the case of a parent (or other obligor or obligee) who fails to respond to notice to appear at a proceeding for such purpose.

''(D) SUBPOENAS.—To subpoena any financial or other information needed to establish, modify, or enforce an order, and to sanction failure to respond to any such subpoena.

''(E) ACCESS TO PERSONAL AND FINANCIAL INFORMATION.—To obtain access, subject to safeguards on privacy and information security, to the following records (including automated access, in the case of records maintained in automated data bases):

''(i) Records of other State and local government agencies, including—

''(I) vital statistics (including records of marriage, birth, and divorce);

''(II) State and local tax and revenue records (including information on residence address, employer, income and assets);

''(III) records concerning real and titled personal property;

''(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

''(V) employment security records;

''(VI) records of agencies administering public assistance programs;

''(VII) records of the motor vehicle department; and

''(VIII) corrections records.

''(ii) Certain records held by private entities, including—

''(I) customer records of public utilities and cable television companies; and

''(II) information (including information on assets and liabilities) on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought) held by financial institutions (subject to limitations on liability of such entities arising from affording such access).

''(F) INCOME WITHHOLDING.—To order income withholding in accordance with section 466(a)(1) and (b).

''(G) CHANGE IN PAYEE.—In cases where support is subject to an assignment under section 402(a)(26), 471(a)(17), or 1912.

''(H) SECURE ASSETS TO SATISFY ARREARAGES.—For the purpose of securing overdue support—

''(i) to intercept and seize any periodic or lump-sum payment to the obligor by or through a State or local government agency, including—

''(I) unemployment compensation, workers' compensation, and other benefits;

''(II) judgments and settlements in cases under the jurisdiction of the State or local government; and

''(III) lottery winnings;

''(ii) to attach and seize assets of the obligor held by financial institutions;

''(iii) to attach public and private retirement funds in appropriate cases, as determined by the Secretary; and

''(iv) to impose liens in accordance with subsection (a)(4) and, in appropriate cases, to force sale of property and distribution of proceeds.

''(I) INCREASE MONTHLY PAYMENTS.—For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages (subject to such conditions or restrictions as the State may provide).

''(J) SUSPENSION OF DRIVERS' LICENSES.—To suspend drivers' licenses of individuals owing past-due support, in accordance with subsection (a)(12).

''(2) SUBSTANTIVE AND PROCEDURAL RULES.—The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all proceedings to establish paternity or to establish, modify, or enforce support orders:

''(A) LOCATOR INFORMATION; PRESUMPTIONS CONCERNING NOTICE.—Procedures under which—

''(i) the parties to any paternity or child support proceedings are required (subject to privacy safeguards) to file with the tribunal before entry of an order, and to update as appropriate, information on location and identity (including social security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and telephone number of employer); and

''(ii) in any subsequent child support enforcement action between the same parties, the tribunal shall be authorized, upon sufficient showing that a diligent effort has been made to ascertain such a party's current location, to deem due process requirements for notice and service of process to be met, with respect to such party, by delivery to the most recent residential or employer address so filed pursuant to clause (i).

''(B) STATEWIDE JURISDICTION.—Procedures under which—

''(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties, and orders issued in such cases have statewide effect; and

''(ii) in the case of a State in which orders in such cases are issued by local jurisdictions, a case may be transferred between jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.''.

(c) EXEMPTIONS FROM STATE LAW REQUIREMENTS.—Section 466(d) (42 U.S.C. 666(d)) is amended—

(1) by striking ''(d) If'' and inserting ''(d) EXEMPTIONS FROM REQUIREMENTS.—(1) IN GENERAL.—Subject to paragraph (2), if''; and

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

''(2) NONEXEMPT REQUIREMENTS.—The Secretary shall not grant an exemption from the requirements of—

''(A) subsection (a)(5) (concerning procedures for paternity establishment);

''(B) subsection (a)(10) (concerning modification of orders);

''(C) subsection (f) (concerning expedited procedures), other than paragraph (1)(A) thereof (concerning establishment or modification of support amount).''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsections (a), (b), and (c) shall be effective with respect to calendar quarters beginning on or after October 1, 1995.

(2) SPECIAL RULE.—In the case of a State that the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order to meet the additional requirements imposed by the amendments made by this Act, the State shall not be regarded as failing to comply with the requirements of such amendments before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of this paragraph, in the case of a State that has a 2-year legislative session, each year of the session shall be treated as a separate regular session of the State legislature.

SEC. 205. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

(a) STATE PLAN REQUIREMENT.—

(1) IN GENERAL.—Section 454(23) (42 U.S.C. 654(23)) is amended—

(A) by inserting ''(A)'' after ''(23)'';

(B) by adding after subparagraph (A), as so redesignated, the following new subparagraph:

''(B) provide that the State will regularly and frequently publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support through a variety of means, which—

''(i) may include distribution of written materials at health care facilities (including hospitals and clinics), and other locations such as schools;

''(ii) may include prenatal programs to educate expectant couples on individual and joint rights and responsibilities with respect to paternity (and may require all expectant recipients of assistance under part A to participate in such prenatal programs, as an element of cooperation with efforts to establish paternity and child support);

''(iii) may include, with respect to each child discharged from a hospital after birth for whom paternity or child support has not been established, reasonable follow up efforts (including at least one contact of each parent whose whereabouts are known, except where there is reason to believe such follow up efforts would put mother or child at risk), providing—

''(I) in the case of a child for whom paternity has not been established, information on the benefits of and procedures for establishing paternity; and

''(II) in the case of a child for whom paternity has been established but child support has not been established, information on the benefits of and procedures for establishing a child support order, and an application for child support services; and''.

(2) ENHANCED FEDERAL MATCHING.—Section 455(a)(1)(C) (42 U.S.C. 655(a)(1)(C)) is amended—

(A) by inserting ''(i)'' before ''laboratory costs'', and

(B) by inserting before the semicolon '', and (ii) costs of outreach programs designed to encourage voluntary acknowledgment of paternity''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by paragraph (1) shall become effective October 1, 1996.

(B) ENHANCED MATCH.—The amendments made by paragraph (2) shall be effective with respect to calendar quarters beginning on and after October 1, 1995.

(b) STATE OUTREACH AS PART OF VOLUNTARY CONSENT PROCEDURES.—

(1) IN GENERAL.—Section 466(a)(5)(C) (42 U.S.C. 666(a)(5)(C)), as amended by section 303(a)(4), is further amended—

(A) by striking ''and'' at the end of clause (ii); and

(B) by inserting after clause (iii) the following new clause:

''(iv) in coordination with the Public Health Service, the State shall directly or under contract with hospitals, and other health care facilities providing inpatient or outpatient maternity and pediatric services (including prenatal clinics, well-baby clinics, in-home public health service visitations, family planning clinics, and centers participating in the program described in section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786)) provide that the benefits, rights and responsibilities of acknowledging paternity are explained to unwed parents; and''.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by paragraph (1) shall be effective with respect to calendar quarters beginning on or after October 1, 1995.

(B) SPECIAL RULE.—In the case of a State that the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order to meet the additional requirements imposed by the amendments made by this Act, the State shall not be regarded as failing to comply with the requirements of such amendments before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of this paragraph, in the case of a State that has a 2-year legislative session, each year of the session shall be treated as a separate regular session of the State legislature.

(c) JOINT OUTREACH PROGRAM.—

(1) IN GENERAL.—The Department of Health and Human Services, the Public Health Service, and the Department of Education shall cooperatively develop and implement a substantial outreach program and media campaign to—

(A) reinforce the importance of paternity establishment; and

(B) promote the message that parenting is a joint right and responsibility.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection.

TITLE III—COMBATING TEENAGE PREGNANCY

SEC. 301. TARGETING YOUTH AT RISK OF TEENAGE PREGNANCY.

(a) IN GENERAL.—Section 402 (42 U.S.C. 602), as amended by section 103(b)(2), is further amended by adding at the end the following new subsection:

''(k)(1) Each State agency may, to the extent it determines resources are available, provide for the operation of projects to reduce teenage pregnancy. Such projects shall be operated by eligible entities that have submitted applications described in paragraph (3) that have been approved in accordance with paragraph (4).

''(2) For purposes of this subsection, the term 'eligible entity' includes State agencies, local agencies, publicly supported organizations, private nonprofit organizations, and consortia of such entities.

''(3) An application described in this paragraph shall—

''(A) describe the project;

''(B) include an endorsement of the project by the chief elected official of the jurisdiction in which the project is to be located;

''(C) demonstrate strong local commitment and local involvement in the planning and implementation of the project; and

''(D) be submitted in such manner and containing such information as the Secretary may require.

''(4)(A) Subject to subparagraph (B), the Governor of a State may approve an application under this paragraph based on selection criteria (to be determined by the Governor).

''(B) Preference in approving a project shall be accorded to be projects that target—

''(i) both young men and women;

''(ii) areas with high teenage pregnancy rates; or

''(iii) areas with a high incidence of individuals receiving aid to families with dependent children.

''(5)(A) An Indian tribe may apply to the Secretary to provide for the operation of projects to reduce teenage pregnancy in accordance with an application procedure to be determined by the Secretary. Except as otherwise provided in this subsection, the provisions of this section shall apply to Indian tribes receiving funds under this subsection in the same manner and to the same extent as the other provisions of this section apply to States.

''(B) The Secretary shall limit the number of applications approved under this paragraph to ensure that payments under section 403(o) to Indian tribes with approved applications would not result in payments of less than a minimum payment amount (to be determined by the Secretary).

''(C) For purposes of this subsection, the term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native entity which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians.''.

''(6) A project conducted under this subsection shall be conducted for not less than 3 years.

''(7)(A) The Secretary shall conduct a study in accordance with subparagraph (B) to determine the relative effectiveness of the different approaches for preventing teenage pregnancy utilized in the projects conducted under this subsection.

''(B) The study required under subparagraph (A) shall—

''(i) be based on data gathered from projects conducted in 5 States chosen by the Secretary from among the States in which projects under this subsection are operated;

''(ii) use specific outcome measures (determined by the Secretary) to test the effectiveness of the projects;

''(iii) use experimental and control groups (to the extent possible) that are composed of a random sample of participants in the projects; and

''(iv) be conducted in accordance with an experimental design determined by the Secretary to result in a comparable design among all projects.

''(C) Each eligible entity conducting a project under this subsection shall provide to the Secretary in such form and with such frequency as the Secretary requires interim data from the projects conducted under this subsection. The Secretary shall report to the Congress annually on the progress of such projects and shall, not later than January 1, 2003, submit to the Congress the study required under subparagraph (A).

''(D) There are authorized to be appropriated $500,000 for each of fiscal years 1996 through 2002 for the purpose of conducting the study required under subparagraph (A).''.

(b) PAYMENT.—Section 403 (42 U.S.C. 603) is amended by adding at the end the following new subsection:

''(o)(1) In addition to any payment under subsection (a) or (*l*), each State shall be entitled to payment from the Secretary for each of fiscal years 1996 through 2002 of an amount equal to the lesser of—

''(A) 75 percent of the expenditures by the State in providing for the operation of the projects under section 402(k), and in administering the projects under such section; or

''(B) the limitation determined under paragraph (2) with respect to the State for the fiscal year.

''(2)(A) The limitation determined under this paragraph with respect to a State for any fiscal year is the amount that bears the same ratio to $71,250,000 as the population with an income below the poverty line (as such term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section) in the State in the second preceding fiscal year bears to such population residing in the United States in the second preceding fiscal year.

''(B) If the limitation determined under subparagraph (A) with respect to a State for a fiscal year exceeds the amount paid to the State under this subsection for the fiscal year, the limitation determined under this paragraph with respect to the State for the immediately succeeding fiscal year shall be increased by the amount of such excess.

''(3)(A) Notwithstanding any other provision of this title, for purposes of this subsection, an Indian tribe with an application approved under section 402(k)(5) shall be entitled to payment from the Secretary for each of fiscal years 1996 through 2002 of an amount equal to the lesser of—

''(i) 75 percent of the expenditures by the Indian tribe in providing for the operation of the projects under section 402(k)(5), and in administering the projects under such section; or

''(ii) the limitation determined under subparagraph (B) with respect to the Indian tribe for the fiscal year.

''(B)(i) The limitation determined under this subparagraph with respect to an Indian tribe for any fiscal year is the amount that bears the same ratio to $3,750,000 as the population with an income below the poverty line (as such term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section) in the Indian tribe in the second preceding fiscal year bears to such population of all Indian tribes with applications approved under section 402(k)(5) in the second preceding fiscal year.

''(ii) If the limitation determined under clause (i) with respect to an Indian tribe for a fiscal year exceeds the amount paid to the Indian tribe under this paragraph for the fiscal year, the limitation determined under this subparagraph with respect to the Indian tribe for the immediately succeeding fiscal year shall be increased by the amount of such excess.''

''(4) Amounts appropriated for a fiscal year to carry out this part shall be made available for payments under this subsection for such fiscal year.''.

SEC. 302. NATIONAL CLEARINGHOUSE ON TEENAGE PREGNANCY.

(a) ESTABLISHMENT.—The Secretary of Education, the Secretary of Health and Human Services, and the Chief Executive Officer of the Corporation for National and Community Service shall establish a national center for the collection and provision of information that relates to adolescent pregnancy prevention programs, to be known as the ''National Clearinghouse on Teenage Pregnancy Prevention Programs''.

(b) FUNCTIONS.—The national center established under subsection (a) shall serve as a national information and data clearinghouse, and as a material development source for adolescent pregnancy prevention programs. Such center shall—

(1) develop and maintain a system for disseminating information on all types of adolescent pregnancy prevention programs and on the state of adolescent pregnancy prevention program development, including information concerning the most effective model programs;

(2) identify model programs representing the various types of adolescent pregnancy prevention programs;

(3) develop networks of adolescent pregnancy prevention programs for the purpose of sharing and disseminating information;

(4) develop technical assistance materials to assist other entities in establishing and improving adolescent pregnancy prevention programs;

(5) participate in activities designed to encourage and enhance public media campaigns on the issue of adolescent pregnancy; and

(6) conduct such other activities as the responsible Federal officials find will assist in developing and carrying out programs or activities to reduce adolescent pregnancy.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

TITLE IV—FINANCING

SEC. 401. UNIFORM ALIEN ELIGIBILITY CRITERIA FOR PUBLIC ASSISTANCE PROGRAMS.

(a) FEDERAL AND FEDERALLY-ASSISTED PROGRAMS.—

(1) PROGRAM ELIGIBILITY CRITERIA.—

(A) AID TO FAMILIES WITH DEPENDENT CHILDREN.—Section 402(a)(33) (42 U.S.C. 602(a)(33)) is amended—

(i) by striking ''either'' and inserting ''either—''; and

(ii) by striking ''(A) a citizen'' and all that follows through the semicolon and inserting the following:

''(A) a citizen or national of the United States, or

''(B) a qualified alien (as defined in section 1101(a)(10)), if such alien is not disqualified from receiving aid under a State plan approved under this part by or pursuant to section 210(f) or 245A(h) of the Immigration and Nationality Act or any other provision of law;''.

(B) SUPPLEMENTAL SECURITY INCOME.—Section 1614(a)(1)(B)(i) (42 U.S.C. 1382c(a)(1)(B)(i)) is amended to read as follows:

''(B)(i) is a resident of the United States, and is either (I) a citizen or national of the United States, or (II) a qualified alien (as defined in section 1101(a)(10)), or''.

(C) MEDICAID—(i) Section 1903(v)(1) (42 U.S.C. 1396b(v)(1)) is amended to read as follows:

''(v)(1) Notwithstanding the preceding provisions of this section—

''(A) no payment may be made to a State under this section for medical assistance furnished to an individual who is disqualified from receiving such assistance by or pursuant to section 210(f) or 245A(h) of the Immigration and Nationality Act or any other provision of law, and

''(B) except as provided in paragraph (2), no such payment may be made for medical assistance furnished to an individual who is not—

''(i) a citizen or national of the United States, or

''(ii) a qualified alien (as defined in section 1101(a)(10)).''.

(ii) Section 1903(v)(2) (42 U.S.C. 1396b(v)(2)) is amended—

(I) by striking ''paragraph (1)'' and inserting ''paragraph (1)(B)''; and

(II) by striking ''alien'' each place it appears and inserting ''individual''.

(iii) Section 1902(a) (42 U.S.C. 1396a(a)) is amended in the last sentence by striking ''alien'' and all that follows through the period and inserting ''individual who is not (A) a citizen or national of the United States, or (B) a qualified alien (as defined in section 1101(a)(10)) only in accordance with section 1903(v).''.

(iv) Section 1902(b)(3) (42 U.S.C. 1396a(b)(3)) is amended by inserting ''or national'' after ''citizen''.

(2) QUALIFIED ALIEN DEFINED.—Section 1101(a) (42 U.S.C. 1301(a)) is amended by adding at the end the following new paragraph:

''(10) The term 'qualified alien' means an alien—

''(A) who is lawfully admitted for permanent residence within the meaning of section 101(a)(20) of the Immigration and Nationality Act;

''(B) who is admitted as a refugee pursuant to section 207 of such Act;

''(C) who is granted asylum pursuant to section 208 of such Act;

''(D) whose deportation is withheld pursuant to section 243(h) of such Act;

''(E) whose deportation is suspended pursuant to section 244 of such Act;

''(F) who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980;

''(G) who is lawfully admitted for temporary residence pursuant to section 210 or 245A of such Act;

''(H) who is within a class of aliens lawfully present within the United States pursuant to any other provision of such Act, if—

''(i) the Attorney General determines that the continued presence of such class of aliens serves a humanitarian or other compelling public interest, and

''(ii) the Secretary of Health and Human Services determines that such interest would be further served by treating each alien within such class as a 'qualified alien' for purposes of this Act; or

''(I) who is the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such a citizen if the citizen is 21 years of age or older, and with respect to whom an application for adjustment to lawful permanent residence is pending;

such status not having changed.''.

(3) CONFORMING AMENDMENT.—Section 244A(f)(1) of the Immigration and Nationality Act (8 U.S.C. 1254(a)(f)(1)) is amended by inserting ''and shall not be considered to be a 'qualified alien' within the meaning of section 1101(a)(10) of the Social Security Act'' before the semicolon at the end.

(b) STATE AND LOCAL PROGRAMS.—A State or political subdivision therein may provide that an alien is not eligible for any program of assistance based on need that is furnished by such State or political subdivision unless such alien is a ''qualified alien'' within the meaning of section 1101(a)(10) of the Social Security Act (as added by subsection (a)(2) of this section).

(c) EFFECTIVE DATE.—(1) The amendments made by subsection (a) are effective with respect to benefits payable on the basis of any application filed after the date of enactment of this Act.

(2) Subsection (b) is effective upon the date of enactment of this Act.

SEC. 402. STATE RETENTION OF AMOUNTS RECOVERED.

Section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended in the proviso of the first sentence by striking ''1995'' each place such term appears and inserting ''2004''.

Mr. ROCKEFELLER. Mr. President, for years, as Governor of West Virginia and as a U.S. Senator, I have advocated changes to our welfare system so that it promotes work and responsibility. I am proud to continue these efforts by joining Senator DASCHLE and other colleagues in sponsoring S. 8, the Teen Pregnancy Prevention and Parent Responsibility Act.

This legislation is an essential step that builds on the Family Support Act of 1988 in reforming our welfare system. It emphasizes parental responsibility and makes real reforms designed to address the issues of teen pregnancy. As noted in the final report of the bipartisan National Commission on Children, unmarried teenage mothers often lack the maturity, economic means, and parenting skills to care for themselves and their children.

For West Virginia, this issue is of major importance. According to the 1993 West Virginia Kids Count, births to unmarried teens has increased by 60 percent between 1980 and 1991 in my State. The percentage of births to unwed teen parents is tragically a predictor of economic hardship for both mother and child. This trend must be reversed for the sake of teens, children, and our future.

This bill boldly confronts this concern by requiring unwed mothers under the age of 18 to live with an adult family member or in a supervised group home in order to receive Federal Aid to Families with Dependent Children [AFDC]. Unwed teen mothers would also be required to stay in school and complete their high school education in order to receive benefits. If substance abuse is a problem, unwed teen mothers would have to seek counseling. These are major changes designed to help both unwed teen mothers and their children. It is an effort to try and ensure that a caring adult is involved with both teen parent and infant. Also, it is one of the toughest initiatives yet to ensure that teenage mothers stay in school and get the education they will need to avoid a lifetime of dependency.

There is broad consensus about the need to change our welfare system from a program that can inadvertently trap families in a lifetime of dependency into a transitional assistance program that fosters work and responsibility. But there are major questions about how to achieve this goal.

As we debate a series of welfare reform proposals, I will judge each proposal by the fundamental question of how each change will affect both the poor parent and the child. Welfare reform should not punish vulnerable children or their parents. Reform should encourage self-sufficiency in firm but fair ways. Senator DASCHLE's legislation passes this test with flying colors. It will help both unwed teen parents and child by ensuring the involvement of an adult, and by keeping teens in school.

Obviously, more work must be done to reform our overall welfare system since the Department of Health and Human estimates that teen parents are less than 10 percent of all families on welfare. But this legislation is a sensible first step focusing on unwed teen parents and it will hopefully help break a cycle of dependency early.

In additional to the eligibility requirements for unwed teen parents to receive AFDC, the bill gives States and communities funding to invest in pregnancy prevention for at risk youth. The legislation is paid for in responsible ways including provision to strengthen child support enforcement, another key way to promote parental responsibility among absent fathers.

Teenage pregnancy is a complicated issue facing our society, and there are no simple solutions or quick answers. But I believe that the Teenage Pregnancy Prevention and Parent Responsibility Act lays out needed change in Federal policy. Current Federal policy enables teen parents on welfare to establish their own independent household by offering them Federal assistance, but this legislation dramatically changes the rules and incentives. It sends a fundamental message to unwed teen parents to stay in school and seek help from caring adults, preferably their families. While this bill is not a silver bullet, it is a serious, substantive effort to ensure that Federal policy reflects American values for families and children.

By Mr. DASCHLE (for himself, Mr. EXON, Ms. MIKULSKI, Mr. BREAUX, Mr. ROBB, Mr. KERRY, Mr. PELL, and Ms. MOSELEY-BRAUN):

S. 9. A bill to direct the Senate and the House of Representatives to enact legislation on the budget for fiscal years 1995 through 2003 that would balance the budget by fiscal year 2003; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with insturctions that if one Committee reports, the other Committee have thirty days to report or be discharged.

BUDGET RESOLUTION FOR FISCAL YEARS 1995 THROUGH 2003

Mr. DASCHLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the record.

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

S. 9

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

SECTION 1. BUDGET RESOLUTION FOR FISCAL YEARS 1996 THROUGH 2003.

Not later than the end of the 1st session of the 104th Congress, the Senate and House of Representatives shall—

(1) adopt a concurrent resolution on the budget for fiscal years 1996 through 2003; and

(2) enact all the necessary authorizing and appropriations legislation,

that would balance the Federal budget by the beginning of fiscal year 2003.

By Mr. DASCHLE (for himself, Mr. GLENN, Mr. LEVIN, Ms. MIKULSKI, Mr. BREAUX, Mr.

KERRY, Ms. MOSELEY-BRAUN, and Mr. HARKIN):

S. 10. A bill to make certain laws applicable to the legislative branch of the Federal Government, to reform lobbying registration and disclosure requirements, to amend the gift rules of the Senate and the House of Representatives, and to reform the Federal election laws applicable to the Congress; to the Committee on Governmental Affairs.

COMPREHENSIVE CONGRESSIONAL REFORM ACT

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

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

S. 10

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Comprehensive Congressional Reform Act of 1995 ''.

DIVISION A—EXTENSION OF RIGHTS AND PROTECTIONS, AND ASSOCIATED PROCEDURES

SEC. 100. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) All employees of the House of Representatives, of the Senate, and of the congressional instrumentalities are entitled to fundamental rights and protections provided by law to private and other public employees.

(2) The Congress has made notable progress in ensuring that such rights and protections are afforded to these legislative branch employees, by—

(A) extending to employees of the House of Representatives the provisions of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Family and Medical Leave Act of 1993, and the Fair Labor Standards Act of 1938;

(B) extending to employees of the Senate the provisions of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, and the Family and Medical Leave Act of 1993; and

(C) extending to employees of congressional instrumentalities numerous rights and protections under employment laws.

(3) The Congress should expand on this base of rights and protections by eliminating gaps in coverage and extending coverage so as to assure to legislative branch employees the rights and protections of laws on employment discrimination, family and medical leave, fair labor standards, labor-management relations, occupational safety and health, polygraph protection and worker retraining.

(4) The Congress should likewise establish prompt, fair, and independent processes to resolve disputes and to enforce employee rights and protections, building on and strengthening the dispute resolution and enforcement procedures already established by the Government Employees Rights Act of 1991 (2 U.S.C. 1201 et seq.), section 117 of the Civil Rights Act of 1991 (2 U.S.C. 60l), and other relevant statutes and rules of Congress.

(5) The extension of employee rights and protections affecting employees of the Architect of the Capitol and the Capitol Police should be accomplished in a manner that ensures that they are treated in a consistent manner regardless of their place of assignment within the Congress.

(6) The extension of employee rights and protections should be accomplished in a manner that is consistent with the responsibilities and functions of the House of Representatives and the Senate under the Constitution.

(b) PURPOSES.—The purposes of this Act are to eliminate gaps in coverage, extend coverage, and establish prompt, fair, and independent dispute resolution and enforcement procedures, for rights and protections established by—

(1) title VII of the Civil Rights Act of 1964;

(2) the Fair Labor Standards Act of 1938;

(3) the Age Discrimination in Employment Act of 1967;

(4) the Americans with Disabilities Act of 1990;

(5) the Rehabilitation Act of 1973;

(6) the Family and Medical Leave Act of 1993;

(7) the Occupational Safety and Health Act of 1970; and

(8) chapter 71 of title 5, United States Code (commonly known as the ''Federal Service Labor-Management Relations Statute'').

(9) The Employee Polygraph Protection Act of 1988.

(10) The Worker Adjustment and Retraining Notification Act.

(11) Chapter 43 of title 38, United States Code (relating to veterans' employment and reemployment).

SEC. 100A. DEFINITIONS.

Except as otherwise specifically provided in this Act, as used in this Act:

(1) BOARD.—The term ''Board'' means the Board of Directors of the Office of Congressional Fair Employment Practices appointed under section 202.

(2) CALENDAR DAY OF CONTINUOUS SESSION.—The term ''calendar day of continuous session'' means a calendar day other than one on which either House is not in session because of an adjournment of more than three days to a date certain.

(3) CHAIR.—The term ''Chair'' means the Chair of the Board of Directors of the Office of Congressional Fair Employment Practices appointed under section 202(b).

(4) COVERED EMPLOYEE.—The term ''covered employee'' means any employee of—

(A) the House of Representatives;

(B) the Senate;

(C) the Architect of the Capitol;

(D) the Congressional Budget Office;

(E) the Office of Technology Assessment; or

(F) the Office of Congressional Fair Employment Practices.

(5) DIRECTOR.—The term ''Director'' means the Director of the Office of Congressional Fair Employment Practices appointed under section 203(a).

(6) EMPLOYEE OF THE ARCHITECT OF THE CAPITOL.—The term ''employee of the Architect of the Capitol'', means—

(A) any employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants;

(B) any applicant for a position that is to be occupied by an individual described in subparagraph (A) and whose claim of a violation under this Act arises out of the application; and

(C) any individual who was formerly an employee described in subparagraph (A) and whose claim of a violation under this Act arises out of the employment.

(7) EMPLOYEE OF CERTAIN CONGRESSIONAL INSTRUMENTALITIES.—The terms ''employee of the Congressional Budget Office'', ''employee of the Office of Technology Assessment'', and ''employee of the Office of Congressional Fair Employment Practices'' mean, respectively—

(A) any employee of the Congressional Budget Office, the Office of Technology Assessment, or the Office of Congressional Fair Employment Practices;

(B) any applicant for a position that is to be occupied by an individual described in subparagraph (A) and whose claim of a violation under this Act arises out of the application; and

(C) any individual who was formerly an employee described in subparagraph (A) and whose claim of a violation under this Act arises out of the employment.

(8) EMPLOYEE OF THE HOUSE OF REPRESENTATIVES.—The term ''employee or the House of Representatives'' means—

(A) an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in a legislative service organization or other entity that is paid through funds derived from the clerk-hire allowance of the House of Representatives, including any such individual employed by the Capitol Police, the Capitol Guide Service, or the Office of the Attending Physician, but not including an individual employed by the Congressional Budget Office or the Architect of the Capitol;

(B) any applicant for a position described in subparagraph (A) whose claim of a violation under this Act arises out of the application; and

(C) any individual who was formerly an employee described in subparagraph (A) and whose claim of a violation under this Act arises out of the employment.

(9) EMPLOYEE OF THE SENATE.—The term ''employee of the Senate'' means—

(A) any employee whose pay is disbursed by the Secretary of the Senate, including any such individual employed by the Capitol Police, the Capitol Guide Service, or the Office of the Attending Physician, but not including an individual employed by the Architect of the Capitol;

(B) any applicant for a position that is to be occupied by an individual described in subparagraph (A) and whose claim of a violation under this Act arises out of the application; and

(C) any individual who was formerly an employee described in subparagraph (A) and whose claim of a violation under this Act arises out of the employment.

(10) EMPLOYING OFFICE.—The term ''employing office'' means the personal office of a Member of the House of Representatives or a Senator or any other office under the authority of a head of an employing office.

(11) GENERAL COUNSEL.—The term ''General Counsel'' means the General Counsel of the Office of Congressional Fair Employment Practices appointed under section 203(c).

(12) HEAD OF AN EMPLOYING OFFICE.—The term ''head of an employing office'' means—

(A) the Member of Congress or the officer or employee or board or other entity of the Congress that has final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or an employee of the Senate; and

(B) the Architect of the Capitol, the Director of the Congressional Budget Office, the Director of the Office of Technology Assessment, and the Board of the Office of Congressional Fair Employment Practices.

For purposes of the minority staff of a committee, the ranking minority member shall be the head of the employing office.

(13) OFFICE.—The term ''Office'' means the Office of Congressional Fair Employment Practices established under section 201.

TITLE I—EXTENSION OF RIGHTS AND PROTECTIONS, AND ASSOCIATED PROCEDURES

SEC. 101. RIGHTS AND PROTECTIONS UNDER LAWS AGAINST EMPLOYMENT DISCRIMINATION.

(a) DISCRIMINATORY PRACTICES PROHIBITED.—

(1) IN GENERAL.—All personnel actions affecting covered employees shall, in accordance with the terms of this section, be made free from any discrimination based on—

(A) race, color, religion, sex, or national origin, within the meaning of section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16);

(B) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or

(C) handicap or disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sections 102 through 104 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112–12114).

(2) PROHIBITION OF INTIMIDATION OR REPRISAL.—Any intimidation of, or reprisal against, any covered employee because of the exercise of a right under section 107 or 109 with respect to rights and protections under this Act constitutes an unlawful employment practice, which may be remedied in the same manner as is a violation of paragraph (1).

(b) AVAILABLE RELIEF.—

(1) CIVIL RIGHTS.—The relief for a violation of subsection (a)(1)(A) shall be such relief as would be appropriate if awarded under sections 706(g) and 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(g) and 2000e–5(k), and the same interest to compensate for delay in payment shall be available as in cases involving nonpublic parties; and including such compensatory damages (not exceeding, for each complaining party, and irrespective of the size of the employing office, the maximum amount available under section 1977A(b)(3)(D)) of the Revised Statutes (42 U.S.C. 1981a(b)(3)(D)) as would be appropriate if awarded under section 1977 and sections 1977(A)(a) and (b)(2) of the Revised Statutes (42 U.S.C. 1981, 1981a (a), and (b)(2)).

(2) AGE DISCRIMINATION.—The relief for a violation of subsection (a)(1)(B) shall be such relief as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)).

(3) DISABILITIES DISCRIMINATION.—The relief for a violation of subsection (a)(1)(C) shall be such relief as would be appropriate if awarded under section 505(a) of the Rehabilitation Act of 1973 (29 U.S.C. 794a(a)(1)) or section 107(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117(a)).

(4) PUNITIVE DAMAGES.—Punitive damages shall not be available for a violation of subsection (a).

(c) EXCLUSIVE PROCEDURES.—No covered employee may commence an administrative or judicial proceeding to seek a remedy for practices prohibited under this section except as provided in section 107. Only a covered employee who has undertaken and completed the procedures described in section 107 (1) through (3) may be granted relief under this section.

(d) CLARIFICATION OF APPLICATION TO GENERAL ACCOUNTING OFFICE, GOVERNMENT PRINTING OFFICE, AND LIBRARY OF CONGRESS.—

(1) SECTION 717 OF THE CIVIL RIGHTS ACT OF 1964.—Section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) is amended by—

(A) striking ''legislative and'';

(B) striking ''branches'' and inserting ''branch''; and

(C) inserting ''Government Printing Office, the General Accounting Office, and the'' after ''and in the''.

(2) SECTION 15 OF THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.—Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended by—

(A) striking ''legislative and'';

(B) striking ''branches'' and inserting ''branch''; and

(C) inserting ''Government Printing Office, the General Accounting Office, and the'' after ''and in the''.

(3) SECTION 509 OF THE AMERICANS WITH DISABILITIES ACT OF 1990.—Section 509 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12209) is amended—

(A) by striking subsections (a) and (b) of section 509;

(B) in subsection (c), by striking ''(c) INSTRUMENTALITIES OF CONGRESS.—'' and inserting ''The General Accounting Office, the Government Printing Office, and the Library of Congress shall be covered as follows:'';

(C) by striking the second sentence of paragraph (2);

(D) in paragraph (4), by striking ''instrumentalities of the Congress include'' and inserting ''the term instrumentality of the Congress' means'', by striking ''the Architect of the Capitol, the Congressional Budget Office'', by inserting ''and'' before ''the Library'', and by striking ''the Office of Technology Assessment, and the United States Botanic Garden'';

(E) by redesignating paragraph (5) as paragraph (7) and by inserting after paragraph (4) the following new paragraph:

''(5) ENFORCEMENT OF EMPLOYMENT RIGHTS.—The remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) shall be available to any employee of an instrumentality of the Congress who alleges a violation of the rights and protections under sections 102 through 104 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112–12114) that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of each instrumentality of the Congress.''; and

(F) by amending the title of the section to read ''INSTRUMENTALITIES OF THE CONGRESS''.

(e) EFFECTIVE DATE.—This section shall be effective 9 months after the date of enactment of this Act.

SEC. 102. RIGHTS AND PROTECTIONS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

(a) FAMILY AND MEDICAL LEAVE RIGHTS AND PROTECTIONS PROVIDED.—

(1) IN GENERAL.—The rights and protections established under sections 101 through 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611–2615) shall apply, in accordance with this section, with respect to covered employees.

(2) DEFINITIONS.—For purposes of the application described in paragraph (1)—

(A) the term ''eligible employee'' means—

(i) any employee of the House of Representatives who has been employed for at least 12 months on other than a temporary or intermittent basis by any employing office of the House of Representatives; and

(ii) any employee of the Senate who has been employed for at least 12 months on other than a temporary or intermittent basis by any employing office of the Senate; and

(B) the term ''employer'' means any employing office.

(b) AVAILABLE RELIEF.—The relief for a violation of subsection (a) shall be such relief as would be appropriate if awarded under paragraph (1) or (3) of section 107(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2617(a) (1) or (3)).

(c) EXCLUSIVE PROCEDURES.—No covered employee may commence an administrative or judicial proceeding to seek a remedy for a violation of the rights and protections afforded in this section except as provided in section 107. Only a covered employee who has undertaken and completed the procedures described in section 107 (1) through (3) may be granted relief under this section.

(d) RULES TO IMPLEMENT SECTION.—

(1) IN GENERAL.—Not later than January 3, 1996, the Board shall, pursuant to section 204, issue any rules necessary to implement the rights and protections under this section.

(2) AGENCY REGULATIONS.—The rules promulgated under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except insofar as the Board may determine, for good cause shown and stated together with the rule, that a different rule would better serve the purposes of such statutory provisions and of this Act.

(e) APPLICATION TO GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—

(1) FAMILY AND MEDICAL LEAVE ACT OF 1993.—Section 101(4)(A) of the Family and Medical Leave Act of 1933 (29 U.S.C. 2611(4)(A)) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ''; and'', and by adding after clause (iii) the following:

''(iv) includes the General Accounting Office and the Library of Congress.''.

(2) CIVIL SERVICE EMPLOYEES.—Section 6381(1)(A) of title 5, United States Code, is amended by striking ''and'' after ''District of Columbia'' and inserting before the semicolon the following: '', and any employee of the General Accounting Office and the Library of Congress''.

(3) ENFORCEMENT.—Section 107 of the Family and Medical Leave Act of 1993 (29 U.S.C 2617) is amended by adding at the end the following:

''(f) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—

''(1) PROCEDURES.—Procedures for the enforcement of section 105 for the General Accounting Office and the Library of Congress shall be limited to the procedures described in subsection (a).

''(2) SECRETARY OF LABOR.—In the case of the General Accounting Office and the Library of Congress, the authority of the Secretary of Labor under this title shall be exercised respectively by the head official of the General Accounting Office and the Library of Congress.''.

(f) EFFECTIVE DATE.—Subsection (a) through (d) shall be effective on the effective date of the rules issued under subsection (d) or 1 year after the date of enactment of this Act, whichever is earlier.

SEC. 103. RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT.

(a) FAIR LABOR STANDARDS.—

(1) IN GENERAL.—Subject to the limitations in section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)), the rights and protections established under subsections (a)(1) and (d) of section 6, section 7, section 12(c), and section 15(a)(3) of such Act (29 U.S.C. 206 (a)(1) and (d), 207, 212(c), 215(a)(3)) shall apply, in accordance with this section, with respect to covered employees.

(2) VOLUNTEER SERVICES EXCEPTED.—For the purposes of this section, the term ''employee'' does not include any individual who volunteers to perform services under the same conditions as would exclude an individual who volunteers to perform services for a State, a political subdivision of a State, or an interstate governmental agency under section 3(e)(4)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(4)(A)).

(b) AVAILABLE RELIEF.—The relief for a violation of subsection (a) shall be such relief as would be appropriate if awarded under section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)).

(c) EXCLUSIVE PROCEDURES.—No covered employee may commence an administrative or judicial proceeding to seek a remedy for a violation of the rights and protections afforded in this section except as provided in section 107. Only a covered employee who has undertaken and completed the procedures described in section 107 (1) through (3) may be granted relief under this section.

(d) RULES TO IMPLEMENT SECTION.—

(1) IN GENERAL.—Not later than January 3, 1996, the Board shall, pursuant to section 204, issue any rules necessary to implement the rights and protections under this section.

(2) AGENCY REGULATIONS.—The rules promulgated under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except insofar as the Board may determine, for good cause shown and stated together with the rule, that a different rule would better serve the purposes of such statutory provisions and of this Act.

(3) IRREGULAR WORK SCHEDULES.—As part of the rules under this subsection, the Board shall study and, pursuant to section 204, issue rules establishing the manner and extent to which the requirements of this section shall apply to covered employees whose work schedule directly depends on the schedule of the House of Representatives or the Senate. Such rules shall include provisions comparable to the provisions in the Fair Labor Standards Act of 1938 that apply to private and public employees who have irregular work schedules.

(e) CLARIFICATION OF APPLICATION TO THE GOVERNMENT PRINTING OFFICE.—Section 3(e)(2)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)(A)) is amended—

(1) in clause (iii), by striking ''legislative or'',

(2) by striking ''or'' at the end of clause (iv),

(3) by striking the semicolon at the end of clause (v) and inserting '', or'', and

(4) by adding after clause (v) the following: ''(vi) the Government Printing Office;''.

(f) EFFECTIVE DATES.—Subsections (a) through (c) shall be effective on the effective date of the rules issued under subsection (d) or on July 1, 1996, whichever is earlier.

SEC. 104. RIGHTS AND PROTECTIONS UNDER EMPLOYEE POLYGRAPH PROTECTION ACT.

(a) POLYGRAPH PROTECTION RIGHTS.—

(1) IN GENERAL.—The rights and protections of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.) shall apply, in accordance with this section, with respect to covered employees.

(2) COVERAGE.—For purposes of this section, the term ''covered employee'' shall include employees of the General Accounting Office, the Library of Congress, and the term ''employing office'' shall included the General Accounting Office and the Library of Congress.

(b) AVAILABLE RELIEF.—The relief for a violation of subsection (a) shall be such relief as would be appropriate if awarded under section 6(c)(1), (3) of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 20005(c)(1), (3)).

(c) EXCLUSIVE PROCEDURES.—No covered employee may commence an administrative or judicial proceeding to seek a remedy for any violation of or to enforce any rights and protections provided by this section except as provided in section 107. Only a covered employee who has undertaken and completed the procedures described in sections 107 (1) through (3) may be granted relief under this section.

(d) RULES TO IMPLEMENT SECTION.—Not later than January 3, 1997, the Board shall issue rules pursuant to section 204 on the manner and extent to which the requirements, exemptions, and relief (except for penalties) of the Employee Polygraph Protection Act of 1988 should apply to covered employees and offices of the legislative branch. In issuing such regulations, the Board shall, to the greatest extent practicable, be consistent with the provisions and purposes of such Act and any regulations issued by the Secretary of Labor under such Act, and the purposes of this Act.

(e) EFFECTIVE DATE.—Subsections (a) and (b) shall be effective on the effective date of the rules issued under subsection (c) or on July 1, 1997, whichever is earlier; except that subsections (a) and (b) shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after the completion of the study under section 112.

SEC. 105. RIGHTS AND PROTECTIONS UNDER WORKER ADJUSTMENT AND RETRAINING ACT.

(a) WORKER ADJUSTMENT AND RETRAINING RIGHTS.—

(1) IN GENERAL.—The rights and protections of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.) shall apply, in accordance with this section, with respect to covered employees.

(2) COVERAGE.—For purposes of this section, the term ''covered employee'' shall include employees of the General Accounting Office and the Library of Congress, and the term ''employing office'' shall include the General Accounting Office and the Library of Congress.

(b) AVAILABLE RELIEF.—The relief for a violation of subsection (a) shall be such relief as would be appropriate if awarded under section 5 of the Worker Adjustment and Retraining Notification Act of 1988 (29 U.S.C. 2104(a)).

(c) EXCLUSIVE PROCEDURES.—No person may commence an administrative or judicial proceeding to seek a remedy for any violation of or to enforce any rights and protections provided by this section except as provided in section 107. Only a covered employee who has undertaken and completed the procedures described in section 107 (1) through (3) may be granted relief under this section.

(d) RULES TO IMPLEMENT SECTION.—Not later than January 3, 1997, the Board shall issue rules pursuant to section 204 on the manner and extent to which the requirements, exemptions, and relief of the Worker Adjustment and Retraining Act should apply to covered employees and employing offices. In issuing such regulations, the Board shall, to the greatest extent practicable, be consistent with the provisions and purposes of such Act and any regulations issued by the Secretary of Labor under such Act, and the purposes of this Act.

(e) EFFECTIVE DATE.—Subsections (a) and (b) shall be effective on the effective date of the rules issued under subsection (c) or on July 1, 1997, whichever is earlier; except that subsections (a) and (b) shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after the completion of the study under section 112.

SEC. 106. RIGHTS AND PROTECTIONS UNDER CHAPTER 43 OF TITLE 38, UNITED STATES CODE.

(a) EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES.—

(1) IN GENERAL.—It shall be unlawful for an employing office to—

(A) discriminate, within the meaning of sections 4311(a) and 4311(b) of title 38, United States Code, against an eligible employee;

(B) deprive an eligible employee of reemployment rights within the meaning of sections 4312 and 4313 of title 38, United States Code; or

(C) deprive an eligible employee of benefits within the meaning of sections 4316, 4317, and 4318 of title 38, United States Code.

(2) DEFINITION.—For purposes of this section, the term ''eligible employee'' means a covered employee performing service in the uniformed services, within the meaning of section 4303(13) of title 38, United States Code, whose service has not been terminated upon occurrence of any of the events enumerated in section 4304 of title 38, United States Code.

(3) COVERAGE.—For purposes of this section, the term ''covered employee'' shall include employees of the General Accounting Office and the Library of Congress and the term ''employing office'' shall include the General Accounting Office and the Library of Congress.

(b) AVAILABLE RELIEF.—The relief for a violation of subsection (a) shall be such relief as would be appropriate if awarded under section 4323(c)(1) of title 38, United States Code.

(c) EXCLUSIVE PROCEDURES.—No person may commence an administrative or judicial proceeding to seek a remedy for practices prohibited under this section except as provided in section 107 and section 4314(c) of title 38, United States Code. Only a covered employee who has undertaken and completed the procedures described in section 107 (1) through (3) may be granted relief under this section.

(d) RULES TO IMPLEMENT SECTION.—

(1) IN GENERAL.—Not later than January 3, 1996, the Board shall, pursuant to section 204, issue any rules necessary to implement the rights and protections under this section.

(2) AGENCY REGULATIONS.—The rules promulgated under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a different regulation would better serve the purposes of such statutory provisions and of this Act.

(e) EFFECTIVE DATE.—This section shall be effective on the effective date of the regulations issued under subsection (d) or on July 1, 1997, whichever is earlier; except that subsections (a) and (b) shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after the completion of the study under section 112.

SEC. 107. PROCEDURES FOR REMEDY OF EMPLOYMENT DISCRIMINATION, FAMILY AND MEDICAL LEAVE, AND FAIR LABOR STANDARDS VIOLATIONS.

The exclusive procedures for remedy of violations of sections 101, 102, 103, 104, 105, and 106 shall be as follows:

(1) COUNSELING.—Any covered employee alleging a violation of section 101, 102, 103, 104, 105, or 106 may request counseling by the Office. Such counseling shall be conducted pursuant to the provisions of section 301 and shall be requested within the time specified in section 307.

(2) MEDIATION.—Not later than 15 days after the Office gives notification to an employee pursuant to section 301(d) of the end of the period of counseling under paragraph (1), the employee may file a request for mediation with the Office. On the filing of such a request, the Office shall conduct mediation in accordance with section 302.

(3) CHOICE OF ADJUDICATORY PROCEEDING.—Not later than 90 days after the Office gives notice pursuant to section 302(f) of the end of the period of mediation, but not sooner than

30 days after such notification, an employee may either—

(A) file a formal complaint with the Office in accordance with section 303; or

(B) file a civil action in the United States district court for the district in which the employee is employed or for the District of Columbia, subject to the provisions of section 306.

(4) APPEAL TO THE BOARD.—Any party aggrieved by a final decision of the hearing officer with respect to a formal complaint filed with the Office pursuant to paragraph (3)(A) may appeal to the Board pursuant to section 304 not later than 30 days after the entry of the final decision of a hearing officer under section 303(g).

(5) JUDICIAL REVIEW.—Any party aggrieved by a final decision of the Board under paragraph (4) may file a petition for review in the United States Court of Appeals for the Federal Circuit pursuant to section 305 not later than 90 days after the entry of the final decision of the Board under section 304(e).

SEC. 108. RIGHTS AND PROTECTIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990 RELATING TO PUBLIC SERVICES AND ACCOMMODATIONS; PROCEDURES FOR REMEDY OF VIOLATIONS.

(a) ENTITIES SUBJECT TO THIS SECTION.—The requirements of this section shall apply to—

(1) each office of the Senate;

(2) each office of the House of Representatives;

(3) each joint committee of the Congress;

(4) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(5) the Capitol Guide Service;

(6) the Capitol Police;

(7) the Congressional Budget Office;

(8) the Office of Technology Assessment; and

(9) the Office of Congressional Fair Employment Practices.

(b) DISCRIMINATION IN PUBLIC SERVICES.—

(1) RIGHTS AND PROTECTIONS.—The rights and protections against discrimination in the provision of public services established under sections 201 through 230, 302, 303, 309, 503(a), and 503(b) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131–12150, 12182-12183, 12189, 12203(a), 12203(b)) shall apply, pursuant to the terms of this section, to the entities listed in subsection (a).

(2) COVERAGE.—The rights and protections of paragraph (1) shall apply, pursuant to the terms of this section, to any qualified individual with a disability (as defined in section 201(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131(2)), except that, with respect to any claims of employment discrimination asserted by any covered employee, the exclusive remedy shall be under section 101.

(3) DEFINITIONS.—For purposes of the application of the Americans with Disabilities Act of 1990 under this section, the term ''public entity'' means any entity listed in subsection (a). For purposes of this section, an office of the Senate or an office of the House of Representatives means, respectively, a unit of the Senate or the House of Representatives that provides public services, within the meaning of sections of the Americans with Disabilities Act of 1990 as applied by paragraph (1).

(c) AVAILABLE RELIEF.—The relief for a violation of subsection (b) shall be such relief as would be appropriate if awarded under section 203 or 503(c) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12133 or 12203(c)).

(d) AVAILABLE PROCEDURES.—

(1) CHARGE FILED WITH GENERAL COUNSEL.—A qualified individual with a disability who alleges a violation of subsection (b) by an entity listed in subsection (a) may file a charge with the General Counsel. The General Counsel shall investigate the charge.

(2) MEDIATION.—If, upon investigation under paragraph (1), the General Counsel believes that a violation of subsection (b) may have occurred and that mediation may be helpful in resolving the dispute, the General Counsel may request mediation under section 302 between the charging individual and the entity or entities responsible for causing or remedying the alleged violation.

(3) COMPLAINT, HEARING, BOARD REVIEW.—If mediation under paragraph (2) has not succeeded in resolving the dispute, and if the General Counsel believes that a violation of subsection (b) has occurred, the General Counsel may file with the Office a complaint against the entity or entities. The complaint shall be submitted to a hearing officer for decision pursuant to section 303, subject to review by the Board pursuant to section 304.

(4) JUDICIAL REVIEW.—The charging individual or the entity or entities respondent to the complaint, if aggrieved by a final decision of the Board under paragraph (3), may file a petition for review in the United States Court of Appeals for the Federal Circuit, pursuant to section 305.

(5) EXCLUSIVE PROCEDURES.—No person may commence an administrative or judicial proceeding to seek a remedy for violation of the rights and protections afforded in this section except as provided in this subsection. Only a qualified individual with a disability who has filed a charge with the General Counsel under this subsection may be granted relief under this section.

(e) RULES TO IMPLEMENT SECTION.—

(1) IN GENERAL.—Not later than January 3, 1996, the Board shall, pursuant to section 204, issue rules necessary to implement the rights and protections under this section.

(2) AGENCY REGULATIONS.—The rules promulgated under paragraph (1) shall be the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsections (b) and (c) except to the extent that the Board may determine, for good cause shown and stated together with the rule, that a different rule would better serve the purposes of such statutory provisions and of this Act.

(f) EFFECTIVE DATES.—Subsections (b), (c), and (d) shall be effective on the effective date of the rules issued under subsection (e) or on July 1, 1996, whichever is earlier.

(g) INSPECTION; REPORT TO CONGRESS.—

(1) INSPECTION.—On a regular basis, and at least once each Congress, the General Counsel shall inspect the facilities of Congress and of congressional instrumentalities listed in subsection (a) to ensure compliance with subsection (b).

(2) REPORT.—On the basis of these inspections, the General Counsel shall, at least once every Congress, prepare and submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate containing the results of the inspection, describing any steps necessary to correct any violations of this section, assessing any limitations in accessibility to and usability by individuals with disabilities associated with each violation, and the estimated cost and time needed for abatement.

(3) DETAILS.—The Attorney General, the Secretary of Transportation, and the Architectural and Transportation Barriers Compliance Board may, on request of the Office, detail to the Office such personnel as may be necessary to advise and assist the Office in carrying out its duties under this section.

(h) APPLICATION OF AMERICANS WITH DISABILITIES ACT OF 1990 TO THE PROVISION OF PUBLIC SERVICES AND ACCOMMODATIONS BY THE GENERAL ACCOUNTING OFFICE, THE GOVERNMENT PRINTING OFFICE, AND THE LIBRARY OF CONGRESS.—Section 509 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12209), as amended by section 101(d), is amended by adding the following new paragraph:

''(6) ENFORCEMENT OF RIGHTS TO PUBLIC SERVICES AND ACCOMMODATIONS.—The remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) shall be available to any qualified person with a disability who is a visitor, guest, or patron of an instrumentality of Congress and who alleges a violation of the rights and protections under sections 201 through 230, 302, and 303 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131–12150, 12182–83) that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of the instrumentality of the Congress.''.

SEC. 109. RIGHTS AND PROTECTIONS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970; PROCEDURES FOR REMEDY OF VIOLATIONS.

(a) OCCUPATIONAL SAFETY AND HEALTH PROTECTIONS.—

(1) IN GENERAL.—Each employing office and each covered employee (and representatives of such employee) shall comply with provisions of section 5 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654). The duties, rights, and protections of sections 8, 9, and 11(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657, 658 and 660(c)) shall apply with respect to each employing office and each covered employee (and representatives of such employee). For purposes of the application under this section of the Occupational Safety and Health Act of 1970, the term ''employer'' as used in such Act or in this section means any employing office and the term ''employee'' means any covered employee.

(2) COVERAGE.—For purposes of the application under this section of the Occupational Safety and Health Act of 1970, the term ''employer'' as used in such Act means an employing office and the term ''employee'' means a covered employee. For purposes of this section, the term ''employing office'' includes the General Accounting Office and the Library of Congress, and the term ''employee'' includes employees of the General Accounting Office and the Library of Congress.

(b) AVAILABLE REMEDIES.—The remedies for a violation of subsection (a) shall be such remedies, except penalties, as would be appropriate if awarded under sections 9(a), 10(c), and 11(c)(2) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 658(a), 659(c), and 660(c)(2)).

(c) AVAILABLE PROCEDURES.—

(1) INSPECTIONS, INVESTIGATIONS; AUTHORITIES OF THE GENERAL COUNSEL.—For purposes of this section and in the manner provided in this section, the General Counsel shall exercise the authorities granted to the Secretary of Labor by subsections (a) and (f) of section 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657 (a) and (f)) to inspect and investigate places of employment under the jurisdiction of employers. Any employer, employee, or representative of employees may submit written requests to the General Counsel to conduct an inspection.

(2) CITATIONS, NOTICES, NOTIFICATIONS; AUTHORITIES OF THE GENERAL COUNSEL.—

(A) IN GENERAL.—For purposes of this section and in the manner provided in this section, the General Counsel shall exercise the authorities granted to the Secretary of Labor in sections 9 and 10 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 658 and 659), to issue, subject to the procedures in subparagraph (B)—

(i) a citation or notice to any employer that the General Counsel believes is in violation of subsection (a); or

(ii) a notification to any employer that the General Counsel believes has failed to correct a violation for which a citation has been issued within the period permitted for its correction.

(B) APPROPRIATE EMPLOYER.—A citation or notification may not be issued to an employer that is neither responsible for having caused nor responsible for correcting a violation. Appropriation of insufficient funds shall not indicate a lack of responsibility for having caused or for correcting a violation. If correction of a violation requires action by the Architect of the Capitol, the General Counsel may name the Architect of the Capitol in the citation or notification as an additional respondent.

(3) HEARINGS, REVIEW; AUTHORITIES OF THE BOARD.—For purposes of this section and except as otherwise provided in this section, the Board shall exercise the authorities granted to the Occupational Safety and Health Review Commission in section 10(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 659(c)) and to the Secretary of Labor (with respect to affirming or modifying abatement requirements), to hear objections and requests with respect to citations and notifications. The Board may refer disputed matters under this paragraph to a hearing officer pursuant to section 303, subject to review by the Board pursuant to section 304.

(4) VARIANCE PROCEDURES.—For the purposes of this section and except as otherwise provided by this section, the Board shall exercise the authorities granted to the Secretary of Labor in section 6(b)(6) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)(6)) to act on any request by an employer applying for a temporary order granting a variance from a standard. The Board may refer the matter to a hearing officer pursuant to section 303, subject to review by the Board pursuant to section 304.

(5) JUDICIAL REVIEW.—The General Counsel, or an employing office that is a respondent to a complaint and is aggrieved by a final decision of the Board under paragraph (3) or (4), may file a petition for review with the United States Court of Appeals for the Federal Circuit pursuant to section 305.

(6) PROCEDURES REGARDING CLAIMS OF INTIMIDATION OR REPRISAL; AUTHORITIES OF GENERAL COUNSEL.—

(A) CHARGE FILED WITH GENERAL COUNSEL.—Any employee who believes that he or she has been discharged or otherwise discriminated against in violation of section 11(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 660(c)) as made applicable by this section, may, within 30 days after such violation occurs, file a charge with the Office alleging such discrimination. The General Counsel shall investigate the charge.

(B) MEDIATION.—If, upon investigation under subparagraph (A), the General Counsel believes that a violation of section 11(c) of the Occupational Safety and Health Act may have occurred, the General Counsel may request mediation under section 302 between the charging employee and the employer that is alleged to have committed the violation.

(C) COMPLAINT, HEARING, BOARD REVIEW.—If mediation under subparagraph (B) has not succeeded in resolving the dispute, and if the General Counsel believes that a violation of section 11(c) of the Occupational Safety and Health Act of 1970 has occurred, the General Counsel may file with the Office a complaint against the employer. The complaint shall be submitted to a hearing officer for decision pursuant to section 303, subject to review by the Board pursuant to section 304.

(D) PETITION FOR REVIEW.—The charging employee or any employing office respondent to the complaint, if aggrieved by a final decision of the Board under this paragraph, may file a petition for review with the United States Court of Appeals for the Federal Circuit, pursuant to section 305.

(E) RELIEF.—Only a covered employee who has filed a charge with the General Counsel under this paragraph may be granted relief under this section.

(7) EXCLUSIVE PROCEDURES.—No covered employee or representative of such employees may commence any administrative or judicial proceeding to seek a remedy for a violation of the rights and protections afforded in this section except as provided in this subsection.

(d) RULES TO IMPLEMENT SECTION.—

(1) IN GENERAL.—Not later than July 1, 1996, the Board shall, pursuant to section 204, issue rules necessary to implement the rights and protections under this section.

(2) AGENCY REGULATIONS.—The rules promulgated under paragraph (1) shall be the same as standards and other substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except to the extent that the Board may determine, for good cause shown and stated together with the rule, that a different rule would better serve the purposes of such statutory provisions and of this Act.

(e) EFFECTIVE DATES.—Subsections (a) through (c) shall be effective on the effective date of the rules issued under subsection (d) or on January 3, 1997, whichever is earlier; except that subsections (a) and (b) shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after the completion of the study under section 112.

(f) INSPECTION; REPORT TO CONGRESS; INITIAL STUDY.—

(1) INSPECTIONS.—On a regular basis, and at least once each Congress, the General Counsel shall inspect the facilities of the House of Representatives, the Senate, the Architect of the Capitol, the Congressional Budget Office, the Office of Technology Assessment, and the Office of Congressional Fair Employment Practices to ensure compliance with subsection (a).

(2) REPORT.—On the basis of these inspections, the General Counsel shall, at least once every Congress, prepare and submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate containing the results of the inspection, describing any steps necessary to correct any violations of this section, assessing any risks to employee health and safety associated with each violation, and the estimated cost and time needed for abatement.

(3) DETAILS.—The Secretary of Labor may, on request of the Office, detail to the Office such personnel as may be necessary to advise and assist the Office in carrying out its duties under this section.

(4) INITIAL PERIOD FOR STUDY AND CORRECTIVE ACTION.—The period from the date of enactment of this Act until January 3, 1997, shall be available to employing offices to identify any violations of subsection (a), to determine the costs of coming into compliance, and to take any necessary corrective action to cure any violations. The Office shall assist employing offices by arranging for inspections and other technical assistance at their request. By July 1, 1996, the General Counsel shall conduct a thorough inspection under paragraph (1) and shall submit a report under paragraph (2).

SEC. 110. APPLICATION OF FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS STATUTE; PROCEDURES FOR IMPLEMENTATION AND ENFORCEMENT.

(a) LABOR-MANAGEMENT RIGHTS.—Subject to subsection (d), the rights, protections, and responsibilities established under sections 7102, 7103, 7106, 7111 through 7117, and 7119 through 7122 of title 5, United States Code, shall apply, pursuant to this section, to employing offices and to covered employees and representatives of those employees. For purposes of the application under this section of the sections referred to in the preceding sentence, the term ''agency'' shall be deemed to include an employing office.

(b) AUTHORITIES AND PROCEDURES FOR IMPLEMENTATION AND ENFORCEMENT.—

(1) GENERAL AUTHORITIES OF THE BOARD; PETITIONS.—For purposes of this section and except as otherwise provided in this section, the Board shall exercise the authorities of the Federal Labor Relations Authority under sections 7105, 7111 through 7113, 7115, 7117, 7118, and 7122 of title 5, United States Code, and of the President under section 7103(b) of title 5, United States Code. For purposes of this section, any petition or other submission that, under chapter 71 of title 5, United States Code, would be submitted to the Federal Labor Relations Authority shall, if brought under this section, be submitted to the Board. The Board may refer any matter under this paragraph to a hearing officer for decision pursuant to section 303, subject to review by the Board pursuant to section 304. The Board may direct that the General Counsel carry out the Board's investigative authorities under this paragraph.

(2) GENERAL AUTHORITIES OF THE GENERAL COUNSEL; CHARGES OF UNFAIR LABOR PRACTICE.—For purposes of this section and except as otherwise provided in this section, the General Counsel shall exercise the authorities of the General Counsel of the Federal Labor Relations Authority under sections 7104 and 7118 of title 5, United States Code. For purposes of this section, any charge or other submission that, under chapter 71 of title 5, United States Code, would be submitted to the General Counsel of the Federal Labor Relations Authority shall, if brought under this section, be submitted to the General Counsel. If any person charges an employing office or a labor organization with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue a complaint. The complaint shall be submitted to a hearing officer for decision pursuant to section 303, subject to review by the Board pursuant to section 304.

(3) EXERCISE OF IMPASSES PANEL AUTHORITY; REQUESTS.—For purposes of this section and except as otherwise provided in this section, the Board shall exercise the authorities of the Federal Service Impasses Panel under section 7119 of title 5, United States Code. For purposes of this section, any request that, under chapter 71 of title 5, United States Code, would be presented to the Federal Service Impasses Panel shall, if made under this section, be presented to the Board. At the request of the Board, the Director shall appoint a mediator or mediators to perform the functions of the Federal Service Impasses Panel under section 7119 of title 5, United States Code.

(4) JUDICIAL REVIEW.—Except for matters referred to in paragraphs (1) and (2) of section 7123(a) of title 5, United States Code, the charging individual or the entity or entities respondent to the complaint, if aggrieved by a final decision of the Board pursuant to this section may file a petition for judicial review in the United States Court of Appeals for the Federal Circuit pursuant to section 305.

(5) EXCLUSIVE PROCEDURES.—No covered employee or representative of such employees may commence an administrative or judicial proceeding to seek a remedy for any violation of or to enforce any rights and protections provided by this section except as provided in this subsection.

(c) RULES TO IMPLEMENT SECTION.—

(1) IN GENERAL.—Not later than January 3, 1996, except with respect to the offices listed in subsection (d)(2), the Board shall pursuant to section 204, issue rules necessary to implement the rights and protections under this section.

(2) AGENCY REGULATIONS.—The rules promulgated under paragraph (1) shall be the same as substantive regulations promulgated by the Federal Labor Relations Authority to implement the statutory provisions referred to in subsection (a) except to the extent that as the Board may determine, for good cause shown and stated together with the rule, that a different rule would better serve the purposes of such statutory provisions and of this Act.

(d) RULEMAKING REGARDING APPLICATION TO CERTAIN OFFICES AND INSTRUMENTALITIES OF CONGRESS.—

(1) RULES REQUIRED.—Not later than July 1, 1996, the Board shall issue rules pursuant to section 204 on the manner and extent to which the requirements and exemptions of chapter 71 of title 5, United States Code, should apply to covered employees who are employed in the offices listed in paragraph (2). In issuing such regulations, the Board shall, to the greatest extent practicable, be consistent with the provisions and purposes of chapter 71 of title 5, United States Code, and regulations issued by the Federal Labor Relations Authority under such chapter, and the purposes of this Act, and shall also consider—

(A) the possibility of any conflict of interest or appearance of a conflict of interest;

(B) national security; and

(C) Congress's constitutional responsibilities.

(2) OFFICES REFERRED TO.—The offices referred to in paragraph (1) are—

(A) the personal office of any Member of the House of Representatives or of any Senator;

(B) a standing, select, special, permanent, temporary, or other committee of the Senate or House of Representatives, or a joint committee of Congress;

(C) the Office of the Vice President (as President of the Senate), the Office of the President pro tempore of the Senate, the Office of the Majority Leader of the Senate, the Office of the Minority Leader of the Senate, the Office of the Majority Whip of the Senate, the Office of the Minority Whip of the Senate, the Conference of the Majority of the Senate, the Conference of the Minority of the Senate, the Office of the Secretary of the Conference of the Majority of the Senate, the Office of the Secretary of the Conference of the Minority of the Senate, the Office of the Secretary for the Majority of the Senate, the Office of the Secretary for the Minority of the Senate, the Majority Policy Committee of the Senate, the Minority Policy Committee of the Senate, and the following offices within the Office of the Secretary of the Senate: Offices of the Parliamentarian, Bill Clerk, Legislative Clerk, Journal Clerk, Executive Clerk, Enrolling Clerk, and Official Reporter of Debate, Daily Digest, Printing Services, Captioning Services, and Senate Chief Counsel for Employment.

(D) the office of the Speaker of the House of Representatives, the Office of the Majority Leader of the House of Representatives, the Office of the Minority Leader of the House of Representatives, the Offices of the Chief Deputy Majority Whips, the Offices of the Chief Deputy Minority Whips and the following offices within the Office of the Clerk of the House of Representatives: Offices of Legislative Operations, Official Reporters of Debate, Official Reporters to Committees, Printing Services, and Legislative Information;

(E) the Office of the Legislative Counsel of the Senate, the Office of the Senate Legal Counsel, the Office of the Legislative Counsel of the House of Representatives, the Office of the General Counsel of the House of Representatives, the Office of the Parliamentarian of the House of Representatives;

(F) the offices of any caucus or party organization; and

(G) the Congressional Budget Office, the Office of Technology Assessment, and the Office of Congressional Fair Employment Practices.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall be effective on the effective date of the rules issued under subsection (c), or on July 1, 1996, whichever is earlier.

(2) CERTAIN OFFICES.—With respect to the offices listed in subsection (d)(2), to the covered employees of such offices, and to representatives of such employees, subsections (a) and (b) shall be effective on the effective date of rules issued under subsection (d) and approved under section 204(d)(2).

SEC. 111. APPLICATION OF OTHER LAWS TO CONGRESS.

(A) STUDY AND RECOMMENDATIONS OF BOARD.—On December 31, 1996, and updated every 2 years thereafter, the Board shall issue a report—

(1) reviewing whether, and to what degree, provisions of Federal law and regulations relating to—

(A) the terms and conditions of employment (including hiring, promotion and demotion, salary, wages, overtime compensation, benefits, work assignments or reassignments, termination, protection from discrimination in personnel actions, health and safety of employees and family and medical leave) of employees, and

(B) discrimination in the provision of (including access to) public services and accommodations,

are applicable or inapplicable to officers and employees within the legislative branch and to users of public services and accommodations provided the legislative branch, and,

(2) stating recommendations of the Board as to whether such provisions should be made applicable to the legislative branch or should be otherwise modified.

Such recommendations shall be printed in the Congressional Record, and such report shall be referred to the committees of the House of Representatives and the Senate with jurisdiction.

(b) REPORTS OF CONGRESSIONAL COMMITTEES.—Each report accompanying a bill or joint resolution of a public character reported by a committee of the House of Representatives or the Senate (except the Committee on Appropriations and the Committee on the Budget of either House) shall—

(1) describe the manner in which the provisions of the bill or joint resolution that apply to the Congress and to congressional instrumentalities; or

(2) in the case of a provision not applicable to the Congress and to congressional instrumentalities, include a statement of the reasons the provision does not apply.

SEC. 112. STUDY AND RECOMMENDATIONS REGARDING GENERAL ACCOUNTING OFFICE, GOVERNMENT PRINTING OFFICE, AND LIBRARY OF CONGRESS.

(a) IN GENERAL.—The Board shall undertake a study of—

(1) the application of the laws listed in subsection (b) to—

(A) the General Accounting Office;

(B) the Government Printing Office;

(C) the Library of Congress; and

(D) any other entity in the legislative branch of the Government not covered by all of the sections of this title; and

(2) the regulations and procedures used by the instrumentalities and other entities referred to in paragraph (1) to apply and enforce such laws to themselves and their employees.

(b) APPLICABLE STATUTES.—The study under this section shall consider the application of the following laws:

(1) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), and related provisions of section 2302 of title 5, United States Code.

(2) The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), and related provisions of section 2302 of title 5, United States Code.

(3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and related provisions of section 2302 of title 5, United States Code.

(4) The Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.), and related provisions of sections 6381 through 6387 of title 5, United States Code.

(5) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), and related provisions of sections 5541 through 5550a of title 5, United States Code.

(6) The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), and related provisions of section 7902 of title 5, United States Code.

(7) The Rehabilitation Act of 1973 (29 U.S.C. 501 et seq.).

(8) Chapter 71 of title 5, United States Code.

(9) The General Accounting Office Personnel Act of 1980 (31 U.S.C. subchapter III of chapter 7).

(10) The Employee Polygraph Protection Act of 1988 (29 U.S.C. et seq.).

(11) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.).

(12) Chapter 43 of title 38, United States Code (relating to veterans' employment and reemployment).

(c) CONTENTS OF STUDY AND RECOMMENDATIONS.—The study under this section shall evaluate whether the rights, protections, and procedures applicable to the congressional instrumentalities and other entities referred to in subsection (a) and their employees are at least as comprehensive and effective as those required by this title and title III, and shall include recommendations for any improvements in such regulations and procedures and for any legislation.

(d) INSPECTION OF FACILITIES.—In preparation of the study under this section, the General Counsel shall inspect the facilities of the congressional instrumentalities and other entities referred to in subsection (a) to determine the extent of compliance with the requirements referred to in paragraphs (3), (6), and (7) of subsection (b). The study shall describe the results of the inspection, including any steps necessary to correct any violations of these requirements, and assessing any risks to employee health and safety or any limitations in accessibility to and usability by individuals with disabilities associated with each violation, and the estimated cost and time needed for abatement.

The Secretary of Labor, the Attorney General, the Secretary of Transportation, and the Architectural and Transportation Barriers Compliance Board may, on request of the Office, detail to the Office such personnel as may be necessary to advise and assist the Office in carrying out its duties under this section.

(e) DEADLINE AND DELIVERY OF STUDY.—Not later than July 1, 1996, the Board shall prepare and complete the study and recommendations required under this section and shall submit the study and recommendations to the head of each instrumentality or other entity considered by the study, and to the Speaker of the House of Representatives and President pro tempore of the Senate for referral to the appropriate committees of the House of Representatives and of the Senate.

TITLE II—OFFICE OF CONGRESSIONAL FAIR EMPLOYMENT PRACTICES—ESTABLISHMENT AND OPERATIONS

SEC. 201. ESTABLISHMENT OF OFFICE OF CONGRESSIONAL FAIR EMPLOYMENT PRACTICES.

There is hereby established, as an independent office within the legislative branch of the Government, the Office of Congressional Fair Employment Practices.

SEC. 202. BOARD OF DIRECTORS.

(a) IN GENERAL.—There shall be a Board of Directors of the Office (the ''Board''), to be composed of 5 members.

(b) APPOINTMENT.—

(1) TWO MEMBERS BY LEADERS OF HOUSE OF REPRESENTATIVES.—The Speaker of the House of Representatives shall appoint two members, of whom—

(A) one shall be appointed in accordance with the recommendation of the Majority Leader in consultation with the Minority Leader; and

(B) one shall be appointed in accordance with the recommendation of the Minority Leader in consultation with the Majority Leader.

(2) TWO MEMBERS BY LEADERS OF SENATE.—The President pro tempore of the Senate shall appoint two members, of whom—

(A) one shall be appointed in accordance with the recommendation of the Majority Leader in consultation with the Minority Leader; and

(B) one shall be appointed in accordance with the recommendation of the Minority Leader in consultation with the Majority Leader.

(3) CHAIR.—The Chair shall be appointed jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate from among candidates jointly recommended by the Majority Leaders and the Minority Leaders of the House of Representatives and the Senate.

(c) QUALIFICATIONS.—

(1) IN GENERAL.—Selection and appointment of members shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the office.

(2) SPECIFIC QUALIFICATIONS.—Members shall have training or experience in the application of the rights, protections, and remedies under one or more of the statutes made applicable by sections 101 through 107.

(3) DISQUALIFICATIONS.—No individual shall be eligible to serve on the Board who—

(A) is a current or former Member of the House of Representatives or a Senator;

(B) is, or has been within the 2 years prior to appointment—

(i) an elected or appointed officer of the House of Representatives or the Senate;

(ii) head of a congressional instrumentality referred to in subparagraphs (C) through (F) of section 3(1) or paragraph (1), (2), or (3) of section 110(a); or

(iii) a covered employee or otherwise an employee of an instrumentality or other entity of the legislative branch; or

(C) during the period of service engages in, or is otherwise employed in, lobbying of the Congress and who is required under the Federal Regulation of Lobbying Act to register with the Clerk of the House of Representatives or the Secretary of the Senate.

(d) TIME FOR ORIGINAL BOARD APPOINTMENTS.—All members shall be appointed to the Board pursuant to subsection (b) not later than 120 days after the date of enactment of this Act.

(e) APPOINTMENTS TO FILL VACANCIES ON THE BOARD.—Any vacancy in the membership of the Board shall be filled in the same manner as the original appointment for the vacant position.

(f) TERMS OF OFFICE FOR BOARD MEMBERS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the term of appointment of each member of the Board shall be 6 years. No member shall be appointed to more than 2 consecutive 6-year terms of office.

(2) TERMS OF OFFICE FOR ORIGINAL BOARD APPOINTMENTS.—

(A) TWO MEMBERS THROUGH JANUARY 3, 1998.—The terms of the members originally appointed pursuant to subsection (b)(1) shall terminate at noon on January 3, 1998.

(B) TWO MEMBERS THROUGH JANUARY 3, 2000.—The terms of the members originally appointed pursuant to subsection (b)(2) shall terminate at noon on January 3, 2000.

(C) ONE MEMBER THROUGH JANUARY 3, 2002.—The term of the Chair originally appointed shall terminate at noon on January 3, 2002.

(3) TERMS OF OFFICE FOR MID-TERM APPOINTMENTS TO THE BOARD.—An individual appointed to fill a vacancy occurring before the expiration of a term of office shall be appointed for the remainder of the term. However, if the unexpired part of a term is less than one year, the individual may be appointed for a 6-year term plus the unexpired part of the term.

(4) SERVICE AFTER EXPIRATION OF TERM.—A member may continue to serve after the expiration of his or her term until his successor has taken office, except that he or she may not continue to serve for more than 1 year after the date on which his or her term expired.

(g) REMOVAL OF BOARD MEMBERS.—

(1) IN GENERAL.—The Speaker of the House of Representatives and the President pro tempore of the Senate, acting in accordance with the recommendation of any 3 of the 4 Majority Leaders and Minority Leaders of the two Houses of Congress, may remove any member from the Board but only for—

(A) disability that substantially prevents the member from carrying out the duties of such a member;

(B) incompetence;

(C) neglect of duty;

(D) malfeasance in office;

(E) a felony or conduct involving moral turpitude; or

(F) holding an office or employment or engaging in an activity that disqualifies the individual from service as a member of the Board under subsection (c)(3).

(2) STATEMENT OF REASONS FOR REMOVAL.—In removing any member from the Board, the Speaker of the House of Representatives and the President pro tempore of the Senate shall state in writing to the member being removed the specific reasons for the removal.

(h) RESPONSIBILITIES OF CHAIR; ACTING CHAIR.—The Chair shall preside at all sessions of the Board and shall fulfill the responsibilities of the Chair as specifically provided in this Act. The Chair may designate any other member as Acting Chair. During any period when the position of the Chair is vacant, the other members shall, by majority vote, designate any member as Acting Chair. The Acting Chair may act in the place and stead of the Chair during his or her absence or when the position of the Chair is vacant.

(i) MEETINGS.—The Board shall meet at least once annually.

(j) QUORUM; ACTION BY MAJORITY VOTE.—A quorum for the transaction of business shall consist of at least 3 members present. Each member, including the Chair, shall have one vote. Actions of the Board shall be determined by a majority vote of the members present. Any vacancy shall not affect the power of the remaining members to fulfill the duties of the Board, provided that a quorum is present. Nothing in this subsection shall prohibit the Board from delegating the authority of the Board to make an interlocutory decision to one or more of the members of the Board.

(k) COMPENSATION OF MEMBERS.—Each member of the Board other than the Chair shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. The rate of pay may be prorated based on the portion of the day during which the member is engaged in the performance of Board duties. The Chair shall be compensated in the same manner at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(l) TRAVEL EXPENSES.—Each member of the Board of Directors shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(m) CONGRESSIONAL OVERSIGHT.—The Board and the Office shall be subject to oversight by the Committee on Rules and Administration and Committee on Governmental Affairs of the Senate and the Committee on House Administration of the House of Representatives. The Speaker of the House of Representatives and the President pro tempore of the Senate shall promptly refer to such committees copies of all general notices of proposed rulemaking and final rules submitted under section 204(d)(1) and any resolutions introduced with respect to approval of such rules.

SEC. 203. OFFICERS, STAFF, AND OTHER PERSONNEL.

(a) DIRECTOR.—

(1) IN GENERAL.—

(A) IN GENERAL.—The Chair, subject to the approval of the Board, shall appoint and may remove a Director. Selection and appointment of the Director shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the office.

(B) DISQUALIFICATION.—No person described in section 202(c)(3), other than a member, officer, or employee of an office of fair employment practices or a personnel appeals board, may be appointed Director.

(2) COMPENSATION.—The Chair may fix the compensation of the Director. The rate of pay for the Director may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(3) DUTIES.—The Director shall serve as the chief operating officer of the Office. Except

as otherwise specified in this Act, the Director shall carry out all of the responsibilities of the Office under this Act.

(b) DEPUTY DIRECTORS.—

(1) IN GENERAL.—The Chair, subject to the approval of the Board, shall appoint and may remove a Deputy Director for the Senate and a Deputy Director for the House of Representatives. Selection and appointment of a Deputy Director shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the office. The disqualifications in subsection (a)(1)(B) shall apply to the appointment of a Deputy Director.

(2) COMPENSATION.—The Chair may fix the compensation of a Deputy Director. The rate of pay for a Deputy Director may not exceed 96 percent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(3) DUTIES.—The Deputy Director for the Senate shall be responsible for the development of rules under section 204(b)(2)(B)(i), and shall assume such other responsibilities as may be delegated by the Director. The Deputy Director for the House of Representatives shall be responsible for the development of rules under section 204(b)(2)(B)(ii), and shall assume such other responsibilities as may be delegated by the Director.

(c) GENERAL COUNSEL.—

(1) IN GENERAL.—The Chair, subject to the approval of the Board, shall appoint and may remove a General Counsel. Selection and appointment of the General Counsel shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. The disqualifications in subsection (a)(1)(B) shall apply to the appointment of a General Counsel.

(2) COMPENSATION.—The Chair may fix the compensation of the General Counsel. The rate of pay for the General Counsel may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(3) DUTIES.—The General Counsel shall—

(A) exercise the authorities and perform the duties of the General Counsel as specified in this Act; and

(B) otherwise assist the Board and the Director in carrying out their duties and powers.

(4) ATTORNEYS IN THE OFFICE OF THE GENERAL COUNSEL.—The General Counsel shall appoint, and fix the compensation of, and may remove, such additional attorneys as may be necessary to enable the General Counsel to perform his or her duties.

(d) OTHER STAFF.—The Director shall appoint, and fix the compensation of, and may remove, such other additional staff, including hearing officers, but not including attorneys employed in the office of the General Counsel, as may be necessary to enable the Office to perform its duties.

(e) DETAILED PERSONNEL.—The Director may, with the prior consent of the Government department or agency concerned, use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency, including the services of members or personnel of the General Accounting Office Personnel Appeals Board.

(f) CONSULTANTS.—In carrying out the functions of the Office, the Director may procure the temporary (not to exceed 1 year) or intermittent services of consultants.

SEC. 204. RULEMAKING BY THE OFFICE.

(a) RULES OF THE OFFICE.—

(1) IN GENERAL.—Not later than 180 days after the appointment of a quorum of the Board, the Board shall issue final rules of organization, procedures, and practice (within the meaning of section 553(b)(A) of title 5, United States Code), including rules on the procedures of the Board and rules of procedure and practice for proceedings before hearing officers and before the Board. Such rules may also specify authorities and duties of the Director, the General Counsel, and other personnel of the Office, consistent with the authorities and duties granted and imposed under this Act.

(2) RULEMAKING PROCEDURE.—Rules under this subsection—

(A) shall be issued in accordance with subsection (c); and

(B) shall become effective immediately upon approval under paragraph (3), except for rules of procedure and practice for proceedings before hearing officers and before the Board, which shall become effective 60 days after such approval.

(3) APPROVAL.—Rules under this subsection shall be subject to approval by Congress by concurrent resolution, pursuant to subsection (d).

(b) RULES OTHER THAN RULES OF THE OFFICE.—

(1) IN GENERAL.—The Board shall adopt such rules other than rules of the Office issued under subsection (a) as the Board may determine are necessary.

(2) RULEMAKING PROCEDURE.—Rules under this subsection—

(A) shall be issued in accordance with subsection (c);

(B) shall consist of three separate bodies of rules, which shall apply, respectively, to—

(i) the Senate and employees of the Senate other than employees referred to in clause (iii);

(ii) the House of Representatives and employees of the House of Representatives other than employees referred to in clause (iii); and

(iii) the Architect of the Capitol, the Congressional Budget Office, the Office of Technology Assessment, the Office, and employees of these congressional instrumentalities; the Capitol Police and members of the Capitol Police; and other work units and members of other work units (other than joint committees of the Congress) that include employees of the Senate and of the House of Representatives under the same management; and

(C) shall become effective not less than 60 days after the rules are approved under paragraph (3), except as may be otherwise provided by the Board for good cause found (within the meaning of section 553(d)(3) of title 5, United States Code) and published with the rule.

(3) APPROVAL.—Rules referred to in paragraph (2)(B)(i) may be approved by the Senate by resolution or by the Congress by joint resolution or statute. Rules referred to in paragraph (2)(B)(ii) may be approved by the House of Representatives by resolution or by the Congress by joint resolution or statute. Rules referred to in paragraph (2)(B)(iii) may be approved by Congress by concurrent resolution or by joint resolution or statute. Rules approved by joint resolutions or statute shall have the force and effect of law. Approval referred to in this paragraph shall be pursuant to subsection (d).

(c) PUBLICATION AND ISSUANCE.—

(1) RULEMAKING PROCEDURE.—The Board shall issue rules described in subsections (a) and (b) in accordance with the principles and procedures set forth in section 553 of title 5, United States Code. The Board shall publish a general notice of proposed rulemaking under section 553(b) of title 5, United States Code, but, instead of publication of a general notice of proposed rulemaking in the Federal Register, the Board shall transmit such notice to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Prior to issuing rules, the Board shall provide a comment period of at least 30 days after publication of a general notice of proposed rulemaking. Upon issuing final rules, the Board shall transmit notice of such action together with a copy of such rules to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Rules shall be considered issued by the Board as of the date on which they are published in the Congressional Record.

(2) RECOMMENDATION AS TO METHOD OF APPROVAL.—The Board shall include a recommendation in the general notice of proposed rulemaking and in the final rules as to whether the rules should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, by joint resolution, or by statute.

(d) APPROVAL OF RULES.—

(1) ONE-HOUSE RESOLUTION OR CONCURRENT RESOLUTION.—In the case of a concurrent resolution referred to in subsection (a)(3), or a resolution of the House of Representatives, a resolution of the Senate, or a concurrent resolution referred to in subsection (b)(3), the matter after the resolving clause shall be the following: ''The following rules issued by the Office of Congressional Fair Employment Practices on ___ are hereby approved:'' (the blank spaces being appropriately filled in, and the text of the rules being set forth).

(2) JOINT RESOLUTION OR STATUTE.—In the case of a joint resolution referred to in subsection (b)(3), the matter after the resolving clause shall be the following, and, in the case of a statute referred to in subsection (b)(3), the matter after the enacting clause shall include the following: ''The following rules issued by the Office of Congressional Fair Employment Practices on ___ are hereby approved and shall have the force and effect of law:'' (the blank spaces being appropriately filled in, and the text of the rules being set forth).

(e) REFERRAL.—Upon receipt of a notice of issuance of final rules under subsection (c), the Speaker of the House of Representatives and the President pro tempore of the Senate shall refer such notice, together with a copy of such rules, to the appropriate committee or committees of the House of Representatives and of the Senate. The purpose of the referral shall be to consider whether such rules should be approved, and, if so, whether such approval should be by resolution of the House of Representatives or of the Senate, by concurrent resolution, by joint resolution, or by statute.

(f) JOINT REFERRAL AND DISCHARGE IN THE SENATE.—The President pro tempore of the Senate may refer the notice of issuance of final rules, or any resolution of approval of final rules, to one committee or jointly to more than one committee. If a committee of the Senate acts to report a jointly referred measure, any other committee of the Senate must act within 30 calendar days of continuous session, or be automatically discharged.

(g) AMENDMENT OF RULES.—Rules may be amended in the same manner as is described in this section for the adoption of rules, except that the Board may, in its discretion, dispense with publication of a general notice of proposed rulemaking of minor, technical, or urgent amendments that satisfy the criteria for dispensing with publication of such notice pursuant to section 553(b)(3)(B) of title 5, United States Code.

(h) RIGHT TO PETITION FOR RULEMAKING.—Any interested party may petition to the

Board for the issuance, amendment, or repeal of a rule.

(i) APPLICATION OF EXECUTIVE AGENCY REGULATIONS BY REFERENCE.—The Board may, by specific reference in rules issued under this section, apply regulations issued by any Executive agency (within the meaning of section 105 of title 5, United States Code).

(j) CONSULTATION.—The Director and the Board—

(1) shall consult, with regard to the development and issuance of rules, with—

(A) the Chairman of the Administrative Conference of the United States;

(B) the Secretary of Labor;

(C) the Federal Labor Relations Authority; and

(D) the Director of the Office of Personnel Management; and

(2) may consult with any other persons with whom consultation, in the opinion of the Board or the Director, may be helpful.

SEC. 205. INFORMATION PROGRAM.

The Board shall conduct an information program to inform Members of the House of Representatives, Senators, elected officers of either House, heads of employing offices, and covered employees about the provisions made applicable to them under this Act.

SEC. 206. DATA COLLECTION AND REPORT.

The Director shall compile and annually publish statistics with respect to contacts and complaints filed with the Office under this Act. Such statistics shall include the total numbers of contacts and complaints, and a breakdown regarding—

(1) the kinds of allegations made in contacts with the Office and complaints filed with the Office;

(2) the time required by the Office to conduct proceedings and resolve various types of matters;

(3) the number of complaints resolved by settlement, by decision under section 303, or by withdrawal of the complaint; and

(4) for each category of allegation, the amounts of monetary compensation granted in settlements and awards.

SEC. 207. EXPENSES OF THE OFFICE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Beginning in fiscal year 1995, and for each fiscal year thereafter, there are authorized to be appropriated for the expenses of the Office such sums as may be necessary to carry out the functions of the Office. Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding 12 months following the date of enactment of this Act, the expenses of the Office shall be paid from the contingent fund of the Senate, of which 50 percent shall be reimbursed from the contingent fund of the House, upon vouchers approved by the Director.

(b) WITNESS FEES AND ALLOWANCES.—Except for covered employees, witnesses before a hearing officer or the Board in any proceeding under title I other than rulemaking shall be paid the same fee and mileage allowances as are paid subpoenaed witnesses in the courts of the United States. Covered employees who are summoned, or are assigned by their employer, to testify in their official capacity or to produce official records before a mediator, hearing officer, or the Board in any proceeding under this Act shall be entitled to travel expenses under subchapter I and section 5751 of chapter 57 of title 5, United States Code.

TITLE III—ADMINISTRATIVE AND JUDICIAL DISPUTE-RESOLUTION PROCEDURES

SEC. 301. COUNSELING.

(a) INITIATION.—Any employee referred to in section 107(1) may, within the time specified in section 307, request counseling.

(b) PURPOSE.—The Office shall provide the employee with all relevant information with respect to the rights and remedies as provided under this Act and shall provide an opportunity for discussion, evaluation, and guidance to assist the employee in evaluating and resolving the matter.

(c) PERIOD OF COUNSELING.—The period for counseling shall begin on the date on which the request for counseling is received and shall be 30 days unless the employee and the Office agree to reduce the period.

(d) NOTIFICATION OF END OF COUNSELING PERIOD.—The Office shall notify the employee in writing when the counseling period has ended.

(e) EMPLOYEES OF THE ARCHITECT OF THE CAPITOL AND CAPITOL POLICE.—In the case of an employee of the Architect of the Capitol or an employee who is a member of the Capitol Police, the Director may refer the employee to the Architect of the Capitol or the Capitol Police Board for resolution of the employee's grievance through internal grievance procedures of the Architect of the Capitol or the Capitol Police Board for a specific period of time, which shall not count against the time available for counseling or mediation under this Act.

SEC. 302. MEDIATION.

(a) APPLICABILITY.—Except as otherwise expressly provided in this Act, the provisions of this section shall govern all mediation conducted by the Office pursuant to this Act.

(b) INITIATION.—Not later than 15 days after the Office notifies an employee of the end of the counseling period under section 301(d), the employee may file a request for mediation with the Office. Mediation may also be initiated pursuant to sections 108(d)(2) and 109(c)(5).

(c) MEDIATION PROCESS.—The Director shall specify one or more individuals to mediate any dispute. In identifying individuals to mediate, the Director shall consider individuals who are recommended to the Director by the Federal Mediation and Conciliation Service, the Administrative Conference of the United States, or other appropriate organizations.

(d) MEDIATION PERIOD.—

(1) IN GENERAL.—The mediation period shall be 30 days, beginning on the date the request for mediation is received by the Office.

(2) EXTENSION.—The mediation period may be extended for additional periods at the joint request of the employee and the employing office.

(e) NOTIFICATION OF END OF MEDIATION PERIOD.—The Office shall notify the employee and the head of the employing office in writing when the mediation period has ended.

(f) INDEPENDENCE OF MEDIATION PROCESS.—No individual appointed by the Director to mediate or to be a factfinder in aid of the mediator may conduct or aid in the hearing conducted under section 303 with respect to the same matter or shall be subject to subpoena or any other compulsory process with respect to the same matter.

SEC. 303. COMPLAINT AND HEARING.

(a) APPLICABILITY.—Except as otherwise expressly provided in this Act, the provisions of this section shall govern all hearings conducted by a hearing officer pursuant to this Act.

(b) COMPLAINT.—Any complaint shall be filed with the Office against the employing office. Any complaint required by this Act to be preceded by counseling and mediation may not be filed unless the employee has made a timely request for counseling and has completed the procedures set forth in sections 301 and 302.

(c) HEARING OFFICER.—Upon the filing of a complaint, the Director shall appoint an independent hearing officer to consider the complaint and render a decision. No Member of the House of Representatives, Senator, officer of either the House of Representatives or the Senate, head of an employing office, member of the Board, or covered employee may be appointed to be a hearing officer under this Act. The Director shall develop master lists, composed of members of the bar of a State or the District of Columbia and retired judges of the United States courts, experienced in adjudicating and arbitrating the kinds of personnel and other matters for which hearings may be held under this Act, and individuals expert in technical matters relating to accessibility and usability by persons with disabilities or technical matters relating to occupational safety and health, after considering candidates recommended to the Director by the Federal Mediation and Conciliation Service, the Administrative Conference of the United States, or organizations composed primarily of individuals experienced in adjudicating or arbitrating such matters. The Director shall select hearing officers on a rotational or random basis from these lists. Nothing in this section shall prevent the appointment of hearing officers as full-time employees of the Office, or the selection of hearing officers on the basis of specialized expertise needed for particular matters.

(d) HEARING.—Unless a complaint is dismissed prior to hearing, a hearing shall be conducted—

(1) on the record by the hearing officer;

(2) as expeditiously as practical, commencing not later than 90 days after the filing of the complaint; and

(3) except as specifically provided in this Act and to the greatest extent practicable, in accordance with the principles and procedures set forth in sections 554 through 557 of title 5, United States Code.

(e) DISCOVERY.—Reasonable prehearing discovery may be permitted at the discretion of the hearing officer.

(f) SUBPOENAS.—

(1) IN GENERAL.—At the request of a party, a hearing officer may issue subpoenas for the attendance of witnesses and for the production of correspondence, books, papers, documents, and other records. The attendance of witnesses and the production of records may be required from any place within the United States. Subpoenas shall be served in the manner provided under rule 45(b) of the Federal Rules of Civil Procedure.

(2) OBJECTIONS.—If a person refuses, on the basis of relevance, privilege, or other objection, to testify in response to a question or to produce records in connection with a proceeding before a hearing officer, the hearing officer shall rule on the objection. At the request of the witness or any party, the hearing officer shall (or on the hearing officer's own initiative, the hearing officer may) refer the ruling to the Board for review.

(3) ENFORCEMENT.—

(A) IN GENERAL.—If a person fails to comply with a subpoena, the Board may authorize the General Counsel to apply to an appropriate United States district court for an order requiring that person to appear before the hearing officer to give testimony or produce records. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey a lawful order of the district court issued pursuant to this section may be held by such court to be a civil contempt thereof.

(B) SERVICE OF PROCESS.—Process in an action or contempt proceeding pursuant to subparagraph (A) may be served in any judicial district in which the person refusing or failing to comply, or threatening to refuse or

not to comply, resides, transacts business, or may be found, and subpoenas for witnesses who are required to attend such proceedings may run into any other district.

(g) DECISION.—The hearing officer shall issue a written decision as expeditiously as possible, but in no case more than 60 days after the conclusion of the hearing. The written decision shall be transmitted by the Office to the parties. The decision shall state the issues raised in the complaint, describe the evidence in the record, contain findings of fact and conclusions of law, contain a determination of whether a violation has occurred, and order such remedies as are appropriate pursuant to title I. The decision shall be entered in the records of the Office as a final decision of the hearing officer.

(h) PRECEDENTS.—A hearing officer who conducts a hearing under this section shall be guided by judicial decisions under the statutes made applicable by title I and by Board decisions under this Act.

SEC. 304. APPEAL TO THE BOARD.

(a) IN GENERAL.—In any case in which a final decision by a hearing officer is subject to review by the Board, the party seeking such review shall file a petition for review not later than 30 days after notice of the entry of the decision in the records of the Office under section 303(g).

(b) PARTIES' OPPORTUNITY TO SUBMIT ARGUMENT.—The parties shall have a reasonable opportunity to be heard, through written submission and, in the discretion of the Board, through oral argument.

(c) STANDARD OF REVIEW.—The Board shall set aside a decision of a hearing officer if the Board determines that the decision was—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

(d) RECORD.—In making determinations under subsection (c), the Board shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error. The record on review shall include the record before the hearing officer and the decision of the hearing officer.

(e) DECISION.—The Board shall issue a written decision setting forth the reasons for its decision. The decision may affirm, reverse, or remand to the hearing officer for further proceedings. A decision that does not require further proceedings before a hearing officer shall be entered in the records of the Office as a final decision.

SEC. 305. JUDICIAL REVIEW OF A FINAL DECISION AND ENFORCEMENT.

(a) JURISDICTION.—

(1) JUDICIAL REVIEW.—This section applies to petitions under section 107(5), 108(d)(4), 109(c)(5), 109(c)(6), or 110(b)(4) for judicial review of a final decision of the Board in the United States Court of Appeals for the Federal Circuit, which shall have exclusive jurisdiction to set aside, suspend (in whole or in part), to determine the validity of, or otherwise review the decision of the Board.

(2) ENFORCEMENT.—The Court of Appeals for The Federal Circuit shall have jurisdiction over any petition of the General Counsel, filed in the name of the Office and at the direction of the Board, to enforce a final decision under section 303 or 304 with respect to a violation of sections 101 through 111.

(b) PROCEDURES.—

(1) PETITION.—The petition for review shall be filed, pursuant to Rule 15 of the Federal Rules of Appellate Procedure, not later than 90 days after the entry in the Office of a final decision under section 304(e). Such petition shall be subject to Rules 15 through 20 of the Federal Rules of Appellate Procedure, relating to review of administrative orders and the Office shall be the ''agency'' as that term is used in such rules. The petitioner shall attach to the petition as an exhibit a copy of the final decision of the Office entered under section 304(e).

(2) RESPONDENTS.—In any appeal under this section, any party before the Board may be named respondent by filing a notice of election with the Court within 30 days after the petition was served, and the Office shall also be named respondent.

(3) INTERVENTION.—In any action under this section with respect to an employing office or other office of the Senate or a joint committee of the Congress, the Senate shall be entitled to intervene as of right; and, in any action under this section with respect to an employing office or other office of the House of Representatives or a joint committee of the Congress, the House of Representatives shall be entitled to intervene as of right. Any party that participated in the proceedings before the Board and that was not made respondent may intervene as of right.

(c) STANDARD OF REVIEW.—To the extent necessary to decision and when presented, the court shall decide all relevant questions of law and interpret constitutional and statutory provisions. The court shall set aside a final decision of the Board under section 304 if it determines that the decision was—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

(d) RECORD.—In making determinations under subsection (d), the court shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error. The record on review shall include the record before the Board and the decision of the Board.

SEC. 306. CIVIL ACTIONS.

(a) IN GENERAL.—This section governs all civil actions commenced pursuant to section 107(3)(B).

(b) PARTIES.—In any such action the defendant shall be the employing office alleged to have committed the violation.

(c) JURY TRIAL.—Any party may demand a jury trial where a jury trial would be available in an action against a private defendant under the relevant statute made applicable by this Act. In any case in which a violation of section 101 is alleged, the court shall not inform the jury of the maximum amount of compensatory damages available under section 101(b)(1).

(d) INTERVENTION OF RIGHT.—In any action under this section with respect to an employing office or other office of the Senate, the Senate shall be entitled to intervene as of right; and, in any action under this section with respect to an employing office or other office of the House of Representatives, the House of Representatives shall be entitled as of right.

SEC. 307. TIME LIMITATIONS.

(a) COUNSELING REQUESTS.—A request for counseling shall be made not later than—

(1) 180 days after the date of the alleged violation under provisions of sections 101, 103, 104, 105, or 106 for which the counseling is requested; or

(2) 2 years after the date of the alleged violation under section 102 for which the counseling is requested, or 3 years after an alleged willful violation under section 102.

(b) CHARGES FILED WITH THE GENERAL COUNSEL.—Any charge of a violation of section 108(d) or 109(c)(6) must be filed with the General Counsel in writing by no later than 180 days after the alleged violation.

SEC. 308. SETTLEMENT OF COMPLAINTS.

Any settlement entered into by the parties after a complaint is filed under section 303 or 305 shall be in writing and, in the case of a complaint filed under section 303, not become effective unless it is approved by the Director. Nothing in this Act shall affect the power of the Senate and the House of Representatives, respectively, to establish rules governing the process by which a settlement may be entered into by such House or by any employing office of such House.

SEC. 309. CONFIDENTIALITY.

(a) COUNSELING.—All counseling conducted under this Act shall be strictly confidential, except that the Office and the employee may agree to notify the head of the employing office of the allegations.

(b) MEDIATION.—All mediation conducted under this Act shall be strictly confidential.

(c) HEARINGS.—Subject to the provisions of subsections (d), (e), and (f) the hearings, deliberations, and decisions of hearing officers and of the Board and of its officers and employees on complaints, charges, proposed citations, and other pleadings under this Act shall be strictly confidential.

(d) RELEASE OF RECORDS FOR JUDICIAL REVIEW AND ENFORCEMENT OF SUBPOENAS.—The complete record of the proceedings before the hearing officer and the Board, including their decisions, may be made public for the purpose of judicial review under section 305. As much of the record of the proceedings before the hearing officer and the Board as may be necessary for the purpose of enforcement of a subpoena under section 303(f) may be made public for such purpose.

(e) RELEASE OF RECORDS FOR FAIRNESS TO PARTIES.—Upon the application of any party, the Board may disclose the final decision of a hearing officer or of the Board upon a showing of good cause and fairness to all parties to the proceeding.

SEC. 310. DISCLOSURE TO COMMITTEES OF CONGRESS.

(a) The Board—

(1) may, at its discretion, provide to the Committee on Standards of Official Conduct of the House of Representatives or the Select Committee on Ethics of the Senate; and

(2) shall, at the request of either of such committees;

provide to such committee the record of a hearing and the decision of the hearing officer, and the record of consideration and the decision of the Board on appeal, after completion of procedures described in sections 303 and 304.

(b) All members and staff of the Committee on Standards of Official Conduct of the House of Representatives and of the Select Committee on Ethics of the Senate shall keep all records and decisions provided under subsection (a) strictly confidentially unless and until such records and decisions are final made public by the Board. Any violation of this subsection shall be a violation of the rules of the House of Representatives or of the Senate.

SEC. 311. REPRESENTATION.

(a) COMPLAINANT.—A covered employee or other complainant is entitled to be assisted by counsel or other representative at any stage of any proceeding administered by the Office, including the proceedings under sections 301, 302, 303, and 304.

(b) EMPLOYING OFFICES OF THE SENATE.—The Senate Chief Counsel for Employment may represent any employing office of the Senate, with the consent of the employing office, in any administrative and judicial proceeding under this Act.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EXERCISE OF RULEMAKING POWERS.

The provisions of sections 204 (e) and (f), 311(b), 401, and 408 are enacted—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of such House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of each House.

SEC. 402. SETTLEMENT AND AWARDS RESERVES; AUTHORIZATION OF APPROPRIATIONS.

(a) FOR THE HOUSE OF REPRESENTATIVES.—

(1) ESTABLISHMENT OF ACCOUNT.—There is established in the Contingent Fund of the House of Representatives a ''Settlements and Awards Reserve'' appropriation account—

(A) into which shall be deposited appropriated funds and amounts transferred by the Clerk of the House of Representatives from funds available to the Clerk for disbursement by the Clerk; and

(B) that shall be available as provided in paragraph (2).

(2) PAYMENTS.—The appropriation account established by paragraph (1) shall be available for the payment of awards under sections 303 through 306 and agreements under section 308.

(b) FOR THE SENATE.—

(1) ESTABLISHMENT OF ACCOUNT.—There is established in the Contingent Fund of the Senate a ''Settlements and Awards Reserve'' appropriation account—

(A) into which shall be deposited appropriated funds and amounts transferred by the Secretary of the Senate from funds available to the Secretary for disbursement by the Secretary; and

(B) that shall be available as provided in paragraph (2).

(2) PAYMENTS.—The appropriation account established by paragraph (1) shall be available for the payment of awards under sections 303 through 306 and agreements under section 308.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for the purposes of subsections (a)(2) and (b)(2), and otherwise for the purposes of payment of awards under sections 303 through 306 and agreements under section 308. No amounts shall be paid for awards or agreements under this Act out of the Claims and Judgment Fund of the Treasury.

SEC. 403. OTHER JUDICIAL REVIEW PROHIBITED.

Except in proceedings expressly authorized by sections 305 and 306, the compliance or noncompliance with the provisions of this Act and any action taken pursuant to this Act shall not be subject to judicial review.

SEC. 404. PRIVILEGES AND IMMUNITIES.

(a) IN GENERAL.—The authorization to bring judicial actions under sections 305 and 306 shall not constitute a waiver of sovereign immunity for any other purpose, or of the privileges of any Senator or Member of the House of Representatives under article I, section 6, clause 1, of the Constitution, or a waiver of any power of either the Senate or the House of Representatives under the Constitution or under the rules of such House relating to records and information within the jurisdiction of such House.

SEC. 405. SEVERABILITY.

If any provision of this Act or the application of such provision to any person or circumstance is held to be invalid, the remainder of this Act and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 406. POLITICAL AFFILIATION AND PLACE OF RESIDENCE.

(a) IN GENERAL.—It shall not be a violation of any provision of section 101 to consider the—

(1) party affiliation;

(2) domicile; or

(3) political compatibility with the employing office;

of an employee referred to in subsection (b) with respect to employment decisions.

(b) DEFINITION.—For purposes of subsection (a), the term ''employee'' means—

(1) an employee on the staff of the leadership of the House of Representatives or the leadership of the Senate;

(2) an employee on the staff of a committee or subcommittee of—

(A) the House of Representatives;

(B) the Senate; or

(C) a joint committee of the Congress;

(3) an employee on the staff of a Member of the House of Representatives or on the staff of a Senator;

(4) an officer of the House of Representatives or the Senate or a congressional employee who is elected by the House of Representatives or Senate or is appointed by a Member of the House of Representatives or by a Senator (in addition an employee described in paragraph (1), (2), or (3)); or

(5) an applicant for a position that is to be occupied by an individual described in any of paragraphs (1) through (4).

SEC. 407. NONDISCRIMINATION RULES OF THE HOUSE AND SENATE.

The Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives retain full power, in accordance with the authority provided to them by the Senate and the House, with respect to the discipline of Members, officers, and employees for violating rules of the Senate and the House on nondiscrimination in employment.

SEC. 408. EXPEDITED REVIEW OF CERTAIN APPEALS.

(a) IN GENERAL.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order of a court upon the constitutionality of any provision of this Act.

(b) JURISDICTION.—The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal referred to in paragraph (1), advance the appeal on the docket and expedite the appeal to the greatest extent possible.

SEC. 409. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CIVIL RIGHTS REMEDIES.—

(1) Sections 301 and 302 of the Government Employee Rights Act of 1991 (2 U.S.C. 1201 and 1202) are amended to read as follows:

''SEC. 301. GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.

''(a) SHORT TITLE.—This title may be cited as the 'Government Employee Rights Act of 1991'.

''(b) PURPOSE.—The purpose of this title is to provide procedures to protect the rights of certain government employees, with respect to their public employment, to be free of discrimination on the basis of race, color, religion, sex, national origin, age, or disability.

''(c) DEFINITION.—For purposes of this title, the term 'violation' means a practice that violates section 302(a) of this title.

''SEC. 302. DISCRIMINATORY PRACTICES PROHIBITED.

''(a) PRACTICES.—All personnel actions affecting the appointees described in section 303(a)(1) or the individuals described in section 304(a) shall be made free from any discrimination based on—

''(1) race, color, religion, sex, or national origin, within the meaning of section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16);

''(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or

''(3) handicap or disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sections 102 through 104 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112–14).

''(b) REMEDIES.—The remedies referred to in sections 303(a)(1) and 304(a)—

''(1) may include, in the case of a determination that a violation of subsection (a)(1) has occurred, such remedies as would be appropriate if awarded under sections 706(g), 706(k), and 717(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(g), 2000e–5(k), 2000e–16(d)), and such compensatory damages (not exceeding, for each complaining party, and irrespective of the size of the employing office or agency involved, the maximum amount available under section 1977A(b)(3)(D) of the Revised Statutes (42 U.S.C. 1981a(b)(3)(D)) as would be appropriate if awarded under section 1977 and sections 1977(A) (a) and (b)(2) of the Revised Statutes (42 U.S.C. 1981 and 1981a (a) and (b)(2));

''(2) may include, in the case of a determination that a violation of subsection (a)(2) has occurred, such remedies as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c));

''(3) may include, in the case of a determination that a violation of subsection (a)(3) has occurred, such remedies as would be appropriate if awarded under section 505(a) of the Rehabilitation Act of 1973 (29 U.S.C. 794a(a)(1)) or section 107 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117(a)); and

''(4) may not include punitive damages.''.

(2) Sections 303 through 319, and sections 322, 324, and 325 of the Civil Rights Act of 1991 (2 U.S.C. 1203—1218, 1221, 1223, and 1224) are repealed effective October 1, 1995, except as provided in section 411.

(3) Sections 320 and 321 of the Civil Rights Act of 1991 (2 U.S.C. 1219 and 1220) are redesignated as sections 303 and 304, respectively.

(4) Sections 303 and 304 of the Civil Rights Act of 1991, as so redesignated, are each amended by striking ''and 307(h) of this title''.

(5) Section 1205 of the Supplemental Appropriations Act of 1993 (2 U.S.C. 1207a) is repealed effective October 1, 1995, except as provided in section 411.

(b) FAMILY AND MEDICAL LEAVE ACT OF 1993.—Section 501 of the Family and Medical Leave Act of 1993 (2 U.S.C. 60m) is repealed effective October 1, 1995, except as provided in section 411.

(c) ARCHITECT OF THE CAPITOL.—

(1) REPEAL.—Section 312(e) of the Architect of the Capitol Human Resources Act (Public Law 103–283; 108 Stat. 1444) is repealed effective October 1, 1995, except as provided in section 411.

(2) APPLICATION OF GENERAL ACCOUNTING OFFICE PERSONNEL ACT OF 1980.—The provisions of sections 751, 753, and 755 of title 31, United States Code, amended by section 312(e) of the Architect of the Capitol Human Resources Act, shall be applied and administered as if such section 312(e) (and the amendments made by such section) had not been enacted.

SEC. 410. SAVINGS PROVISION.

(a) TRANSITION PROVISIONS FOR EMPLOYEES OF THE HOUSE OF REPRESENTATIVES AND OF THE SENATE.—

(1) CLAIMS NOT FILED PRIOR TO EFFECTIVE DATE.—If, as of the date on which sections 101 and 102 take effect, an employee could have initiated a request for counseling under

section 305 of the Government Employees Rights Act (2 U.S.C. 1205) or rule LI of the House of Representatives, the employee may, on or after the date on which sections 101 and 102 take effect, request counseling pursuant to section 107(1), and seek relief pursuant to section 107. Such a request for counseling must be initiated on or before the last day on which a request for counseling could have been made, in the case of an employee of the Senate, under section 305 of the Government Employees Rights Act or section 501(d) of the Family and Medical Leave Act of 1993, or, in the case of an employee of the House of Representatives, under rule LI of the House of Representatives, had those provisions remained in effect. If the Office is not yet established to receive such a request for counseling, the time for initiating such a request shall be extended until 30 days after the Office begins accepting such requests. All procedures and remedies under this Act with respect to alleged violations under section 101, except for civil actions under section 107(3)(B), shall be available to the same extent as if such alleged violations had occurred on or after the date on which sections 101 and 102 take effect.

(2) CLAIMS FILED PRIOR TO EFFECTIVE DATE.—If, as of the date on which sections 101 and 102 take effect, an employee to whom those sections apply—

(A) has requested counseling pursuant to the Government Employees Rights Act of 1991 or rule LI of the House of Representatives—

(i) if the counseling period has not ended—

(I) the authority of such Act or rule shall continue with respect to that request for counseling, until the end of the counseling period; and

(II) if the employee completes the counseling, the employee shall be deemed to have complied with the requirements of section 301, and any further proceedings shall be under this Act, except that the right to bring a civil action under section 107(3)(B) shall not be available; and

(ii) if the counseling period has ended and the employee would otherwise have been eligible to request mediation pursuant to the Government Employee Rights Act of 1991 or rule LI of the House of Representatives, the employee shall be deemed to have complied with the requirements of section 301, and any further proceedings shall be under this Act;

(B) has requested mediation pursuant to the Government Employee Rights Act of 1991 or rule LI of the House of Representatives—

(i) if the mediation period has not ended—

(I) the authority of such Act shall continue with respect to the request for mediation, until the end of the mediation period; and

(II) if the employee completes the mediation, the employee shall be deemed to have complied with the requirements of section 302, and any further proceedings shall be under this Act, except that the right to bring a civil action under section 107(3)(B) shall not be available; and

(ii) if the mediation period has ended and the employee would otherwise have been eligible to file a complaint pursuant to the Government Employee Rights Act of 1991 or rule LI of the House of Representatives, the employee shall be deemed to have complied with the requirements of section 302, and any further proceedings shall be under this Act; or

(C) has filed a complaint pursuant to the Government Employee Rights Act of 1991 or rule LI of the House of Representatives, the authority of such Act or rule shall continue with respect to that complaint until the conclusion of all proceedings authorized under such Act or rule.

(c) ARCHITECT OF THE CAPITOL TRANSITION PROVISIONS.—

(1) CLAIMS NOT FILED PRIOR TO EFFECTIVE DATE.—If, as of the date on which section 101 takes effect, an employee of the Architect of the Capitol could have filed a complaint regarding an alleged violation of section 312(e)(2) of the Architect of the Capitol Human Resources Act (P.L. 103-323) with the Architect of the Capitol in accordance with requirements prescribed by the Architect of the Capitol, the employee may request counseling pursuant to section 107(1), and seek relief pursuant to section 107. Such a request for counseling must be initiated on or before the latest of—

(A) 60 days following the date on which section 101 takes effect;

(B) 30 days after the Office begins accepting such requests; or

(C) 180 days after the date of the alleged violation forming the basis of the request for counseling.

All procedures and remedies under this Act with respect to alleged violations under section 101, except for civil actions under section 107(3)(B), shall be available to the same extent as if such alleged violations had occurred on or after the date on which section 101 takes effect.

(2) COMPLAINTS FILED WITH THE ARCHITECT PRIOR TO EFFECTIVE DATE.—If, on the date on which section 101 takes effect, an employee of the Architect of the Capitol has filed a complaint with the Architect of the Capitol alleging a violation of section 312(e)(2) of the Architect of the Capitol Human Resources Act, but the employee has not yet filed a charge with the General Accounting Office Personnel Appeals Board and the time for filing such a charge has not expired, the employee may, within the later of 30 days after the date on which section 101 takes effect or 30 days after the date on which the Office first begins accepting such requests, file a request for counseling request counseling pursuant to section 107(1), and seek relief pursuant to section 107. All procedures and remedies under this Act with respect to alleged violations under section 101, except for civil actions under section 107(3)(B), shall be available to the same extent as if such alleged violations had occurred on or after the date on which section 101 takes effect.

(3) COMPLAINTS FILED WITH THE GAO PERSONNEL APPEALS BOARD PRIOR TO EFFECTIVE DATE.—If, as of the date on which section 101 takes effect, an employee of the Architect of the Capitol has filed a charge with the General Accounting Office Personnel Appeals Board pursuant to section 312(e)(3)(A) of the Architect of the Capitol Human Resources Act (P.L. 103-283), then, notwithstanding any other provision of this Act, the authority of the Architect of the Capitol Human Resources Act, and of the General Accounting Office Personnel Act of 1980 as amended by the Architect of the Capitol Human Resources Act of 1994 shall continue with respect to that charge until the conclusion of all proceedings authorized under such Acts, including judicial review.

DIVISION B—LOBBYING AND GIFT REFORM

TITLE I—LOBBYING REFORM

SEC. 1101. SHORT TITLE.

This title may be cited as the ''Lobbying Disclosure Act of 1995''.

SEC. 1102. FINDINGS.

The Congress finds that—

(1) responsible representative Government requires public awareness of the efforts of paid lobbyists to influence the public decisionmaking process in both the legislative and executive branches of the Federal Government;

(2) existing lobbying disclosure statutes have been ineffective because of unclear statutory language, weak administrative and enforcement provisions, and an absence of clear guidance as to who is required to register and what they are required to disclose; and

(3) the effective public disclosure of the identity and extent of the efforts of paid lobbyists to influence Federal officials in the conduct of Government actions will increase public confidence in the integrity of Government.

SEC. 1103. DEFINITIONS.

As used in this title:

(1) AGENCY.—The term ''agency'' has the meaning given that term in section 551(1) of title 5, United States Code.

(2) CLIENT.—The term ''client'' means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose employees act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.

(3) COVERED EXECUTIVE BRANCH OFFICIAL.—The term ''covered executive branch official'' means—

(A) the President;

(B) the Vice President;

(C) any officer or employee, or any other individual functioning in the capacity of such an officer or employee, in the Executive Office of the President;

(D) any officer or employee serving in a position in level I, II, III, IV, or V of the Executive Schedule, as designated by statute or Executive order;

(E) any officer or employee serving in a Senior Executive Service position, as defined in section 3132(a)(2) of title 5, United States Code;

(F) any member of the uniformed services whose pay grade is at or above O–7 under section 201 of title 37, United States Code; and

(G) any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policy-advocating character described in section 7511(b)(2) of title 5, United States Code.

(4) COVERED LEGISLATIVE BRANCH OFFICIAL.—The term ''covered legislative branch official'' means—

(A) a Member of Congress;

(B) an elected officer of either House of Congress;

(C) any employee of, or any other individual functioning in the capacity of an employee of—

(i) a Member of Congress;

(ii) a committee of either House of Congress;

(iii) the leadership staff of the House of Representatives or the leadership staff of the Senate;

(iv) a joint committee of Congress; and

(v) a working group or caucus organized to provide legislative services or other assistance to Members of Congress; and

(D) any other legislative branch employee serving in a position described under section 109(13) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(5) DIRECTOR.—The term ''Director'' means the Director of the Office of Lobbying Registration and Public Disclosure.

(6) EMPLOYEE.—The term ''employee'' means any individual who is an officer, employee, partner, director, or proprietor of a person or entity, but does not include—

(A) independent contractors; or

(B) volunteers who receive no financial or other compensation from the person or entity for their services.

(7) FOREIGN ENTITY.—The term ''foreign entity'' means a foreign principal (as defined in section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)).

(8) LOBBYING ACTIVITIES.—The term ''lobbying activities'' means lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others. Lobbying activities also include efforts to stimulate grassroots lobbying, as described in section 4911(d)(1)(A) of the Internal Revenue Code of 1986, to the extent that such communications are made in support of a lobbying contact by a registered lobbyist. A communication in support of a lobbying contact is a lobbying activity even if the communication is excluded from the definition of ''lobbying contact'' under paragraph (9)(B).

(9) LOBBYING CONTACT.—

(A) DEFINITION.—The term ''lobbying contact'' means any oral or written communication (including an electronic communication) to a covered executive branch official or a covered legislative branch official that is made on behalf of a client with regard to—

(i) the formulation, modification, or adoption of Federal legislation (including legislative proposals);

(ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government;

(iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license), except that this clause does not include communications that are made to any covered executive branch official—

(I) who is serving in a Senior Executive Service position described in paragraph (3)(E); or

(II) who is a member of the uniformed services whose pay grade is lower than O–9 under section 201 of title 37, United States Code,

in the agency responsible for taking such administrative or executive action; or

(iv) the nomination or confirmation of a person for a position subject to confirmation by the Senate.

(B) EXCEPTIONS.—The term ''lobbying contact'' does not include a communication that is—

(i) made by a public official acting in the public official's official capacity;

(ii) made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;

(iii) made in a speech, article, publication or other material that is widely distributed to the public, or through radio, television, cable television, or other medium of mass communication;

(iv) made on behalf of a government of a foreign country or a foreign political party and disclosed under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

(v) a request for a meeting, a request for the status of an action, or any other similar administrative request, if the request does not include an attempt to influence a covered executive branch official or a covered legislative branch official;

(vi) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act;

(vii) testimony given before a committee, subcommittee, or task force of the Congress, or submitted for inclusion in the public record of a hearing conducted by such committee, subcommittee, or task force;

(viii) information provided in writing in response to a written request by a covered executive branch official or a covered legislative branch official for specific information;

(ix) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of the Congress or an agency;

(x) made in response to a notice in the Federal Register, Commerce Business Daily, or other similar publication soliciting communications from the public and directed to the agency official specifically designated in the notice to receive such communications;

(xi) not possible to report without disclosing information, the unauthorized disclosure of which is prohibited by law;

(xii) made to an official in an agency with regard to—

(I) a judicial proceeding or a criminal or civil law enforcement inquiry, investigation, or proceeding; or

(II) a filing or proceeding that the Government is specifically required by statute or regulation to maintain or conduct on a confidential basis,

if that agency is charged with responsibility for such proceeding, inquiry, investigation, or filing;

(xiii) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or substantially similar provisions;

(xiv) a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;

(xv) a petition for agency action made in writing and required to be a matter of public record pursuant to established agency procedures;

(xvi) made on behalf of an individual with regard to that individual's benefits, employment, or other personal matters involving only that individual, except that this clause does not apply to any communication with—

(I) a covered executive branch official, or

(II) a covered legislative branch official (other than the individual's elected Members of Congress or employees who work under such Members' direct supervision),

with respect to the formulation, modification, or adoption of private legislation for the relief of that individual;

(xvii) a disclosure by an individual that is protected under the amendments made by the Whistleblower Protection Act of 1989, under the Inspector General Act of 1978, or under another provision of law;

(xviii) made by—

(I) a church, its integrated auxiliary, or a convention or association of churches that is exempt from filing a Federal income tax return under paragraph 2(A)(i) of section 6033(a) of the Internal Revenue Code of 1986, or

(II) a religious order that is exempt from filing a Federal income tax return under paragraph (2)(A)(iii) of such section 6033(a); and

(xix) between—

(I) officials of a self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act) that is registered with or established by the Securities and Exchange Commission as required by that Act or a similar organization that is designated by or registered with the Commodities Future Trading Commission as provided under the Commodity Exchange Act; and

(II) the Securities and Exchange Commission or the Commodities Future Trading Commission, respectively;

relating to the regulatory responsibilities of such organization under that Act.

(10) LOBBYING FIRM.—The term ''lobbying firm'' means a person or entity that has 1 or more employees who are lobbyists on behalf of a client other than that person or entity. The term also includes a self-employed individual who is a lobbyist.

(11) LOBBYIST.—The term ''lobbyist'' means any individual who is employed or retained by a client for financial or other compensation for services that include 1 or more lobbying contacts, other than an individual whose lobbying activities constitute less than 10 percent of the time engaged in the services provided by such individual to that client.

(12) MEDIA ORGANIZATION.—The term ''media organization'' means a person or entity engaged in disseminating information to the general public through a newspaper, magazine, other publication, radio, television, cable television, or other medium of mass communication.

(13) MEMBER OF CONGRESS.—The term ''Member of Congress'' means a Senator or a Representative in, or Delegate or Resident Commissioner to, the Congress.

(14) ORGANIZATION.—The term ''organization'' means a person or entity other than an individual.

(15) PERSON OR ENTITY.—The term ''person or entity'' means any individual, corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or State or local government.

(16) PUBLIC OFFICIAL.—The term ''public official'' means any elected official, appointed official, or employee of—

(A) a Federal, State, or local unit of government in the United States other than—

(i) a college or university;

(ii) a government-sponsored enterprise (as defined in section 3(8) of the Congressional Budget and Impoundment Control Act of 1974);

(iii) a public utility that provides gas, electricity, water, or communications;

(iv) a guaranty agency (as defined in section 435(j) of the Higher Education Act of 1965 (20 U.S.C. 1085(j))), including any affiliate of such an agency; or

(v) an agency of any State functioning as a student loan secondary market pursuant to section 435(d)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)(1)(F));

(B) a Government corporation (as defined in section 9101 of title 31, United States Code);

(C) an organization of State or local elected or appointed officials other than officials of an entity described in clause (i), (ii), (iii), (iv), or (v) of subparagraph (A);

(D) an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(E) a national or State political party or any organizational unit thereof; or

(F) a national, regional, or local unit of any foreign government.

(17) STATE.—The term ''State'' means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

SEC. 1104. REGISTRATION OF LOBBYISTS.

(a) REGISTRATION.—

(1) GENERAL RULE.—No later than 30 days after a lobbyist first makes a lobbying contact or is employed or retained to make a lobbying contact, whichever is earlier, such lobbyist (or, as provided under paragraph (2), the organization employing such lobbyist), shall register with the Office of Lobbying Registration and Public Disclosure.

(2) EMPLOYER FILING.—Any organization that has 1 or more employees who are lobbyists shall file a single registration under this section on behalf of such employees for each client on whose behalf the employees act as lobbyists.

(3) EXEMPTION.—

(A) GENERAL RULE.—Notwithstanding paragraphs (1) and (2), a person or entity whose—

(i) total income for matters related to lobbying activities on behalf of a particular client (in the case of a lobbying firm) does not exceed and is not expected to exceed $2,500; or

(ii) total expenses in connection with lobbying activities (in the case of an organization whose employees engage in lobbying activities on its own behalf) do not exceed or are not expected to exceed $5,000,

(as estimated under section 1105) in the semiannual period described in section 1105(a) during which the registration would be made is not required to register under subsection (a) with respect to such client.

(B) ADJUSTMENT.—The dollar amounts in subparagraph (A) shall be adjusted—

(i) on January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) since the date of enactment of this title; and

(ii) on January 1 of each fourth year occurring after January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) during the preceding 4-year period,

rounded to the nearest $500.

(b) CONTENTS OF REGISTRATION.—Each registration under this section shall be in such form as the Director shall prescribe by regulation and shall contain—

(1) the name, address, business telephone number, and principal place of business of the registrant, and a general description of its business or activities;

(2) the name, address, and principal place of business of the registrant's client, and a general description of its business or activities (if different from paragraph (1));

(3) the name, address, and principal place of business of any organization, other than the client, that—

(A) contributes more than $5,000 toward the lobbying activities of the registrant in a semiannual period described in section 1105(a); and

(B) participates significantly in the planning, supervision, or control of such lobbying activities;

(4) the name, address, principal place of business, amount of any contribution of more than $5,000 to the lobbying activities of the registrant, and approximate percentage of equitable ownership in the client (if any) of any foreign entity that—

(A) holds at least 20 percent equitable ownership in the client or any organization identified under paragraph (3);

(B) directly or indirectly, in whole or in major part, plans, supervises, controls, directs, finances, or subsidizes the activities of the client or any organization identified under paragraph (3); or

(C) is an affiliate of the client or any organization identified under paragraph (3) and has a direct interest in the outcome of the lobbying activity;

(5) a statement of—

(A) the general issue areas in which the registrant expects to engage in lobbying activities on behalf of the client; and

(B) to the extent practicable, specific issues that have (as of the date of the registration) already been addressed or are likely to be addressed in lobbying activities; and

(6) the name of each employee of the registrant who has acted or whom the registrant expects to act as a lobbyist on behalf of the client and, if any such employee has served as a covered executive branch official or a covered legislative branch official in the 2 years before the date on which such employee first acted (after the date of enactment of this Act) as a lobbyist on behalf of the client, the position in which such employee served.

(c) GUIDELINES FOR REGISTRATION.—

(1) MULTIPLE CLIENTS.—In the case of a registrant making lobbying contacts on behalf of more than 1 client, a separate registration under this section shall be filed for each such client.

(2) MULTIPLE CONTACTS.—A registrant who makes more than 1 lobbying contact for the same client shall file a single registration covering all such lobbying contacts.

(d) TERMINATION OF REGISTRATION.—A registrant who after registration—

(1) is no longer employed or retained by a client to conduct lobbying activities, and

(2) does not anticipate any additional lobbying activities for such client,

may so notify the Director and terminate its registration.

SEC. 1105. REPORTS BY REGISTERED LOBBYISTS.

(a) SEMIANNUAL REPORT.—

(1) IN GENERAL.—No later than 30 days after the end of the semiannual period beginning on the first day of each January and the first day of July of each year in which a registrant is registered under section 1104, each registrant shall file a report with the Office of Lobbying Registration and Public Disclosure on its lobbying activities during such semiannual period. A separate report shall be filed for each client of the registrant.

(2) EXEMPTION.—

(A) GENERAL RULE.—Any registrant whose—

(i) total income for a particular client for matters that are related to lobbying activities on behalf of that client (in the case of a lobbying firm), does not exceed and is not expected to exceed $2,500; or

(ii) total expenses in connection with lobbying activities (in the case of a registrant whose employees engage in lobbying activities on its own behalf) do not exceed and are not expected to exceed $5,000,

in a semiannual period (as estimated under paragraph (3) or (4) of subsection (b) or paragraph (4) of subsection (c), as applicable) is deemed to be inactive during such period and may comply with the reporting requirements of this section by so notifying the Director in such form as the Director may prescribe.

(B) ADJUSTMENT.—The dollar amounts in subparagraph (A) shall be adjusted as provided in section 1104(a)(3)(B).

(b) CONTENTS OF REPORT.—Each semiannual report filed under subsection (a) shall be in such form as the Director shall prescribe by regulation and shall contain—

(1) the name of the registrant, the name of the client, and any changes or updates to the information provided in the initial registration;

(2) for each general issue area in which the registrant engaged in lobbying activities on behalf of the client during the semiannual filing period—

(A) a list of the specific issues upon which a lobbyist employed by the registrant engaged in lobbying activities, including, to the maximum extent practicable, a list of bill numbers and references to specific regulatory actions, programs, projects, contracts, grants, and loans;

(B) a statement of the Houses and committees of Congress and the Federal agencies contacted by lobbyists employed by the registrant on behalf of the client;

(C) a list of the employees of the registrant who acted as lobbyists on behalf of the client; and

(D) a description of the interest, if any, of any foreign entity identified under section 1104(b)(4) in the specific issues listed under subparagraph (A).

(3) in the case of a lobbying firm, a good faith estimate of the total amount of all income from the client (including any payments to the registrant by any other person for lobbying activities on behalf of the client) during the semiannual period, other than income for matters that are unrelated to lobbying activities; and

(4) in the case of a registrant engaged in lobbying activities on its own behalf, a good faith estimate of the total expenses that the registrant and its employees incurred in connection with lobbying activities during the semiannual filing period.

(c) ESTIMATES OF INCOME OR EXPENSES.—For purposes of this section, estimates of income or expenses shall be made as follows:

(1) $100,000 OR LESS.—Income or expenses of $100,000 or less shall be estimated in accordance with the following categories:

(A) $10,000 or less.

(B) More than $10,000 but not more than $20,000.

(C) More than $20,000 but not more than $50,000.

(D) More than $50,000 but not more than $100,000.

(2) MORE THAN $100,000 BUT NOT MORE THAN $500,000.—Income or expenses in excess of $100,000 but not more than $500,000 shall be estimated and rounded to the nearest $50,000.

(3) MORE THAN $500,000.—Income or expenses in excess of $500,000 shall be estimated and rounded to the nearest $100,000.

(4) CONSTRUCTION.—In estimating total income or expenses under this section, a registrant is not required to include—

(A) the value of contributed services for which no payment is made; or

(B) the expenses for services provided by an independent contractor of the registrant who is separately registered under this title.

(d) CONTACTS.—

(1) CONTACTS WITH COMMITTEES.—For purposes of subsection (b)(2), any contact with a member of a committee of Congress, an employee of a committee of Congress, or an employee of a member of a committee of Congress regarding a matter within the jurisdiction of such committee shall be considered to be a contact with the committee.

(2) CONTACTS WITH HOUSE OF CONGRESS.—For purposes of subsection (b)(2), any contact with a Member of Congress or an employee of a Member of Congress regarding a matter that is not within the jurisdiction of a committee of Congress of which that Member is a member shall be considered to be a contact with the House of Congress of that Member.

(3) CONTACTS WITH FEDERAL AGENCIES.—For purposes of subsection (b)(2), any contact with a covered executive branch official shall be considered to be a contact with the Federal agency that employs that official, except that a contact with a covered executive branch official who is detailed to another Federal agency or to the Congress shall be considered to be a contact with the Federal agency or with the committee of Congress or House of Congress to which the official is detailed.

(e) EXTENSION FOR FILING.—The Director may grant an extension of time of not more than 30 days for the filing of any report under this section, upon the request of the registrant, for good cause shown.

SEC. 1106. PROHIBITION ON GIFTS BY LOBBYISTS, LOBBYING FIRMS, AND AGENTS OF FOREIGN PRINCIPALS.

(a) IN GENERAL.—

(1) PROHIBITION.—No lobbyist or lobbying firm registered under this title and no agent of a foreign principal registered under the Foreign Agents Registration Act may provide a gift, directly or indirectly, to any covered legislative branch official.

(2) DEFINITION.—For purposes of this section—

(A) the term ''gift'' means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value and such term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred; and

(B) a gift to the spouse or dependent of a covered legislative branch official (or a gift to any other individual based on that individual's relationship with the covered legislative branch official) shall be considered a gift to the covered legislative branch official if it is given with the knowledge and acquiescence of the covered legislative branch official and is given because of the official position of the covered legislative branch official.

(b) GIFTS.—The prohibition in subsection (a) includes the following:

(1) Anything provided by a lobbyist or a foreign agent which is paid for, charged to, or reimbursed by a client or firm of such lobbyist or foreign agent.

(2) Anything provided by a lobbyist, a lobbying firm, or a foreign agent to an entity that is maintained or controlled by a covered legislative branch official.

(3) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent on the basis of a designation, recommendation, or other specification of a covered legislative branch official (not including a mass mailing or other solicitation directed to a broad category of persons or entities).

(4) A contribution or other payment by a lobbyist, a lobbying firm, or a foreign agent to a legal expense fund established for the benefit of a covered legislative branch official or a covered executive branch official.

(5) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent in lieu of an honorarium to a covered legislative branch official.

(6) A financial contribution or expenditure made by a lobbyist, a lobbying firm, or a foreign agent relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, for or on behalf of covered legislative branch officials.

(c) NOT GIFTS.—The following are not gifts subject to the prohibition in subsection (a):

(1) Anything for which the recipient pays the market value, or does not use and promptly returns to the donor.

(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

(3) Food or refreshments of nominal value offered other than as part of a meal.

(4) Benefits resulting from the business, employment, or other outside activities of the spouse of a covered legislative branch official, if such benefits are customarily provided to others in similar circumstances.

(5) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

(6) Informational materials that are sent to the office of a covered legislative branch official in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.

(d) GIFTS GIVEN FOR A NONBUSINESS PURPOSE AND MOTIVATED BY FAMILY RELATIONSHIP OR CLOSE PERSONAL FRIENDSHIP.—

(1) IN GENERAL.—A gift given by an individual under circumstances which make it clear that the gift is given for a nonbusiness purpose and is motivated by a family relationship or close personal friendship and not by the position of the covered legislative branch official shall not be subject to the prohibition in subsection (a).

(2) NONBUSINESS PURPOSE.—A gift shall not be considered to be given for a nonbusiness purpose if the individual giving the gift seeks—

(A) to deduct the value of such gift as a business expense on the individual's Federal income tax return, or

(B) direct or indirect reimbursement or any other compensation for the value of the gift from a client or employer of such lobbyist or foreign agent.

(3) FAMILY RELATIONSHIP OR CLOSE PERSONAL FRIENDSHIP.—In determining if the giving of a gift is motivated by a family relationship or close personal friendship, at least the following factors shall be considered:

(A) The history of the relationship between the individual giving the gift and the recipient of the gift, including whether or not gifts have previously been exchanged by such individuals.

(B) Whether the gift was purchased by the individual who gave the item.

(C) Whether the individual who gave the gift also at the same time gave the same or similar gifts to other covered legislative branch officials.

SEC. 1107. OFFICE OF LOBBYING REGISTRATION AND PUBLIC DISCLOSURE.

(a) ESTABLISHMENT AND DIRECTOR.—

(1) ESTABLISHMENT.—There is established an executive agency to be known as the Office of Lobbying Registration and Public Disclosure.

(2) DIRECTOR.—(A) The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

(B) The Director shall be an individual who, by demonstrated ability, background, training, and experience, is qualified to carry out the functions of the position. The term of service of the Director shall be 5 years. The Director may be removed for cause.

(C) Section 5316 of title 5, United States Code, is amended by adding at the end the following: ''Director of the Office of Lobbying Registration and Public Disclosure''.

(b) ADMINISTRATIVE POWERS.—The Director may—

(1) appoint officers and employees, including attorneys, in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code, define their duties and responsibilities, and direct and supervise their activities;

(2) contract for financial and administrative services (including those related to budget and accounting, financial reporting, personnel, and procurement) with the General Services Administration, or such Federal agency as the Director determines appropriate, for which payment shall be made in advance or by reimbursement from funds of the Office in such amounts as may be agreed upon by the Director and the head of the agency providing such services, but the contract authority under this paragraph shall be effective for any fiscal year only to the extent that appropriations are available for that purpose;

(3) request the head of any Federal department or agency (who is hereby so authorized) to detail to temporary duties with the Office such personnel within the agency head's administrative jurisdiction as the Office may need for carrying out its functions under this title, with or without reimbursement;

(4) request agency heads to provide information needed by the Office, which information shall be supplied to the extent permitted by law;

(5) utilize, with their consent, the services and facilities of Federal agencies with or without reimbursement;

(6) accept, use, and dispose of gifts or donations of services or property, real, personal, or mixed, tangible or intangible, for purposes of aiding or facilitating the work of the Office; and

(7) use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(c) COOPERATION WITH OTHER GOVERNMENTAL AGENCIES.—In order to avoid unnecessary expense and duplication of function among Government agencies, the Office may make such arrangements or agreements for cooperation or mutual assistance in the performance of its functions under this title as is practicable and consistent with law. The head of the General Services Administration and each department, agency, or establishment of the United States shall cooperate with the Office and, to the extent permitted by law, provide such information, services, personnel, and facilities as the Office may request for its assistance in the performance of its functions under this title.

(d) DUTIES.—The Director shall—

(1) after notice and a reasonable opportunity for public comment, and consultation with the Secretary of the Senate, the Clerk of the House of Representatives, and the Administrative Conference of the United States, prescribe such regulations, penalty guidelines, and forms as are necessary to carry out this title;

(2) provide guidance and assistance on the registration and reporting requirements of this title, including—

(A) providing information to all registrants at the time of registration about the obligations of registered lobbyists under this title, and

(B) issuing published decisions and advisory opinions;

(3) review the registrations and reports filed under this title and make such verifications or inquiries as are necessary to ensure the completeness, accuracy, and timeliness of the registrations and reports;

(4) develop filing, coding, and cross-indexing systems to carry out the purposes of this title, including—

(A) a publicly available list of all registered lobbyists and their clients; and

(B) computerized systems designed to minimize the burden of filing and maximize public access to materials filed under this title;

(5) ensure that the computer systems developed pursuant to paragraph (4)—

(A) allow the materials filed under this title to be accessed by the client name, lobbyist name, and registrant name;

(B) are compatible with computer systems developed and maintained by the Federal Election Commission, and that information filed in the two systems can be readily cross-referenced; and

(C) are compatible with computer systems developed and maintained by the Secretary of the Senate and the Clerk of the House of Representatives;

(6) make copies of each registration and report filed under this title available to the public, upon the payment of reasonable fees, not to exceed the cost of such copies, as determined by the Director, in written and electronic formats, as soon as practicable after the date on which such registration or report is received;

(7) preserve the originals or accurate reproduction of—

(A) registrations filed under this title for a period that ends not less than 3 years after the termination of the registration under section 1104(d); and

(B) reports filed under this title for a period that ends not less than 3 years after the date on which the report is received;

(8) maintain a computer record of—

(A) the information contained in registrations for a period that ends not less than 5 years after the termination of the registration under section 1104(d); and

(B) the information contained in reports filed under this title for a period that ends not less than 5 years after the date on which the reports are received;

(9) compile and summarize, with respect to each semiannual period, the information contained in registrations and reports filed with respect to such period in a manner which clearly presents the extent and nature of expenditures on lobbying activities during such period;

(10) make information compiled and summarized under paragraph (9) available to the public in electronic and hard copy formats as soon as practicable after the close of each semiannual filing period;

(11) provide, by computer telecommunication or other transmittal in a form accessible by computer, to the Secretary of the Senate and the Clerk of the House of Representatives copies of all registrations and reports received under sections 1104 and 1105 and all compilations, cross-indexes, and summaries of such registrations and reports, as soon as practicable (but not later than 3 working days) after such material is received or created;

(12) make available to the public a list of all persons whom the Director determines, under section 1109 (after exhaustion of all appeals under section 1111) to have committed a major or minor violation of this title and submit such list to the Congress as part of the report provided for under paragraph (13);

(13) make available to the public upon request and transmit to the President, the Secretary of the Senate, the Clerk of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on the Judiciary of the House of Representatives a report, not later than March 31 of each year, describing the activities of the Office and the implementation of this title, including—

(A) a financial statement for the preceding fiscal year;

(B) a summary of the registrations and reports filed with the Office with respect to the preceding calendar year;

(C) a summary of the registrations and reports filed on behalf of foreign entities with respect to the preceding calendar year; and

(D) recommendations for such legislative or other action as the Director considers appropriate; and

(14) study the appropriateness of the definition of ''public official'' under section 1103(17) and make recommendations for any change in such definition in the first report filed pursuant to paragraph (13).

SEC. 1108. INITIAL PROCEDURE FOR ALLEGED VIOLATIONS.

(a) ALLEGATION OF A VIOLATION.—Whenever the Office of Lobbying Registration and Public Disclosure has reason to believe that a person or entity may be in violation of the requirements of this title, the Director shall notify the person or entity in writing of the nature of the alleged violation and provide an opportunity for the person or entity to respond in writing to the allegation within 30 days after the notification is sent or such longer period as the Director may determine appropriate in the circumstances.

(b) INITIAL DETERMINATION.—

(1) IN GENERAL.—If the person or entity responds within the period described in the notification under subsection (a), the Director shall—

(A) issue a written determination that the person or entity has not violated this title if the person or entity provides adequate information or explanation to make such determination; or

(B) make a formal request for information under subsection (c) or a notification under section 1109(a), if the information or explanation provided is not adequate to make a determination under subparagraph (A).

(2) WRITTEN DECISION.—If the Director makes a determination under paragraph (1)(A), the Director shall issue a public written decision in accordance with section 1110.

(c) FORMAL REQUEST FOR INFORMATION.—If a person or entity fails to respond in writing within the period described in the notification under subsection (a) or the response is not adequate to determine whether such person or entity has violated this title, the Director may make a formal request for specific additional written information (subject to applicable privileges) that is reasonably necessary for the Director to make such determination. Each such request shall be structured to minimize any burden imposed, consistent with the need to determine whether the person or entity is in compliance with this title, and shall—

(1) state the nature of the conduct constituting the alleged violation which is the basis for the inquiry and the provision of law applicable thereto;

(2) describe the class or classes of material to be produced pursuant to the request with such definiteness and certainty as to permit such material to be readily identified; and

(3) prescribe a return date or dates which provide a reasonable period of time within which the person or entity may assemble and make available for inspection and copying or reproduction the material so requested.

SEC. 1109. DETERMINATIONS OF VIOLATIONS.

(a) NOTIFICATION AND HEARING.—If the information provided to the Director under section 1108 indicates that a person or entity may have violated this title, the Director shall—

(1) notify the person or entity in writing of this finding and, if appropriate, a proposed penalty assessment and provide such person or entity with an opportunity to respond in writing within 30 days after the notice is sent; and

(2) if requested in writing by that person or entity within that 30-day period, afford the person or entity an opportunity for a hearing on the record under the provisions of section 554 of title 5, United States Code.

(b) DETERMINATION.—Upon the receipt of a written response under subsection (a)(1) when no hearing under subsection (a)(2) is requested, upon the completion of a hearing requested under subsection (a)(2), or upon the expiration of 30 days in a case in which no such written response is received, the Director shall review the information received under section 1108 and this section (including evidence presented at any such hearing) and make a final determination whether there was a violation and a final determination of the penalty, if any. If no written response was received under this section within the 30-day period provided, the determination and penalty assessment shall constitute a final order not subject to appeal.

(c) WRITTEN DECISION.—

(1) DETERMINATION OF VIOLATION.—If the Director makes a final determination under subsection (b) that there was a violation, the Director shall issue a written decision in accordance with section 1110—

(A) directing the person or entity to correct the violation; and

(B) assessing a civil monetary penalty—

(i) in the case of a minor violation, which shall be no more than $10,000, depending on the extent and gravity of the violation;

(ii) in the case of a major violation, which shall be more than $10,000, but no more than $100,000, depending on the extent and gravity of the violation;

(iii) in the case of a late registration or filing, which shall be $200 for each week by which the registration or filing was late, unless the Director determines that the failure to timely register or file constitutes a major violation (as defined under subsection (e)(2)) in which case the amount shall be as prescribed by clause (ii); or

(iv) in the case of a failure to provide information requested by the Director pursuant to section 1108(c), which shall be no more than $10,000, depending on the extent and gravity of the violation, except that no penalty shall be assessed if the Director determines that the violation was the result of a good faith dispute over the validity or appropriate scope of a request for information.

(2) DETERMINATION OF NO VIOLATION OR INSUFFICIENT EVIDENCE.—If the Director determines that no violation occurred or there was not sufficient evidence that a violation occurred, the Director shall issue a written decision in accordance with section 1110.

(d) CIVIL INJUNCTIVE RELIEF.—If a person or entity fails to comply with a directive to correct a violation under subsection (c), the Director shall refer the case to the Attorney General to seek civil injunctive relief in the appropriate court of the United States to compel such person or entity to comply with such directive.

(e) PENALTY ASSESSMENTS.—

(1) GENERAL RULE.—No penalty shall be assessed under this section unless the Director finds that the person or entity subject to the penalty knew or should have known that such person or entity was in violation of this title. In determining the amount of a penalty to be assessed, the Director shall take into account the totality of the circumstances, including the extent and gravity of the violation, whether the violation was voluntarily admitted and corrected, the extent to which the person or entity may have profited from the violation, the ability of the person or entity to pay, and such other matters as justice may require.

(2) REGULATIONS.—Regulations prescribed by the Director under section 1107 shall define major and minor violations. Major violations shall be defined to include a failure to register and any other violation that is extensive or repeated, if the person or entity who failed to register or committed such other violation—

(A) had actual knowledge that the conduct constituted a violation;

(B) acted in deliberate ignorance of the provisions of this title or regulations related to the conduct constituting a violation; or

(C) acted in reckless disregard of the provisions of this title or regulations related to the conduct constituting a violation.

(f) LIMITATION.—No proceeding shall be initiated under section 1108 or this section unless the Director notifies the person or entity who is to be the subject of the proceeding of the alleged violation within 3 years after the date on which the alleged violation occurred.

SEC. 1110. DISCLOSURE OF INFORMATION; WRITTEN DECISIONS.

(a) DISCLOSURE OF INFORMATION.—Information provided to the Director pursuant to sections 1108 and 1109 shall not be made available to the public without the consent of the person or entity providing the information, except to the extent that such information may be included in—

(1) a new or amended report or registration filed under this title; or

(2) a written decision issued by the Director under this section.

(b) WRITTEN DECISIONS.—All written decisions issued by the Director under sections 1108 and 1109 shall be made available to the public. The Director may provide for the publication of a written decision if the Director determines that publication would provide useful guidance. Before making a written decision public, the Director—

(1) shall delete information that would identify a person or entity who was alleged to have violated this title if—

(A) there was insufficient evidence to determine that the person or entity violated this title or the Director found that person or entity did not violate this title, and

(B) the person or entity so requests; and

(2) shall delete information that would identify any other person or entity (other than a person or entity who was found to have violated this title), if the Director determines that such person or entity could reasonably be expected to be injured by the disclosure of such information.

SEC. 1111. JUDICIAL REVIEW.

(a) FINAL DECISION.—A written decision issued by the Director under section 1109 shall become final 60 days after the date on which the Director provides notice of the decision, unless such decision is appealed under subsection (b) of this section.

(b) APPEAL.—Any person or entity adversely affected by a written decision issued by the Director under section 1109 may appeal such decision, except as provided under section 1109(b), to the appropriate United States court of appeals. Such review may be obtained by filing a written notice of appeal in such court no later than 60 days after the date on which the Director provides notice of the Director's decision and by simultaneously sending a copy of such notice of appeal to the Director. The Director shall file in such court the record upon which the decision was issued, as provided under section 2112 of title 28, United States Code. The findings of fact of the Director shall be conclusive, unless found to be unsupported by substantial evidence, as provided under section 706(2)(E) of title 5, United States Code. Any penalty assessed or other action taken in the decision shall be stayed during the pendency of the appeal.

(c) RECOVERY OF PENALTY.—Any penalty assessed in a written decision which has become final under this title may be recovered in a civil action brought by the Attorney General in an appropriate United States district court. In any such action, no matter that was raised or that could have been raised before the Director or pursuant to judicial review under subsection (b) may be raised as a defense, and the determination of liability and the determination of amounts of penalties and assessments shall not be subject to review.

SEC. 1112. RULES OF CONSTRUCTION.

(a) CONSTITUTIONAL RIGHTS.—Nothing in this title shall be construed to prohibit or interfere with—

(1) the right to petition the government for the redress of grievances;

(2) the right to express a personal opinion; or

(3) the right of association,

protected by the first amendment to the Constitution.

(b) PROHIBITION OF ACTIVITIES.—Nothing in this title shall be construed to prohibit, or to authorize the Director or any court to prohibit, lobbying activities or lobbying contacts by any person or entity, regardless of whether such person or entity is in compliance with the requirements of this title.

(c) AUDIT AND INVESTIGATIONS.—Nothing in this title shall be construed to grant general audit or investigative authority to the Director.

SEC. 1113. AMENDMENTS TO THE FOREIGN AGENTS REGISTRATION ACT.

The Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) is amended—

(1) in section 1—

(A) by striking subsection (j);

(B) in subsection (o) by striking ''the dissemination of political propaganda and any other activity which the person engaging therein believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, persuade, or in any other way influence'' and inserting ''any activity that the person engaging in believes will, or that the person intends to, in any way influence'';

(C) in subsection (p) by striking the semicolon and inserting a period; and

(D) by striking subsection (q);

(2) in section 3(g) (22 U.S.C. 613(g)), by striking ''established agency proceedings, whether formal or informal.'' and inserting ''judicial proceedings, criminal or civil law enforcement inquiries, investigations, or proceedings, or agency proceedings required by statute or regulation to be conducted on the record.'';

(3) in section 3 (22 U.S.C. 613) by adding at the end the following:

''(h) Any agent of a person described in section 1(b)(2) or an entity described in section 1(b)(3) if the agent is required to register and does register under the Lobbying Disclosure Act of 1994 in connection with the agent's representation of such person or entity.'';

(4) in section 4(a) (22 U.S.C. 614(a))—

(A) by striking ''political propaganda'' and inserting ''informational materials''; and

(B) by striking ''and a statement, duly signed by or on behalf of such an agent, setting forth full information as to the places, times, and extent of such transmittal'';

(5) in section 4(b) (22 U.S.C. 614(b))—

(A) in the matter preceding clause (i), by striking ''political propaganda'' and inserting ''informational materials''; and

(B) by striking ''(i) in the form of prints, or'' and all that follows through the end of the subsection and inserting ''without placing in such informational materials a conspicuous statement that the materials are distributed by the agent on behalf of the foreign principal, and that additional information is on file with the Department of Justice, Washington, District of Columbia. The Attorney General may by rule define what constitutes a conspicuous statement for the purposes of this subsection.'';

(6) in section 4(c) (22 U.S.C. 614(c)), by striking ''political propaganda'' and inserting ''informational materials'';

(7) in section 6 (22 U.S.C. 616)—

(A) in subsection (a) by striking ''and all statements concerning the distribution of political propaganda'';

(B) in subsection (b) by striking '', and one copy of every item of political propaganda''; and

(C) in subsection (c) by striking ''copies of political propaganda,'';

(8) in section 8 (22 U.S.C. 618)—

(A) in subsection (a)(2) by striking ''or in any statement under section 4(a) hereof concerning the distribution of political propaganda''; and

(B) by striking subsection (d); and

(9) in section 11 (22 U.S.C. 621) by striking '', including the nature, sources, and content of political propaganda disseminated or distributed''.

SEC. 1114. AMENDMENTS TO THE BYRD AMENDMENT.

(a) REVISED CERTIFICATION REQUIREMENTS.—Section 1352(b) of title 31, United States Code, is amended—

(1) in paragraph (2) by striking subparagraphs (A), (B), and (C) and inserting the following:

''(A) the name of any registrant under the Lobbying Disclosure Act of 1994 who has made lobbying contacts on behalf of the person with respect to that Federal contract, grant, loan, or cooperative agreement; and

''(B) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).'';

(2) in paragraph (3) by striking all that follows ''loan shall contain'' and inserting ''the name of any registrant under the Lobbying Disclosure Act of 1994 who has made lobbying contacts on behalf of the person in connection with that loan insurance or guarantee.''; and

(3) by striking paragraph (6) and redesignating paragraph (7) as paragraph (6).

(b) REMOVAL OF OBSOLETE REPORTING REQUIREMENT.—Section 1352 of title 31, United States Code, is further amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

SEC. 1115. REPEAL OF CERTAIN LOBBYING PROVISIONS.

(a) REPEAL OF THE FEDERAL REGULATION OF LOBBYING ACT.—The Federal Regulation of Lobbying Act (2 U.S.C. 261 et seq.) is repealed.

(b) REPEAL OF PROVISIONS RELATING TO HOUSING LOBBYIST ACTIVITIES.—

(1) Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) is repealed.

(2) Section 536(d) of the Housing Act of 1949 (42 U.S.C. 1490p(d)) is repealed.

SEC. 1116. CONFORMING AMENDMENTS TO OTHER STATUTES.

(a) AMENDMENT TO COMPETITIVENESS POLICY COUNCIL ACT.—Section 5206(e) of the Competitiveness Policy Council Act (15 U.S.C. 4804(e)) is amended by inserting ''or a lobbyist for a foreign entity (as the terms 'lobbyist' and 'foreign entity' are defined under section 1103 of the Lobbying Disclosure Act of 1994)'' after ''an agent for a foreign principal''.

(b) AMENDMENTS TO TITLE 18, UNITED STATES CODE.—Section 219(a) of title 18, United States Code, is amended—

(1) by inserting ''or a lobbyist required to register under the Lobbying Disclosure Act of 1994 in connection with the representation of a foreign entity, as defined in section 1103(7) of that Act'' after ''an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938''; and

(2) by striking out '', as amended,''.

(c) AMENDMENT TO FOREIGN SERVICE ACT OF 1980.—Section 602(c) of the Foreign Service Act of 1980 (22 U.S.C. 4002(c)) is amended by inserting ''or a lobbyist for a foreign entity (as defined in section 1103(7) of the Lobbying Disclosure Act of 1994)'' after ''an agent of a foreign principal (as defined by section 1(b) of the Foreign Agents Registration Act of 1938)''.

SEC. 1117. SEVERABILITY.

If any provision of this title, or the application thereof, is held invalid, the validity of the remainder of this title and the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 1118. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal years 1995, 1996, 1997, 1998, and 1999 such sums as may be necessary to carry out this title.

SEC. 1119. IDENTIFICATION OF CLIENTS AND COVERED OFFICIALS.

(a) ORAL LOBBYING CONTACTS.—Any person or entity that makes an oral lobbying contact with a covered legislative branch official or a covered executive branch official shall, on the request of the official at the time of the lobbying contact—

(1) state whether the person or entity is registered under this title and identify the client on whose behalf the lobbying contact is made; and

(2) state whether such client is a foreign entity and identify any foreign entity required to be disclosed under section 1104(b)(4) that has a direct interest in the outcome of the lobbying activity.

(b) WRITTEN LOBBYING CONTACTS.—Any person or entity registered under this title that makes a written lobbying contact (including an electronic communication) with a covered legislative branch official or a covered executive branch official shall—

(1) if the client on whose behalf the lobbying contact was made is a foreign entity, identify such client, state that the client is considered a foreign entity under this title, and state whether the person making the lobbying contact is registered on behalf of that client under section 1104; and

(2) identify any other foreign entity identified pursuant to section 1104(b)(4) that has a direct interest in the outcome of the lobbying activity.

(c) IDENTIFICATION AS COVERED OFFICIAL.—Upon request by a person or entity making a lobbying contact, the individual who is contacted or the office employing that individual shall indicate whether or not the individual is a covered legislative branch official or a covered executive branch official.

SEC. 1120. TRANSITIONAL FILING REQUIREMENT.

(a) SIMULTANEOUS FILING.—Subject to subsection (b), each registrant shall transmit simultaneously to the Secretary of the Senate and the Clerk of the House of Representatives an identical copy of each registration and report required to be filed under this title.

(b) SUNSET PROVISION.—The simultaneous filing requirement under subsection (a) shall be effective until such time as the Director, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, determines that the Office of Lobbying Registration and Public Disclosure is able to provide computer telecommunication or other transmittal of registrations and reports as required under section 1107(b)(11).

(c) IMPLEMENTATION.—The Director, the Secretary of the Senate, and the Clerk of the House of Representatives shall take such actions as necessary to ensure that the Office of Lobbying Registration and Public Disclosure is able to provide computer telecommunication or other transmittal of registrations and reports as required under section 1107(b)(11) on the effective date of this title, or as soon thereafter as reasonably practicable.

SEC. 1121. ESTIMATES BASED ON TAX REPORTING SYSTEM.

(a) ENTITIES COVERED BY SECTION 6033(b) OF THE INTERNAL REVENUE CODE OF 1986.—A registrant that is required to report and does report lobbying expenditures pursuant to section 6033(b)(8) of the Internal Revenue Code of 1986 may—

(1) make a good faith estimate (by category of dollar value) of applicable amounts that would be required to be disclosed under such section for the appropriate semiannual period to meet the requirements of sections 1104(a)(3), 1105(a)(2), and 1105(b)(4); and

(2) in lieu of using the definition of ''lobbying activities'' in section 1103(8) of this title, consider as lobbying activities only those activities that are influencing legislation as defined in section 4911(d) of the Internal Revenue Code of 1986.

(b) ENTITIES COVERED BY SECTION 162(e) OF THE INTERNAL REVENUE CODE OF 1986.—A registrant that is required to account for lobbying expenditures and does account for lobbying expenditures pursuant to section 162(e) of the Internal Revenue Code of 1986 may—

(1) make a good faith estimate (by category of dollar value) of applicable amounts that would not be deductible pursuant to such section for the appropriate semiannual period to meet the requirements of sections 1104(a)(3), 1105(a)(2), and 1105(b)(4); and

(2) in lieu of using the definition of ''lobbying activities'' in section 1103(8) of this title, consider as lobbying activities only those activities, the costs of which are not deductible pursuant to section 162(e) of the Internal Revenue Code of 1986.

(c) DISCLOSURE OF ESTIMATE.—Any registrant that elects to make estimates required by this title under the procedures authorized by subsection (a) or (b) for reporting or threshold purposes shall—

(1) inform the Director that the registrant has elected to make its estimates under such procedures; and

(2) make all such estimates, in a given calendar year, under such procedures.

(d) STUDY.—Not later than March 31, 1997, the Comptroller General of the United States shall review reporting by registrants under subsections (a) and (b) and report to the Congress—

(1) the differences between the definition of ''lobbying activities'' in section 1103(8) and the definitions of ''lobbying expenditures'', ''influencing legislation'', and related terms in sections 162(e) and 4911 of the Internal Revenue Code of 1986, as each are implemented by regulations;

(2) the impact that any such differences may have on filing and reporting under this title pursuant to this subsection; and

(3) any changes to this title or to the appropriate sections of the Internal Revenue Code of 1986 that the Comptroller General may recommend to harmonize the definitions.

SEC. 1122. EFFECTIVE DATES AND INTERIM RULES.

(a) IN GENERAL.—Except as otherwise provided in this section, this title and the amendments made by this title shall take effect January 1, 1996.

(b) EFFECTIVE DATE OF GIFT PROHIBITION.—Section 1106 shall take effect on January 3, 1995. Beginning on that date, and for the remainder of calendar year 1995, such section shall apply to any gift provided by a lobbyist or an agent of a foreign principal registered under the Federal Regulation of Lobbying Act or the Foreign Agents Registration Act, including any person registered under such Acts as of July 1, 1994, or thereafter.

(c) ESTABLISHMENT OF OFFICE.—Sections 1107 and 1118 shall take effect on the date of enactment of this Act.

(d) REPEALS AND AMENDMENTS.—The repeals and amendments made under sections 1113, 1114, 1115, and 1116 shall take effect as provided under subsection (a), except that such repeals and amendments—

(1) shall not affect any proceeding or suit commenced before the effective date under subsection (a), and in all such proceedings or suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted; and

(2) shall not affect the requirements of Federal agencies to compile, publish, and retain information filed or received before the effective date of such repeals and amendments.

(e) REGULATIONS.—Proposed regulations required to implement this title shall be published for public comment no later than 270 days after the date of the enactment of this Act. No later than 1 year after the date of the enactment of this Act, final regulations required to implement this title shall be published.

(f) PHASE-IN PERIOD.—No penalty shall be assessed by the Director under section 1109(e) for a violation of this title, other than for a violation of section 1106, which occurs during the first semiannual reporting period under section 1105 after the effective date prescribed by subsection (a).

(g) INTERIM DIRECTOR.—Within 30 days after the date of the enactment of this Act, the President shall designate an interim Director of the Office of Lobbying Registration and Public Disclosure, who shall serve at the pleasure of the President until a Director of such Office has been nominated by the President and confirmed by the Senate. The interim Director may not promulgate final regulations pursuant to section 1107(d) or initiate procedures for alleged violations pursuant to section 1108.

TITLE II—CONGRESSIONAL GIFT REFORM

SEC. 1201. AMENDMENTS TO SENATE RULES.

Rule XXXV of the Standing Rules of the Senate is amended to read as follows:

''1. No Member, officer, or employee of the Senate shall accept a gift, knowing that such gift is provided by a registered lobbyist, a lobbying firm, or an agent of a foreign principal in violation of the Lobbying Disclosure Act of 1994.

''2. (a) In addition to the restriction on receiving gifts from registered lobbyists, lobbying firms, and agents of foreign principals provided by paragraph 1 and except as provided in this Rule, no Member, officer, or employee of the Senate shall knowingly accept a gift from any other person.

''(b)(1) For the purpose of this Rule, the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

''(2) A gift to the spouse or dependent of a Member, officer, or employee (or a gift to any other individual based on that individual's relationship with the Member, officer, or employee) shall be considered a gift to the Member, officer, or employee if it is given with the knowledge and acquiescence of the Member, officer, or employee and the Member, officer, or employee has reason to believe the gift was given because of the official position of the Member, officer, or employee.

''(c) The restrictions in subparagraph (a) shall not apply to the following:

''(1) Anything for which the Member, officer, or employee pays the market value, or does not use and promptly returns to the donor.

''(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

''(3) Anything provided by an individual on the basis of a personal or family relationship unless the Member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the Member, officer, or employee and not because of the personal or family relationship. The Select Committee on Ethics shall provide guidance on the

applicability of this clause and examples of circumstances under which a gift may be accepted under this exception.

''(4) A contribution or other payment to a legal expense fund established for the benefit of a Member, officer, or employee, that is otherwise lawfully made, if the person making the contribution or payment is identified for the Select Committee on Ethics.

''(5) Any food or refreshments which the recipient reasonably believes to have a value of less than $20.

''(6) Any gift from another Member, officer, or employee of the Senate or the House of Representatives.

''(7) Food, refreshments, lodging, and other benefits—

''(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the Member, officer, or employee as an officeholder) of the Member, officer, or employee, or the spouse of the Member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the Member, officer, or employee and are customarily provided to others in similar circumstances;

''(B) customarily provided by a prospective employer in connection with bona fide employment discussions; or

''(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

''(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

''(9) Informational materials that are sent to the office of the Member, officer, or employee in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.

''(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

''(11) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

''(12) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

''(13) Food, refreshments, and entertainment provided to a Member or an employee of a Member in the Member's home State, subject to reasonable limitations, to be established by the Committee on Rules and Administration.

''(14) An item of little intrinsic value such as a greeting card, baseball cap, or a T shirt.

''(15) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a Member, officer, or employee, if such training is in the interest of the Senate.

''(16) Bequests, inheritances, and other transfers at death.

''(17) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

''(18) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

''(19) A gift of personal hospitality of an individual, as defined in section 109(14) of the Ethics in Government Act.

''(20) Free attendance at a widely attended event permitted pursuant to subparagraph (d).

''(21) Opportunities and benefits which are—

''(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

''(B) offered to members of a group or class in which membership is unrelated to congressional employment;

''(C) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

''(D) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

''(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

''(F) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

''(22) A plaque, trophy, or other memento of modest value.

''(23) Anything for which, in an unusual case, a waiver is granted by the Select Committee on Ethics.

''(d)(1) Except as prohibited by paragraph 1, a Member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

''(A) the Member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the Member's, officer's, or employee's official position; or

''(B) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, officer, or employee.

''(2) A Member, officer, or employee who attends an event described in clause (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the Senate.

''(3) Except as prohibited by paragraph 1, a Member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event.

''(4) For purposes of this paragraph, the term 'free attendance' may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, or food or refreshments taken other than in a group setting with all or substantially all other attendees.

''(e) No Member, officer, or employee may accept a gift the value of which exceeds $250 on the basis of the personal relationship exception in subparagraph (c)(3) or the close personal friendship exception in section 1106(d) of the Lobbying Disclosure Act of 1994 unless the Select Committee on Ethics issues a written determination that one of such exceptions applies.

''(f)(1) The Committee on Rules and Administration is authorized to adjust the dollar amount referred to in subparagraph (c)(5) on a periodic basis, to the extent necessary to adjust for inflation.

''(2) The Select Committee on Ethics shall provide guidance setting forth reasonable steps that may be taken by Members, officers, and employees, with a minimum of paperwork and time, to prevent the acceptance of prohibited gifts from lobbyists.

''(3) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.

''3. (a)(1) Except as prohibited by paragraph 1, a reimbursement (including payment in kind) to a Member, officer, or employee for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the Member, officer, or employee as an officeholder shall be deemed to be a reimbursement to the Senate and not a gift prohibited by this Rule, if the Member, officer, or employee—

''(A) in the case of an employee, receives advance authorization, from the Member or officer under whose direct supervision the employee works, to accept reimbursement, and

''(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Secretary of the Senate within 30 days after the travel is completed.

''(2) For purposes of clause (1), events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of a Member, officer, or employee as an officeholder.

''(b) Each advance authorization to accept reimbursement shall be signed by the Member or officer under whose direct supervision the employee works and shall include—

''(1) the name of the employee;

''(2) the name of the person who will make the reimbursement;

''(3) the time, place, and purpose of the travel; and

''(4) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

''(c) Each disclosure made under subparagraph (a)(1) of expenses reimbursed or to be reimbursed shall be signed by the Member or officer (in the case of travel by that Member or officer) or by the Member or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

''(1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

''(2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

''(3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

''(4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

''(5) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in this paragraph; and

''(6) in the case of a reimbursement to a Member or officer, a determination that the travel was in connection with the duties of the Member or officer as an officeholder and would not create the appearance that the

Member or officer is using public office for private gain.

''(d) For the purposes of this paragraph, the term 'necessary transportation, lodging, and related expenses'—

''(1) includes reasonable expenses that are necessary for travel for a period not exceeding 3 days exclusive of travel time within the United States or 7 days exclusive of travel time outside of the United States unless approved in advance by the Select Committee on Ethics;

''(2) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (1);

''(3) does not include expenditures for recreational activities, or entertainment other than that provided to all attendees as an integral part of the event; and

''(4) may include travel expenses incurred on behalf of either the spouse or a child of the Member, officer, or employee, subject to a determination signed by the Member or officer (or in the case of an employee, the Member or officer under whose direct supervision the employee works) that the attendance of the spouse or child is appropriate to assist in the representation of the Senate.

''(e) The Secretary of the Senate shall make available to the public all advance authorizations and disclosures of reimbursement filed pursuant to subparagraph (a) as soon as possible after they are received.''.

SEC. 1202. AMENDMENTS TO HOUSE RULES.

Clause 4 of rule XLIII of the Rules of the House of Representatives is amended to read as follows:

''4. (a) No Member, officer, or employee of the House of Representatives shall accept a gift, knowing that such gift is provided directly or indirectly by a registered lobbyist, a lobbying firm, or an agent of a foreign principal in violation of the Lobbying Disclosure Act of 1994.

''(b) In addition to the restriction on receiving gifts from registered lobbyists, lobbying firms, and agents of foreign principals provided by paragraph (a) and except as provided in this Rule, no Member, officer, or employee of the House of Representatives shall knowingly accept a gift from any other person.

''(c)(1) For the purpose of this clause, the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

''(2) A gift to the spouse or dependent of a Member, officer, or employee (or a gift to any other individual based on that individual's relationship with the Member, officer, or employee) shall be considered a gift to the Member, officer, or employee if it is given with the knowledge and acquiescence of the Member, officer, or employee and the Member, officer, or employee has reason to believe the gift was given because of the official position of the Member, officer, or employee.

''(d) The restrictions in paragraph (b) shall not apply to the following:

''(1) Anything for which the Member, officer, or employee pays the market value, or does not use and promptly returns to the donor.

''(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

''(3) Anything provided by an individual on the basis of a personal or family relationship unless the Member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the Member, officer, or employee and not because of the personal or family relationship. The Committee on Standards of Official Conduct shall provide guidance on the applicability of this clause and examples of circumstances under which a gift may be accepted under this exception.

''(4) A contribution or other payment to a legal expense fund established for the benefit of a Member, officer, or employee, that is otherwise lawfully made, if the person making the contribution or payment is identified for the Committee on Standards of Official Conduct.

''(5) Any food or refreshments which the recipient reasonably believes to have a value of less than $20.

''(6) Any gift from another Member, officer, or employee of the Senate or the House of Representatives.

''(7) Food, refreshments, lodging, and other benefits—

''(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the Member, officer, or employee as an officeholder) of the Member, officer, or employee, or the spouse of the Member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the Member, officer, or employee and are customarily provided to others in similar circumstances;

''(B) customarily provided by a prospective employer in connection with bona fide employment discussions; or

''(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

''(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

''(9) Informational materials that are sent to the office of the Member, officer, or employee in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.

''(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

''(11) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

''(12) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

''(13) Food, refreshments, and entertainment provided to a Member or an employee of a Member in the Member's home State, subject to reasonable limitations, to be established by the Committee on Standards of Official Conduct.

''(14) An item of little intrinsic value such as a greeting card, baseball cap, or a T shirt.

''(15) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a Member, officer, or employee, if such training is in the interest of the House of Representatives.

''(16) Bequests, inheritances, and other transfers at death.

''(17) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

''(18) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

''(19) A gift of personal hospitality of an individual, as defined in section 109(14) of the Ethics in Government Act.

''(20) Free attendance at a widely attended event permitted pursuant to paragraph (e).

''(21) Opportunities and benefits which are—

''(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

''(B) offered to members of a group or class in which membership is unrelated to congressional employment;

''(C) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

''(D) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

''(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

''(F) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

''(22) A plaque, trophy, or other memento of modest value.

''(23) Anything for which, in exceptional circumstances, a waiver is granted by the Committee on Standards of Official Conduct.

''(e)(1) Except as prohibited by paragraph (a), a Member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

''(A) the Member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the Member's, officer's, or employee's official position; or

''(B) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, officer, or employee.

''(2) A Member, officer, or employee who attends an event described in subparagraph (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the House of Representatives.

''(3) Except as prohibited by paragraph (a), a Member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event.

''(4) For purposes of this paragraph, the term 'free attendance' may include waiver of all or part of a conference or other fee, the

provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, or food or refreshments taken other than in a group setting with all or substantially all other attendees.

''(f) No Member, officer, or employee may accept a gift the value of which exceeds $250 on the basis of the personal relationship exception in paragraph (d)(3) or the close personal friendship exception in section 1106(d) of the Lobbying Disclosure Act of 1994 unless the Committee on Standards of Official Conduct issues a written determination that one of such exceptions applies.

''(g)(1) The Committee on Standards of Official Conduct is authorized to adjust the dollar amount referred to in paragraph (c)(5) on a periodic basis, to the extent necessary to adjust for inflation.

''(2) The Committee on Standards of Official Conduct shall provide guidance setting forth reasonable steps that may be taken by Members, officers, and employees, with a minimum of paperwork and time, to prevent the acceptance of prohibited gifts from lobbyists.

''(3) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.

''(h)(1)(A) Except as prohibited by paragraph (a), a reimbursement (including payment in kind) to a Member, officer, or employee for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the Member, officer, or employee as an officeholder shall be deemed to be a reimbursement to the House of Representatives and not a gift prohibited by this paragraph, if the Member, officer, or employee—

''(i) in the case of an employee, receives advance authorization, from the Member or officer under whose direct supervision the employee works, to accept reimbursement, and

''(ii) discloses the expenses reimbursed or to be reimbursed and the authorization to the Clerk of the House of Representatives within 30 days after the travel is completed.

''(B) For purposes of clause (A), events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of a Member, officer, or employee as an officeholder.

''(2) Each advance authorization to accept reimbursement shall be signed by the Member or officer under whose direct supervision the employee works and shall include—

''(A) the name of the employee;

''(B) the name of the person who will make the reimbursement;

''(C) the time, place, and purpose of the travel; and

''(D) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

''(3) Each disclosure made under subparagraph (1)(A) of expenses reimbursed or to be reimbursed shall be signed by the Member or officer (in the case of travel by that Member or officer) or by the Member or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

''(A) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

''(B) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

''(C) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

''(D) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

''(E) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in this paragraph; and

''(F) in the case of a reimbursement to a Member or officer, a determination that the travel was in connection with the duties of the Member or officer as an officeholder and would not create the appearance that the Member or officer is using public office for private gain.

''(4) For the purposes of this paragraph, the term 'necessary transportation, lodging, and related expenses'—

''(A) includes reasonable expenses that are necessary for travel—

''(i) for a period not exceeding 4 days including travel time within the United States or 7 days in addition to travel time outside the United States; and

''(ii) within 24 hours before or after participation in an event in the United States or within 48 hours before or after participation in an event outside the United States,

unless approved in advance by the Committee on Standards of Official Conduct;

''(B) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (A);

''(C) does not include expenditures for recreational activities or entertainment other than that provided to all attendees as an integral part of the event; and

''(D) may include travel expenses incurred on behalf of either the spouse or a child of the Member, officer, or employee, subject to a determination signed by the Member or officer (or in the case of an employee, the Member or officer under whose direct supervision the officer or employee works) that the attendance of the spouse or child is appropriate to assist in the representation of the House of Representatives.

''(5) The Clerk of the House of Representatives shall make available to the public all advance authorizations and disclosures of reimbursement filed pursuant to subparagraph (1) as soon as possible after they are received.''.

SEC. 1203. MISCELLANEOUS PROVISIONS.

(a) AMENDMENTS TO THE ETHICS IN GOVERNMENT ACT.—Section 102(a)(2)(B) of the Ethics in Government Act (5 U.S.C. 102, App. 6) is amended by adding at the end thereof the following: ''Reimbursements accepted by a Federal agency pursuant to section 1353 of title 31, United States Code, or deemed accepted by the Senate or the House of Representatives pursuant to Rule XXXV of the Standing Rules of the Senate or clause 4 of Rule XLIII of the Rules of the House of Representatives shall be reported as required by such statute or rule and need not be reported under this section.''.

(b) REPEAL OF OBSOLETE PROVISION.—Section 901 of the Ethics Reform Act of 1989 (2 U.S.C. 31–2) is repealed.

(c) SENATE PROVISIONS.—

(1) AUTHORITY OF THE COMMITTEE ON RULES AND ADMINISTRATION.—The Senate Committee on Rules and Administration, on behalf of the Senate, may accept gifts provided they do not involve any duty, burden, or condition, or are not made dependent upon some future performance by the United States. The Committee on Rules and Administration is authorized to promulgate regulations to carry out this section.

(2) FOOD, REFRESHMENTS, AND ENTERTAINMENT.—The rules on acceptance of food, refreshments, and entertainment provided to a Member of the Senate or an employee of such a Member in the Member's home State before the adoption of reasonable limitations by the Committee on Rules and Administration shall be the rules in effect on the day before the effective date of this title.

(d) HOUSE PROVISION.—The rules on acceptance of food, refreshments, and entertainment provided to a Member of the House of Representatives or an employee of such a Member in the Member's home State before the adoption of reasonable limitations by the Committee on Standards of Official Conduct shall be the rules in effect on the day before the effective date of this title.

SEC. 1204. EXERCISE OF CONGRESSIONAL RULEMAKING POWERS.

Sections 1201, 1202, 1203(c), and 1203(d) of this title are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and pursuant to section 7353(b)(1) of title 5, United States Code, and accordingly, they shall be considered as part of the rules of each House, respectively, or of the House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (insofar as they relate to that House) at any time and in the same manner and to the same extent as in the case of any other rule of that House.

SEC. 1205. EFFECTIVE DATE.

This title and the amendments made by this subtitle shall take effect on May 31, 1995.

DIVISION C—CAMPAIGN FINANCE REFORM

TITLE I—CONGRESSIONAL CAMPAIGN SPENDING LIMIT AND ELECTION REFORM

SEC. 10000. SHORT TITLE; AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Congressional Campaign Spending Limit and Election Reform Act of 1995''.

(b) AMENDMENT OF FECA.—When used in this title, the term ''FECA'' means the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(c) TABLE OF CONTENTS.—

DIVISION C—CAMPAIGN FINANCE REFORM

TITLE X—CONGRESSIONAL CAMPAIGN SPENDING LIMIT AND ELECTION REFORM

Subtitle A—Control of Congressional Campaign Spending

PART I—SENATE ELECTION CAMPAIGN SPENDING LIMITS AND BENEFITS

SEC. 10001. SENATE SPENDING LIMITS AND BENEFITS.

(a) IN GENERAL.—FECA is amended by adding at the end thereof the following new title:

"TITLE V—SPENDING LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS

"SEC. 501. CANDIDATES ELIGIBLE TO RECEIVE BENEFITS.

''(a) IN GENERAL.—For purposes of this title, a candidate is an eligible Senate candidate if the candidate—

''(1) meets the primary and general election filing requirements of subsections (b) and (c);

''(2) meets the primary and runoff election expenditure limits of subsection (d); and

''(3) meets the threshold contribution requirements of subsection (e).

''(b) PRIMARY FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files with the Secretary of the Senate a declaration that—

''(A) the candidate and the candidate's authorized committees—

''(i) will meet the primary and runoff election expenditure limits of subsection (d); and

''(ii) will only accept contributions for the primary and runoff elections which do not exceed such limits;

''(B) the candidate and the candidate's authorized committees will meet the general election expenditure limit under section 502(b);

''(C) the candidate and the candidate's authorized committees will meet the limitation on expenditures from personal funds under section 502(a); and

''(D) the candidate and the candidate's authorized committees will meet the closed captioning requirements of section 509.

''(2) The declaration under paragraph (1) shall be filed not later than the date the candidate files as a candidate for the primary election.

''(c) GENERAL ELECTION FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate certifies to the Secretary of the Senate, under penalty of perjury, that—

''(A) the candidate and the candidate's authorized committees—

''(i) met the primary and runoff election expenditure limits under subsection (d); and

''(ii) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (d), whichever is applicable, reduced by any amounts transferred to this election cycle from a preceding election cycle;

''(B) the candidate met the threshold contribution requirement under subsection (e), and that only allowable contributions were taken into account in meeting such requirement;

''(C) at least one other candidate has qualified for the same general election ballot under the law of the State involved;

''(D) such candidate and the authorized committees of such candidate—

''(i) except as otherwise provided by this title, will not make expenditures which exceed the general election expenditure limit under section 502(b);

''(ii) will not accept any contributions in violation of section 315;

''(iii) except as otherwise provided by this title, will not accept any contribution for the general election involved to the extent that such contribution would cause the aggregate amount of such contributions to exceed the sum of the amount of the general election expenditure limit under section 502(b) and the amounts described in subsections (c), (d), and (e) of section 502, reduced by any amounts transferred to this election cycle from a previous election cycle and not taken into account under subparagraph (A)(ii);

''(iv) will deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

''(v) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission;

''(vi) will cooperate in the case of any audit and examination by the Commission under section 505 and will pay any amounts required to be paid under that section; and

''(vii) will meet the closed captioning requirements of section 509; and

''(E) the candidate intends to make use of the benefits provided under section 503.

''(2) The certification under paragraph (1) shall be filed not later than 7 days after the earlier of—

''(A) the date the candidate qualifies for the general election ballot under State law; or

''(B) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date the candidate wins the primary or runoff election.

''(d) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—(1) The requirements of this subsection are met if:

''(A) The candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of the lesser of—

''(i) 67 percent of the general election expenditure limit under section 502(b); or

''(ii) $2,750,000.

''(B) The candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 502(b).

''(2) The limitations under subparagraphs (A) and (B) of paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, such candidate during the primary or runoff election period, whichever is applicable, which are required to be reported to the Secretary of the Senate or to the Commission with respect to such period under section 304.

''(3)(A) If the contributions received by the candidate or the candidate's authorized committees for the primary election or runoff election exceed the expenditures for either such election, such excess contributions shall be treated as contributions for the general election and expenditures for the general election may be made from such excess contributions.

''(B) Subparagraph (A) shall not apply to the extent that such treatment of excess contributions—

''(i) would result in the violation of any limitation under section 315; or

''(ii) would cause the aggregate contributions received for the general election to exceed the limits under subsection (c)(1)(D)(iii).

''(e) THRESHOLD CONTRIBUTION REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to 5 percent of the general election expenditure limit under section 502(b).

''(2) For purposes of this section and subsections (b) and (c) of section 503—

''(A) The term 'allowable contributions' means contributions which are made as gifts of money by an individual pursuant to a written instrument identifying such individual as the contributor.

''(B) The term 'allowable contributions' shall not include—

''(i) contributions made directly or indirectly through an intermediary or conduit which are treated as made by such intermediary or conduit under section 315(a)(8)(B);

''(ii) contributions from any individual during the applicable period to the extent such contributions exceed $250; or

''(iii) contributions from individuals residing outside the candidate's State.

Clauses (ii) and (iii) shall not apply for purposes of section 503(b).

''(3) For purposes of this subsection and subsections (b) and (c) of section 503, the term 'applicable period' means—

''(A) the period beginning on January 1 of the calendar year preceding the calendar year of the general election involved and ending on—

''(i) the date on which the certification under subsection (c) is filed by the candidate; or

''(ii) for purposes of subsections (b) and (c) of section 503, the date of such general election; or

''(B) in the case of a special election for the office of United States Senator, the period beginning on the date the vacancy in such office occurs and ending on the date of the general election involved.

''(f) INDEXING.—The $2,750,000 amount under subsection (d)(1) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that, for purposes of subsection (d)(1) and section 502(b)(3), the base period shall be calendar year 1996.

"SEC. 502. LIMITATIONS ON EXPENDITURES.

''(a) LIMITATION ON USE OF PERSONAL FUNDS.—(1) The aggregate amount of expenditures which may be made during an election cycle by an eligible Senate candidate or such candidate's authorized committees from the sources described in paragraph (2) shall not exceed $25,000.

''(2) A source is described in this paragraph if it is—

''(A) personal funds of the candidate and members of the candidate's immediate family; or

''(B) personal debt incurred by the candidate and members of the candidate's immediate family.

''(b) GENERAL ELECTION EXPENDITURE LIMIT.—(1) Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible Senate candidate and the candidate's authorized committees shall not exceed the lesser of—

''(A) $5,500,000; or

''(B) the greater of—

''(i) $1,200,000; or

''(ii) $400,000; plus

''(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

''(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

''(2) In the case of an eligible Senate candidate in a State which has no more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B)(ii) shall be applied by substituting—

''(A) '80 cents' for '30 cents' in subclause (I); and

''(B) '70 cents' for '25 cents' in subclause (II).

''(3) The amount otherwise determined under paragraph (1) for any calendar year shall be increased by the same percentage as the percentage increase for such calendar year under section 501(f) (relating to indexing).

''(c) LEGAL AND ACCOUNTING COMPLIANCE FUND.—(1) The limitation under subsection (b) shall not apply to qualified legal and accounting expenditures made by a candidate or the candidate's authorized committees or a Federal officeholder from a legal and accounting compliance fund meeting the requirements of paragraph (2).

''(2) A legal and accounting compliance fund meets the requirements of this paragraph if—

''(A) the fund is established with respect to qualified legal and accounting expenditures incurred with respect to a particular general election;

''(B) the only amounts transferred to the fund are amounts received in accordance with the limitations, prohibitions, and reporting requirements of this Act;

''(C) the aggregate amounts transferred to, and expenditures made from, the fund with respect to the election cycle do not exceed the sum of—

''(i) the lesser of—

''(I) 15 percent of the general election expenditure limit under subsection (b) for the general election for which the fund was established; or

''(II) $300,000; plus

''(ii) the amount determined under paragraph (4); and

''(D) no funds received by the candidate pursuant to section 503(a)(3) may be transferred to the fund.

''(3) For purposes of this subsection, the term 'qualified legal and accounting expenditures' means the following:

''(A) Any expenditures for costs of legal and accounting services provided in connection with—

''(i) any administrative or court proceeding initiated pursuant to this Act for the general election for which the legal and accounting fund was established; or

''(ii) the preparation of any documents or reports required by this Act or the Commission.

''(B) Any expenditures for legal and accounting services provided in connection with the general election for which the legal and accounting compliance fund was established to ensure compliance with this Act with respect to the election cycle for such general election.

''(4)(A) If, after a general election, a candidate determines that the qualified legal and accounting expenditures will exceed the limitation under paragraph (2)(C)(i), the candidate may petition the Commission by filing with the Secretary of the Senate a request for an increase in such limitation. The Commission shall authorize an increase in such limitation in the amount (if any) by which the Commission determines the qualified legal and accounting expenditures exceed such limitation. Such determination shall be subject to judicial review under section 506.

''(B) Except as provided in section 315, any contribution received or expenditure made pursuant to this paragraph shall not be taken into account for any contribution or expenditure limit applicable to the candidate under this title.

''(5) Any funds in a legal and accounting compliance fund shall be treated for purposes of this Act as a separate segregated fund, except that any portion of the fund not used to pay qualified legal and accounting expenditures, and not transferred to a legal and accounting compliance fund for the election cycle for the next general election, shall be treated in the same manner as other campaign funds for purposes of section 313(b).

''(d) PAYMENT OF TAXES ON EARNINGS.—The limitation under subsection (b) shall not apply to any expenditure for Federal, State, or local income taxes on the earnings of a candidate's authorized committees.

''(e) CERTAIN EXPENSES.—In the case of an eligible Senate candidate who holds a Federal office, the limitation under subsection (b) shall not apply to ordinary and necessary expenses of travel of such individual and the individual's spouse and children between Washington, D.C. and the individual's State in connection with the individual's activities as a holder of Federal office.

''(f) EXPENDITURES.—For purposes of this title, the term 'expenditure' has the meaning given such term by section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or a candidate's authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) thereof.

"SEC. 503. BENEFITS ELIGIBLE CANDIDATE ENTITLED TO RECEIVE.

''(a) IN GENERAL.—An eligible Senate candidate shall be entitled to—

''(1) the broadcast media rates provided under section 315(b) of the Communications Act of 1934; and

''(2) payments in an amount equal to—

''(A) the excess expenditure amount determined under subsection (b); and

''(B) the independent expenditure amount determined under subsection (c).

''(b) EXCESS EXPENDITURE AMOUNT.—(1) For purposes of subsection (a)(2)(A), except as provided in section 510(b), the amount determined under this subsection is, in the case of an eligible Senate candidate who has an opponent in the general election who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the general election expenditure limit under section 502(b), the excess expenditure amount.

''(2) For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

''(A) In the case of a major party candidate, an amount equal to the sum of—

''(i) if the excess described in paragraph (1) is less than 133⅓ percent of the general election expenditure limit under section 502(b), an amount equal to one-third of such limit applicable to the eligible Senate candidate for the election; plus

''(ii) if such excess equals or exceeds 133⅓ percent but is less than 166⅔ percent of such limit, an amount equal to one-third of such limit; plus

''(iii) if such excess equals or exceeds 166⅔ percent of such limit, an amount equal to one-third of such limit.

''(B) In the case of an eligible Senate candidate who is not a major party candidate, an amount equal to the least of the following:

''(i) The allowable contributions of the eligible Senate candidate during the applicable period in excess of the threshold contribution requirement under section 501(e).

''(ii) 50 percent of the general election expenditure limit applicable to the eligible Senate candidate under section 502(b).

''(iii) The excess described in paragraph (1).

''(c) INDEPENDENT EXPENDITURE AMOUNT.—For purposes of subsection (a)(2)(B), the amount determined under this subsection is the total amount of independent expenditures made, or obligated to be made, during the general election period by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible Senate candidate which are required to be reported by such persons under section 304(c) with respect to the general election period and are certified by the Commission under section 304(c).

''(d) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—(1)(A) An eligible Senate candidate who receives payments under subsection (a)(2) may make expenditures from such payments to defray expenditures for the general election without regard to the general election expenditure limit under section 502(b).

''(B) In the case of an eligible Senate candidate who is not a major party candidate, the general election expenditure limit under section 502(b) with respect to such candidate shall be increased by the amount (if any) by which the excess described in subsection (b)(1) exceeds the amount determined under subsection (b)(2)(B) with respect to such candidate.

''(2)(A) An eligible Senate candidate who receives benefits under this section may make expenditures for the general election

without regard to clause (i) of section 501(c)(1)(D) or subsection (a) or (b) of section 502 if any one of the eligible Senate candidate's opponents who is not an eligible Senate candidate either raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 200 percent of the general election expenditure limit applicable to the eligible Senate candidate under section 502(b).

''(B) The amount of the expenditures which may be made by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit under section 502(b).

''(3)(A) A candidate who receives benefits under this section may receive contributions for the general election without regard to clause (iii) of section 501(c)(1)(D) if—

''(i) a major party candidate in the same general election is not an eligible Senate candidate; or

''(ii) any other candidate in the same general election who is not an eligible Senate candidate raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 75 percent of the general election expenditure limit applicable to such other candidate under section 502(b).

''(B) The amount of contributions which may be received by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit under section 502(b).

''(e) USE OF PAYMENTS.—Payments received by a candidate under subsection (a)(2) shall be used to defray expenditures incurred with respect to the general election period for the candidate. Such payments shall not be used—

''(1) except as provided in paragraph (4), to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of such candidate;

''(2) to make any expenditure other than expenditures to further the general election of such candidate;

''(3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made; or

''(4) subject to the provisions of section 315(j), to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

''SEC. 504. CERTIFICATION BY COMMISSION.

''(a) IN GENERAL.—(1) The Commission shall certify to any candidate meeting the requirements of section 501 that such candidate is an eligible Senate candidate entitled to benefits under this title. The Commission shall revoke such certification if it determines a candidate fails to continue to meet such requirements.

''(2) No later than 48 hours after an eligible Senate candidate files a request with the Secretary of the Senate to receive benefits under section 503, the Commission shall issue a certification stating whether such candidate is eligible for payments under this title and the amount of such payments to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

''(A) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

''(B) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

''(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 505 and judicial review under section 506.

''SEC. 505. EXAMINATIONS AND AUDITS; REPAYMENTS; CIVIL PENALTIES.

''(a) EXAMINATIONS AND AUDITS.—(1) After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 5 percent of the eligible Senate and House of Representatives candidates, as designated by the Commission through the use of an appropriate statistical method of random selection, to determine whether such candidates have complied with the conditions of eligibility and other requirements of this title. The Commission shall conduct an examination and audit of the accounts of all candidates for election to an office where any eligible candidate for the office is selected for examination and audit.

''(2) After each special election involving an eligible candidate, the Commission shall conduct an examination and audit of the campaign accounts of all candidates in the election to determine whether the candidates have complied with the conditions of eligibility and other requirements of this Act.

''(3) The Commission may conduct an examination and audit of the campaign accounts of any eligible Senate or House of Representatives candidate in a general election if the Commission determines that there exists reason to believe whether such candidate may have violated any provision of this title.

''(b) EXCESS PAYMENTS; REVOCATION OF STATUS.—(1) If the Commission determines that payments were made to an eligible Senate candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay an amount equal to the excess.

''(2) If the Commission revokes the certification of a candidate as an eligible Senate candidate under section 504(a)(1), the Commission shall notify the candidate, and the candidate shall pay an amount equal to the payments received under this title.

''(c) MISUSE OF BENEFITS.—If the Commission determines that any amount of any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay the amount of such benefit.

''(d) EXCESS EXPENDITURES.—If the Commission determines that any eligible Senate candidate who has received benefits under this title has made expenditures which in the aggregate exceed—

''(1) the primary or runoff expenditure limit under section 501(d); or

''(2) the general election expenditure limit under section 502(b),

the Commission shall so notify such candidate and such candidate shall pay an amount equal to the amount of the excess expenditures.

''(e) CIVIL PENALTIES.—(1) If the Commission determines that a candidate has committed a violation described in subsection (c), the Commission may assess a civil penalty against such candidate in an amount not greater than 200 percent of the amount involved.

''(2)(A) LOW AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by 2.5 percent or less shall pay an amount equal to the amount of the excess expenditures.

''(B) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by more than 2.5 percent and less than 5 percent shall pay an amount equal to three times the amount of the excess expenditures.

''(C) LARGE AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by 5 percent or more shall pay an amount equal to the sum of—

''(i) three times the amount of the excess expenditures plus an additional amount determined by the Commission, plus

''(ii) if the Commission determines such excess expenditures were willful, an amount equal to the benefits the candidate received under this title.

''(f) UNEXPENDED FUNDS.—Any amount received by an eligible Senate candidate under this title and not expended on or before the date of the general election shall be repaid within 30 days of the election, except that a reasonable amount may be retained for a period not exceeding 120 days after the date of the general election for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period. At the end of such 120-day period, any unexpended funds received under this title shall be promptly repaid.

''(g) PAYMENTS RETURNED TO SOURCE.—Any payment, repayment, or civil penalty required by this section shall be paid to the entity from which benefits under this title were paid to the eligible Senate candidate.

''(h) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Commission under this section with respect to an election more than three years after the date of such election.

''SEC. 506. JUDICIAL REVIEW.

''(a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within thirty days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

''(b) APPLICATION OF TITLE 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

''(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

''SEC. 507. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

''(a) APPEARANCES.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 506 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

''(b) INSTITUTION OF ACTIONS.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to any entity from which benefits under this title were paid.

''(c) INJUNCTIVE RELIEF.—The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

''(d) APPEALS.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"SEC. 508. REPORTS TO CONGRESS; REGULATIONS.

''(a) REPORTS.—The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

''(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible Senate candidate and the authorized committees of such candidate;

''(2) the amounts certified by the Commission under section 504 as benefits available to each eligible Senate candidate; and

''(3) the amount of repayments, if any, required under section 505 and the reasons for each repayment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

''(b) RULES AND REGULATIONS.—The Commission is authorized to prescribe (in accordance with the provisions of subsection (c)) such rules and regulations, to conduct such examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

''(c) STATEMENT TO SENATE.—Thirty days before prescribing any rule or regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and containing a detailed explanation and justification of such rule or regulation.

"SEC. 509. CLOSED CAPTIONING REQUIREMENT FOR TELEVISION COMMERCIALS OF ELIGIBLE SENATE CANDIDATES.

''No eligible Senate candidate may receive amounts under section 503(a)(3) under section 503(a)(4) unless such candidate has certified that any television commercial prepared or distributed by the candidate will be prepared in a manner that contains, is accompanied by, or otherwise readily permits closed captioning of the oral content of the commercial to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies.

"SEC. 510. LIMITATIONS ON PAYMENTS.

''(a) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 504, except as provided in subsection (b), the Secretary shall, subject to the availability of appropriations, promptly pay the amount certified by the Commission to the candidate.

''(b) REDUCTIONS IN PAYMENTS IF FUNDS INSUFFICIENT.—(1) If, at the time of a certification by the Commission under section 504 for payment to an eligible candidate, the Secretary determines that there are not, or may not be, sufficient funds to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from the amount of such payment such amount as the Secretary determines to be necessary to assure that each eligible candidate will receive the same pro rata share of such candidate's full entitlement.

''(2) Amounts withheld under paragraph (1) shall be paid when the Secretary determines that there are sufficient monies to pay all, or a portion thereof, to all eligible candidates from whom amounts have been withheld, except that if only a portion is to be paid, it shall be paid in such manner that each eligible candidate receives an equal pro rata share of such portion.

''(3)(A) Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

''(i) the amount of monies which will be available to make payments required by this title in the succeeding calendar year; and

''(ii) the amount of expenditures which will be required under this title in such calendar year.

''(B) If the Secretary determines that there will be insufficient monies to make the expenditures required by this title for any calendar year, the Secretary shall notify each candidate on January 1 of such calendar year (or, if later, the date on which an individual becomes a candidate) of the amount which the Secretary estimates will be the pro rata reduction in each eligible candidate's payments under this subsection. Such notice shall be by registered mail.

''(C) The amount of the eligible candidate's contribution limit under section 501(c)(1)(D)(iii) shall be increased by the amount of the estimated pro rata reduction.

''(4) The Secretary shall notify the Commission and each eligible candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection. If the amount of the reduction exceeds the amount estimated under paragraph (3), the candidate's contribution limit under section 501(c)(1)(D)(iii) shall be increased by the amount of such excess.''.

(b) EFFECTIVE DATES.—(1) Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1994.

(2) For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a)—

(A) no expenditure made before January 1, 1996, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after such date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 1996, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1996, to pay for expenditures which were incurred (but unpaid) before such date.

(c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF TITLE.—If section 501, 502, or 503 of title V of FECA (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this title shall be treated as invalid.

SEC. 10002. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN SENATE ELECTIONS.

(a) IN GENERAL.—Title III of FECA (2 U.S.C. 431 et seq.), as amended by section 10044, is amended by adding at the end thereof the following new section:

''BAN ON SENATE ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

''SEC. 327. (a) Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election, or nomination for election, to the office of United States Senator.

''(b) In the case of individuals who are executive or administrative personnel of an employer—

''(1) no contributions may be made by such individuals—

''(A) to any political committees established and maintained by any political party for use in an election, or nomination for election, to the office of United States Senator; or

''(B) to any candidate for nomination for election, or election, to office of United States Senator or the candidate's authorized committees,

unless such contributions are not being made at the direction of, or otherwise controlled or influenced by, the employer; and

''(2) the aggregate amount of such contributions by all such individuals in any calendar year shall not exceed—

''(A) $20,000 in the case of such political committees; and

''(B) $5,000 in the case of any such candidate and the candidate's authorized committees.''.

(b) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following new paragraph:

''(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate or Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder. Nothing in this paragraph shall be construed to permit the establishment, financing, maintenance, or control of any committee which is prohibited by paragraph (3) or (6) of section 302(e).''.

(2) Section 302(e)(3) of FECA (2 U.S.C. 432) is amended to read as follows:

''(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

''(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

''(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.''.

(c) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period beginning after the effective date in which the limitation under section 327 of such Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a) and (b) shall not be in effect;

(2) in the case of a candidate for election, or nomination for election, to the office of United States Senator (and such candidate's authorized committees), section 315(a)(2)(A) of FECA (2 U.S.C. 441a(a)(2)(A)) shall be applied by substituting ''$1,000'' for ''$5,000'';

(3) it shall be unlawful for a multicandidate political committee to make a contribution to a candidate for election, or nomination for election, to the office of United States Senator (or an authorized committee) to the extent that the making or accepting of the contribution will cause the amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed the lesser of—

(A) $825,000; or

(B) 20 percent of the aggregate Federal election spending limits applicable to the candidate for the election cycle.

The $825,000 amount in paragraph (3) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c) of FECA, except that for purposes of paragraph (3), the base period shall be the calendar year 1996. A candidate or authorized committee that receives a contribution from a multicandidate political committee in excess of the amount allowed under paragraph (3) shall return the amount of such excess contribution to the contributor.

(d) RULE ENSURING PROHIBITION ON DIRECT CORPORATE AND LABOR SPENDING.—If section 316(a) of the Federal Election Campaign Act of 1971 is held to be invalid by reason of the amendments made by this section, then the amendments made by subsections (a) and (b) of this section shall not apply to contributions by any political committee that is directly or indirectly established, administered, or supported by a connected organization which is a bank, corporation, or other organization described in such section 316(a).

(e) RESTRICTIONS ON CONTRIBUTIONS TO POLITICAL COMMITTEES.—Paragraphs (1)(D) and (2)(D) of section 315(a) of FECA (2 U.S.C. 441a(a) (1)(D) and (2)(D)), as redesignated by section 312, are each amended by striking ''$5,000'' and inserting ''$1,000''.

(f) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1994.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received before January 1, 1996; or

(B) contributions made to, or received by, a candidate on or after January 1, 1996, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate before January 1, 1996, over

(ii) such contributions received by the candidate before January 1, 1996.

SEC. 10003. REPORTING REQUIREMENTS.

Title III of FECA is amended by adding after section 304 the following new section:

''REPORTING REQUIREMENTS FOR SENATE CANDIDATES

''SEC. 304A. (a) CANDIDATE OTHER THAN ELIGIBLE SENATE CANDIDATE.—(1) Each candidate for the office of United States Senator who does not file a certification with the Secretary of the Senate under section 501(c) shall file with the Secretary of the Senate a declaration as to whether such candidate intends to make expenditures for the general election in excess of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b). Such declaration shall be filed at the time provided in section 501(c)(2).

''(2) Any candidate for the United States Senate who qualifies for the ballot for a general election—

''(A) who is not an eligible Senate candidate under section 501; and

''(B) who either raises aggregate contributions, or makes or obligates to make aggregate expenditures, for the general election which exceed 75 percent of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b),

shall file a report with the Secretary of the Senate within 2 business days after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 2 business days after the date of qualification for the general election ballot), setting forth the candidate's total contributions and total expenditures for such election as of such date. Thereafter, such candidate shall file additional reports (until such contributions or expenditures exceed 200 percent of such limit) with the Secretary of the Senate within 2 business days after each time additional contributions are raised, or expenditures are made or are obligated to be made, which in the aggregate exceed an amount equal to 10 percent of such limit and after the total contributions or expenditures exceed 100, 133⅓, 166⅔, and 200 percent of such limit.

''(3) The Commission—

''(A) shall, within 2 business days of receipt of a declaration or report under paragraph (1) or (2), notify each eligible Senate candidate in the election involved about such declaration or report; and

''(B) if an opposing candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the applicable general election expenditure limit under section 502(b), shall certify, pursuant to the provisions of subsection (d), such eligibility for payment of any amount to which such eligible Senate candidate is entitled under section 503(a).

''(4) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible Senate candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts which would require a report under paragraph (2). The Commission shall, within 2 business days after making each such determination, notify each eligible Senate candidate in the general election involved about such determination, and shall, when such contributions or expenditures exceed the general election expenditure limit under section 502(b), certify (pursuant to the provisions of subsection (d)) such candidate's eligibility for payment of any amount under section 503(a).

''(b) REPORTS ON PERSONAL FUNDS.—(1) Any candidate for the United States Senate who during the election cycle expends more than the limitation under section 502(a) during the election cycle from his personal funds, the funds of his immediate family, and personal loans incurred by the candidate and the candidate's immediate family shall file a report with the Secretary of the Senate within 2 business days after such expenditures have been made or loans incurred.

''(2) The Commission within 2 business days after a report has been filed under paragraph (1) shall notify each eligible Senate candidate in the election involved about each such report.

''(3) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures in excess of the amount under paragraph (1). The Commission within 2 business days after making such determination shall notify each eligible Senate candidate in the general election involved about each such determination.

''(c) CANDIDATES FOR OTHER OFFICES.—(1) Each individual—

''(A) who becomes a candidate for the office of United States Senator;

''(B) who, during the election cycle for such office, held any other Federal, State, or local office or was a candidate for such other office; and

''(C) who expended any amount during such election cycle before becoming a candidate for the office of United States Senator which would have been treated as an expenditure if such individual had been such a candidate, including amounts for activities to promote the image or name recognition of such individual,

shall, within 7 days of becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

''(2) Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election which has been held before the individual becomes a candidate for the office of United States Senator.

''(3) The Commission shall, as soon as practicable, make a determination as to whether the amounts included in the report under paragraph (1) were made for purposes of influencing the election of the individual to the office of United States Senator.

''(4) The Commission shall certify to the individual and such individual's opponents the amounts the Commission determines to be described in paragraph (3) and such amounts shall be treated as expenditures for purposes of this Act.

''(d) CERTIFICATIONS.—Notwithstanding section 504(a), the certification required by this section shall be made by the Commission on the basis of reports filed in accordance with the provisions of this Act, or on the basis of the Commission's own investigation or determination.

''(e) SHORTER PERIODS FOR REPORTS AND NOTICES DURING ELECTION WEEK.—Any report, determination, or notice required by reason of an event occurring during the 7-day period ending with the general election shall be made within 24 hours (rather than 2 business days) of the event.

''(f) COPIES OF REPORTS AND PUBLIC INSPECTION.—The Secretary of the Senate shall transmit a copy of any report or filing received under this section or under title V as soon as possible (but no later than 4 working hours of the Commission) after receipt of such report or filing, and shall make such report or filing available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 311(a)(5).

''(g) DEFINITIONS.—For purposes of this section, any term used in this section which is used in title V shall have the same meaning as when used in title V.''.

SEC. 10004. DISCLOSURE BY NONELIGIBLE CANDIDATES.

Section 318 of FECA (2 U.S.C. 441d), as amended by section 10013, is amended by adding at the end thereof the following:

''(f) If a broadcast, cablecast, or other communication is paid for or authorized by a candidate in the general election for the office of United States Senator who is not an eligible Senate candidate, or the authorized committee of such candidate, such communication shall contain the following sentence: 'This candidate has not agreed to voluntary campaign spending limits.'.''.

SEC. 10005. EXCESS CAMPAIGN FUNDS OF SENATE CANDIDATES.

Section 313 of FECA (2 U.S.C. 439a) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Amounts''; and

(2) by adding at the end the following new subsection:

''(b) RETURN OF EXCESS CAMPAIGN FUNDS.—(1) Except as provided in paragraph (2), and notwithstanding subsection (a), if a candidate for the Senate has amounts in excess of amounts necessary to defray campaign expenditures for any election cycle, including any fines or penalties relating thereto, such candidate shall, not later than 1 year after the date of the general election for such cycle, expend such excess in the manner described in subsection (a) or transfer it to the general fund of the Treasury.

''(2) Paragraph (1) shall not apply to any amounts—

''(A) transferred to a legal and accounting compliance fund established under section 502(c); or

''(B) transferred for use in the next election cycle to the extent such amounts do not exceed 20 percent of the sum of the primary election expenditure limit under section 501(d)(1)(A) and the general election expenditure limit under section 502(b) for the election cycle from which the amounts are being transferred.''.

PART II—GENERAL PROVISIONS

SEC. 10011. BROADCAST RATES AND PREEMPTION.

(a) BROADCAST RATES.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) in paragraph (1)—

(A) by striking ''forty-five'' and inserting ''30''; and

(B) by striking ''lowest unit charge of the station for the same class and amount of time for the same period'' and inserting ''lowest charge of the station for the same amount of time for the same period on the same date''; and

(2) by adding at the end the following new sentence:

''In the case of an eligible Senate candidate (as defined in section 301(19) of the Federal Election Campaign Act of 1971), the charges for the use of a television broadcasting station during the 60-day period referred to in paragraph (1) shall not exceed 50 percent of the lowest charge described in paragraph (1), except that this sentence shall not apply to broadcasts which are to be paid by vouchers which are received under section 503(c)(4) by reason of the independent expenditure amount.''.

(b) PREEMPTION; ACCESS.—Section 315 of such Act (47 U.S.C. 315) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting immediately after subsection (b) the following new subsection:

''(c)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to the provisions of subsection (b)(1).

''(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.''.

(c) REVOCATION OF LICENSE FOR FAILURE TO PERMIT ACCESS.—Section 312(a)(7) of such Act (47 U.S.C. 312(a)(7)) is amended—

(1) by striking ''or repeated'';

(2) by inserting ''or cable system'' after ''broadcasting station''; and

(3) by striking ''his candidacy'' and inserting ''his or her candidacy, under the same terms, conditions, and business practices as apply to its most favored advertiser''.

SEC. 10012. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

(a) IN GENERAL.—Section 304 of FECA (2 U.S.C. 434) is amended by adding at the end the following new subsection:

''(d) TIME FOR REPORTING CERTAIN EXPENDITURES.—(1) Any person making independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before any election shall file a report of such expenditures within 24 hours after such expenditures are made.

''(2) Any person making independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before any election shall file a report within 48 hours after such expenditures are made. An additional statement shall be filed each time independent expenditures aggregating $10,000 are made with respect to the same election as the initial statement filed under this section.

''(3) Any statement under this subsection shall be filed with the Secretary of the Senate or the Commission, and the Secretary of State of the State involved, as appropriate, and shall contain the information required by subsection (b)(6)(B)(iii) of this section, including whether the independent expenditure is in support of, or in opposition to, the candidate involved. The Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a report, the Commission shall transmit a copy of the report to each candidate seeking nomination or election to that office.

''(4) For purposes of this subsection, an expenditure shall be treated as made when it is made or obligated to be made.

''(5)(A) If any person intends to make independent expenditures totaling $5,000 or more during the 20 days before an election, such person shall file a statement no later than the 20th day before the election.

''(B) Any statement under subparagraph (A) shall be filed with the Secretary of the Senate or the Commission, and the Secretary of State of the State involved, as appropriate, and shall identify each candidate whom the expenditure will support or oppose. The Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a statement under this paragraph, the Commission shall transmit a copy of the statement to each candidate identified.

''(6) The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any Federal election which in the aggregate exceed the applicable amounts under paragraph (1) or (2). The Commission shall notify each candidate in such election of such determination within 24 hours of making it.

''(7) At the same time as a candidate is notified under paragraph (3), (5), or (6) with respect to expenditures during a general election period, the Commission shall certify eligibility to receive benefits under section 503(a).

''(8) The Secretary of the Senate shall make any statement received under this subsection available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such statements in the same manner as the Commission under section 311(a)(5).''.

(b) CONFORMING AMENDMENT.—Section 304(c)(2) of FECA (2 U.S.C. 434(c)(2)) is amended by striking the undesignated matter after subparagraph (C).

SEC. 10013. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of FECA (2 U.S.C. 441d) is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking ''Whenever'' and inserting ''Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever'';

(2) in the matter before paragraph (1) of subsection (a), by striking ''an expenditure'' and inserting ''a disbursement'';

(3) in the matter before paragraph (1) of subsection (a), by striking ''direct'';

(4) in paragraph (3) of subsection (a), by inserting after ''name'' the following ''and permanent street address''; and

(5) by adding at the end the following new subsections:

''(c) Any printed communication described in subsection (a) shall be—

''(1) of sufficient type size to be clearly readable by the recipient of the communication;

''(2) contained in a printed box set apart from the other contents of the communication; and

''(3) consist of a reasonable degree of color contrast between the background and the printed statement.

''(d)(1) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

''(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the communication shall include, in addition to the audio statement under paragraph (1), a written statement which—

''(A) states: 'I, (name of the candidate), am a candidate for (the office the candidate is seeking) and I have approved this message';

''(B) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

''(C) is accompanied by a clearly identifiable photographic or similar image of the candidate.

''(e) Any broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

' is responsible for the content of this advertisement.'

with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor; and, if broadcast or cablecast by means of television, shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.''.

SEC. 10014. DEFINITIONS.

(a) IN GENERAL.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraph (19) and inserting the following new paragraphs:

''(19) The term 'eligible Senate candidate' means a candidate who is certified under section 504 as eligible to receive benefits under title V.

''(20) The term 'general election' means any election which will directly result in the election of a person to a Federal office. Such term includes a primary election which may result in the election of a person to a Federal office.

''(21) The term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

''(A) the date of such general election; or

''(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election.

''(22) The term 'immediate family' means—

''(A) a candidate's spouse;

''(B) a child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate or the candidate's spouse; and

''(C) the spouse of any person described in subparagraph (B).

''(23) The term 'major party' has the meaning given such term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualifying for the ballot in the general election, such candidate shall be treated as a candidate of a major party for purposes of title V.

''(24) The term 'primary election' means an election which may result in the selection of a candidate for the ballot in a general election for a Federal office.

''(25) The term 'primary election period' means, with respect to any candidate, the period beginning on the day following the date of the last election for the specific office the candidate is seeking and ending on the earlier of—

''(A) the date of the first primary election for that office following the last general election for that office; or

''(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election.

''(26) The term 'runoff election' means an election held after a primary election which is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for a Federal office.

''(27) The term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office such candidate is seeking and ending on the date of the runoff election for such office.

''(28) The term 'voting age population' means the resident population, 18 years of age or older, as certified pursuant to section 315(e).

''(29) The term 'election cycle' means—

''(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

''(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election.''.

(b) IDENTIFICATION.—Section 301(13) of FECA (2 U.S.C. 431(13)) is amended by striking ''mailing address'' and inserting ''permanent residence address''.

SEC. 10015. PROVISIONS RELATING TO FRANKED MASS MAILINGS.

Section 3210(a)(6)(C) of title 39, United States Code, is amended—

(1) by striking ''if such mass mailing is postmarked fewer than 60 days immediately before the date'' and inserting ''if such mass mailing is postmarked during the calendar year''; and

(2) by inserting ''or reelection'' immediately before the period.

Subtitle B—Independent Expenditures

SEC. 10021. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.

(a) INDEPENDENT EXPENDITURE DEFINITION AMENDMENT.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following:

''(17)(A) The term 'independent expenditure' means an expenditure for an advertisement or other communication that—

''(i) contains express advocacy; and

''(ii) is made without the participation or cooperation of a candidate or a candidate's representative.

''(B) The following shall not be considered an independent expenditure:

''(i) An expenditure made by a political committee of a political party.

''(ii) An expenditure made by a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

''(iii) An expenditure if there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure.

''(iv) An expenditure if, in the same election cycle, the person making the expenditure is or has been—

''(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

''(II) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.

''(v) An expenditure if the person making the expenditure has advised or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office.

''(vi) An expenditure if the person making the expenditure retains the professional services of any individual or other person also providing services in the same election cycle to the candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including any services relating to the candidate's decision to seek Federal office.

''(vii) An expenditure if the person making the expenditure has consulted at any time during the calendar year in which the election is to be held about the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, with—

''(I) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

''(II) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign.

For purposes of this subparagraph, the person making the expenditure shall include any officer, director, employee, or agent of such person, and the term 'professional services shall include any services (other than legal and accounting services for purposes of ensuring compliance with this title) in support of any candidate's or candidates' pursuit of nomination for election, or election, to Federal office.

''(18) The term 'express advocacy' means, when a communication is taken as a whole and with limited reference to external events, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity.''.

(b) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended—

(1) in clause (i), by striking ''or'' after the semicolon at the end;

(2) in clause (ii), by striking the period at the end and inserting ''; or''; and

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

''(iii) any payment or other transaction referred to in paragraph (17)(A)(i) that does not qualify as an independent expenditure under paragraph (17)(A)(ii).''.

SEC. 10022. EQUAL BROADCAST TIME.

Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended to read as follows:

''(a)(1) If a licensee permits any person who is a legally qualified candidate for public office to use a broadcasting station other than any use required to be provided under paragraph (2), the licensee shall afford equal opportunities to all other such candidates for that office in the use of the broadcasting station.

''(2)(A) A person who reserves broadcast time the payment for which would constitute an independent expenditure within the meaning of section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)) shall—

''(i) inform the licensee that payment for the broadcast time will constitute an independent expenditure;

''(ii) inform the licensee of the names of all candidates for the office to which the proposed broadcast relates and state whether the message to be broadcast is intended to be made in support of or in opposition to each such candidate; and

''(iii) provide the licensee a copy of the statement described in section 304(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(d)).

''(B) A licensee who is informed as described in subparagraph (A) shall—

''(i) if any of the candidates described in subparagraph (A)(ii) has provided the licensee the name and address of a person to whom notification under this subparagraph is to be given—

''(I) notify such person of the proposed making of the independent expenditure; and

''(II) allow any such candidate (other than a candidate for whose benefit the independent expenditure is made) to purchase the same amount of broadcast time immediately after the broadcast time paid for by the independent expenditure; and

''(ii) in the case of an opponent of a candidate for whose benefit the independent expenditure is made who certifies to the licensee that the opponent is eligible to have the cost of response broadcast time paid using funds derived from a payment made under section 503(a)(3)(B) of the Federal Election Campaign Act of 1971, afford the opponent such broadcast time without requiring payment in advance and at the cost specified in subsection (b).

''(3) A licensee shall have no power of censorship over the material broadcast under this section.

''(4) Except as provided in paragraph (2), no obligation is imposed under this subsection upon any licensee to allow the use of its station by any candidate.

''(5)(A) Appearance by a legally qualified candidate on a—

''(i) bona fide newscast;

''(ii) bona fide news interview;

''(iii) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or

''(iv) on-the-spot coverage of bona fide news events (including political conventions and activities incidental thereto),

shall not be deemed to be use of a broadcasting station within the meaning of this subsection.

''(B) Nothing in subparagraph (A) shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from their obligation under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

''(6)(A) A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for election to the same office—

''(i) notice of the date and time of broadcast of the editorial;

''(ii) a taped or printed copy of the editorial; and

''(iii) a reasonable opportunity to broadcast a response using the licensee's facilities.

''(B) In the case of an editorial described in subparagraph (A) that—

''(i) is first broadcast 72 hours or more prior to the date of a primary, runoff, or general election, the notice and copy described in subparagraph (A) (i) and (ii) shall be provided not later than 24 hours after the time of the first broadcast of the editorial, and

''(ii) is first broadcast less than 72 hours before the date of an election, the notice and copy shall be provided at a time prior to the first broadcast that will be sufficient to enable candidates a reasonable opportunity to prepare and broadcast a response.''.

Subtitle C—Expenditures

PART I—PERSONAL LOANS; CREDIT

SEC. 10031. PERSONAL CONTRIBUTIONS AND LOANS.

Section 315 of FECA (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

''(j) LIMITATIONS ON PAYMENTS TO CANDIDATES.—(1) If a candidate or a member of the candidate's immediate family made any loans to the candidate or to the candidate's authorized committees during any election cycle, no contributions received after the date of the general election for such election cycle may be used to repay such loans.

''(2) No contribution by a candidate or member of the candidate's immediate family may be returned to the candidate or member other than as part of a pro rata distribution of excess contributions to all contributors.''.

SEC. 10032. EXTENSIONS OF CREDIT.

Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)), as amended by section 10021(b), is amended—

(1) by striking ''or'' at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting ''; or''; and

(3) by inserting at the end the following new clause:

''(iv) with respect to a candidate and the candidate's authorized committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, or by mailings, or relating to other similar types of general public political advertising, if such extension of credit is—

''(I) in an amount of more than $1,000; and

''(II) for a period greater than the period, not in excess of 60 days, for which credit is generally extended in the normal course of business after the date on which such goods or services are furnished or the date of a mailing.''.

PART II—PROVISIONS RELATING TO SOFT MONEY OF POLITICAL PARTIES

SEC. 10033. DEFINITIONS.

(a) CONTRIBUTION AND EXPENDITURE EXCEPTIONS.—(1) Clause (xii) of section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)(xii)) is amended—

(A) by inserting ''in connection with volunteer activities'' after ''such committee''; and

(B) by striking ''and'' at the end of subclause (2), by inserting ''and'' at the end of subclause (3), and by adding at the end the following new subclause:

''(4) such activities are conducted solely by, or any materials are distributed solely by, volunteers;''.

(2) Clause (ix) of section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)(ix)) is amended—

(A) by inserting ''in connection with volunteer activities'' after ''such committee'', and

(B) by striking ''and'' at the end of subclause (2), by inserting ''and'' at the end of subclause (3), and by adding at the end the following new subclause:

''(4) any materials in connection with such activities are prepared for distribution (and are distributed) solely by volunteers;''.

(b) GENERIC ACTIVITIES; STATE PARTY GRASSROOTS FUND.—Section 301 of FECA (2 U.S.C. 431), as amended by section ___15, is amended by adding at the end thereof the following new paragraphs:

''(30) The term 'generic campaign activity' means a campaign activity that promotes a political party rather than any particular Federal or non-Federal candidate.

''(31) The term 'State Party Grassroots Fund' means a separate segregated fund established and maintained by a State committee of a political party solely for purposes of making expenditures and other disbursements described in section 324(d).''.

SEC. 10034. CONTRIBUTIONS TO POLITICAL PARTY COMMITTEES.

(a) INDIVIDUAL CONTRIBUTIONS TO STATE PARTY.—Paragraph (1) of section 315(a) of FECA (2 U.S.C. 441a(a)(1)) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

''(C) to—

''(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $20,000;

''(ii) any other political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $5,000,

except that the aggregate contributions described in this subparagraph which may be made by a person to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $20,000; or''.

(b) MULTICANDIDATE COMMITTEE CONTRIBUTIONS TO STATE PARTY.—Paragraph (2) of section 315(a) of FECA (2 U.S.C. 441a(a)(2)) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

''(C) to—

''(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $15,000;

''(ii) to any other political committee established and maintained by a State committee of a political party which, in the aggregate, exceed $5,000,

except that the aggregate contributions described in this subparagraph which may be made by a multicandidate political committee to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $15,000; or''.

(c) OVERALL LIMIT.—Paragraph (3) of section 315(a) of FECA (2 U.S.C. 441a(a)(3)) is amended to read as follows:

''(3)(A) No individual shall make contributions during any election cycle (as defined in section 301(29)(B)) which, in the aggregate, exceed $60,000.

''(B) No individual shall make contributions during any calendar year—

''(i) to all candidates and their authorized political committees which, in the aggregate, exceed $25,000; or

''(ii) to all political committees established and maintained by State committees of a political party which, in the aggregate, exceed $20,000.

''(C) For purposes of subparagraph (B)(i), any contribution made to a candidate or the candidate's authorized political committees in a year other than the calendar year in which the election is held with respect to which such contribution is made shall be treated as made during the calendar year in which the election is held.''.

(d) PRESIDENTIAL CANDIDATE COMMITTEE TRANSFERS.—(1) Subparagraph (B) of section 315(b)(1) of FECA (2 U.S.C. 441a(b)(1)) is amended to read as follows:

''(B) in the case of a campaign for election to such office, an amount equal to the sum of—

''(i) $20,000,000, plus

''(ii) the lesser of—

''(I) 2 cents multiplied by the voting age population of the United States (as certified under subsection (e) of this section), or

''(II) the amounts transferred by the candidate and the authorized committees of the candidate to the national committee of the candidate's political party for distribution to State Party Grassroots Funds.''.

(2) Subparagraph (A) of section 9002(11) of the Internal Revenue Code of 1986 (defining qualified campaign expense) is amended by striking ''or'' at the end of clause (ii), by inserting ''or'' at the end of clause (iii), and by inserting at the end the following new clause ''(iv) any transfers to the national committee of the candidate's political party for distribution to State Party Grassroots Funds (as defined in section 301(31) of the Federal Election Campaign Act of 1971) to the extent such transfers do not exceed the amount determined under section 315(b)(1)(B)(ii) of such Act,''.

SEC. 10035. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.

(a) SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.—Title III of FECA is amended by inserting after section 323 the following new section:

''POLITICAL PARTY COMMITTEES

''SEC. 324. (a) LIMITATIONS ON NATIONAL COMMITTEE.—(1) A national committee of a political party and the congressional campaign committees of a political party may not solicit or accept contributions or transfers not subject to the limitations, prohibitions, and reporting requirements of this Act.

''(2) Paragraph (1) shall not apply to contributions—

''(A) that—

''(i) are to be transferred to a State committee of a political party and are used solely for activities described in clauses (xi) through (xvii) of paragraph (9)(B) of section 301; or

''(ii) are described in section 301(8)(B)(viii); and

''(B) with respect to which contributors have been notified that the funds will be used solely for the purposes described in subparagraph (A).

''(b) ACTIVITIES SUBJECT TO THIS ACT.—Any amount solicited, received, expended, or disbursed directly or indirectly by a national, State, district, or local committee of a political party (including any subordinate committee) with respect to any of the following activities shall be subject to the limitations,

prohibitions, and reporting requirements of this Act:

''(1)(A) Any get-out-the-vote activity conducted during a calendar year in which an election for the office of President is held.

''(B) Any other get-out-the-vote activity unless subsection (c)(2) applies to the activity.

''(2) Any generic campaign activity.

''(3) Any activity that identifies or promotes a Federal candidate, regardless of whether—

''(A) a State or local candidate is also identified or promoted; or

''(B) any portion of the funds disbursed constitutes a contribution or expenditure under this Act.

''(4) Voter registration.

''(5) Development and maintenance of voter files during an even-numbered calendar year.

''(6) Any other activity that—

''(A) significantly affects a Federal election, or

''(B) is not otherwise described in section 301(8)(B)(xvii).

Any amount spent to raise funds that are used, in whole or in part, in connection with activities described in the preceding paragraphs shall be subject to the limitations, prohibitions, and reporting requirements of this Act.

''(c) GET-OUT-THE-VOTE ACTIVITIES BY STATE, DISTRICT, AND LOCAL COMMITTEES OF POLITICAL PARTIES.—(1) Except as provided in paragraph (2), any get-out-the-vote activity for a State or local candidate, or for a ballot measure, which is conducted by a State, district, or local committee of a political party (including any subordinate committee) shall be subject to the limitations, prohibitions, and reporting requirements of this Act.

''(2) Paragraph (1) shall not apply to any activity which the State committee of a political party certifies to the Commission is an activity which—

''(A) is conducted during a calendar year other than a calendar year in which an election for the office of President is held,

''(B) is exclusively on behalf of (and specifically identifies only) one or more State or local candidates or ballot measures, and

''(C) does not include any effort or means used to identify or turn out those identified to be supporters of any Federal candidate (including any activity that is undertaken in coordination with, or on behalf of, a candidate for Federal office).

''(d) STATE PARTY GRASSROOTS FUNDS.—(1) A State committee of a political party may make disbursements and expenditures from its State Party Grassroots Fund only for—

''(A) any generic campaign activity;

''(B) payments described in clauses (v), (x), and (xii) of paragraph (8)(B) and clauses (iv), (viii), and (ix) of paragraph (9)(B) of section 301;

''(C) subject to the limitations of section 315(d), payments described in clause (xii) of paragraph (8)(B), and clause (ix) of paragraph (9)(B), of section 301 on behalf of candidates other than for President and Vice President;

''(D) voter registration; and

''(E) development and maintenance of voter files during an even-numbered calendar year.

''(2) Notwithstanding section 315(a)(4), no funds may be transferred by a State committee of a political party from its State Party Grassroots Fund to any other State Party Grassroots Fund or to any other political committee, except a transfer may be made to a district or local committee of the same political party in the same State if such district or local committee—

''(A) has established a separate segregated fund for the purposes described in paragraph (1); and

''(B) uses the transferred funds solely for those purposes.

''(e) AMOUNTS RECEIVED BY GRASSROOTS FUND FROM STATE AND LOCAL CANDIDATE COMMITTEES.—(1) Any amount received by a State Party Grassroots Fund from a State or local candidate committee for expenditures described in subsection (b) that are for the benefit of that candidate shall be treated as meeting the requirements of subsection (b) and section 304(e) if—

''(A) such amount is derived from funds which meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount specified in section 315(a) (1)(A) and (2)(A); and

''(B) the State or local candidate committee—

''(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether such requirements are met; and

''(ii) certifies that such requirements were met.

''(2) For purposes of paragraph (1)(A), in determining whether the funds transferred meet the requirements of this Act described in such paragraph—

''(A) a State or local candidate committee's cash on hand shall be treated as consisting of the funds most recently received by the committee, and

''(B) the committee must be able to demonstrate that its cash on hand contains sufficient funds meeting such requirements as are necessary to cover the transferred funds.

''(3) Notwithstanding paragraph (1), any State Party Grassroots Fund receiving any transfer described in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act, and shall submit to the Commission all certifications received, with respect to receipt of the transfer from such candidate committee.

''(4) For purposes of this subsection, a State or local candidate committee is a committee established, financed, maintained, or controlled by a candidate for other than Federal office.''.

(b) CONTRIBUTIONS AND EXPENDITURES.—(1) Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended by striking ''and'' at the end of clause (xiii), by striking the period at the end of clause (xiv) and inserting a semicolon, and by adding at the end the following new clauses:

''(xv) any amount contributed to a candidate for other than Federal office;

''(xvi) any amount received or expended to pay the costs of a State or local political convention;

''(xvii) any payment for campaign activities that are exclusively on behalf of (and specifically identify only) State or local candidates and do not identify any Federal candidate, and that are not activities described in section 324(b) (without regard to paragraph (6)(B)) or section 324(c)(1);

''(xviii) any payment for administrative expenses of a State or local committee of a political party, including expenses for—

''(I) overhead, including party meetings;

''(II) staff (other than individuals devoting a significant amount of their time to elections for Federal office and individuals engaged in conducting get-out-the-vote activities for a Federal election); and

''(III) conducting party elections or caucuses;

''(xix) any payment for research pertaining solely to State and local candidates and issues;

''(xx) any payment for development and maintenance of voter files other than during the 1-year period ending on the date during an even-numbered calendar year on which regularly scheduled general elections for Federal office occur; and

''(xxi) any payment for any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office and which is not an activity described in section 324(b) (without regard to paragraph (6)(B)) or section 324(c)(1).''.

(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended by striking ''and'' at the end of clause (ix), by striking the period at the end of clause (x) and inserting a semicolon, and by adding at the end the following new clauses:

''(xi) any amount contributed to a candidate for other than Federal office;

''(xii) any amount received or expended to pay the costs of a State or local political convention;

''(xiii) any payment for campaign activities that are exclusively on behalf of (and specifically identify only) State or local candidates and do not identify any Federal candidate, and that are not activities described in section 324(b) (without regard to paragraph (6)(B)) or section 324(c)(1);

''(xiv) any payment for administrative expenses of a State or local committee of a political party, including expenses for—

''(I) overhead, including party meetings;

''(II) staff (other than individuals devoting a significant amount of their time to elections for Federal office and individuals engaged in conducting get-out-the-vote activities for a Federal election); and

''(III) conducting party elections or caucuses;

''(xv) any payment for research pertaining solely to State and local candidates and issues;

''(xvi) any payment for development and maintenance of voter files other than during the 1-year period ending on the date during an even-numbered calendar year on which regularly scheduled general elections for Federal office occur; and

''(xvii) any payment for any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office and which is not an activity described in section 324(b) (without regard to paragraph (6)(B)) or section 324(c)(1).''.

(c) LIMITATION APPLIED AT NATIONAL LEVEL.—Paragraph (3) of section 315(d) of FECA (2 U.S.C. 441a(d)(3)) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, the applicable congressional campaign committee of a political party shall make the expenditures described in this paragraph which are authorized to be made by a national or State committee with respect to a candidate in any State unless it allocates all or a portion of such expenditures to either or both of such committees.''.

(d) LIMITATIONS APPLY FOR ENTIRE ELECTION CYCLE.—Section 315(d)(1) of FECA (2 U.S.C. 441a(d)(1)) is amended by adding at the end the following new sentence: ''Each limitation under the following paragraphs shall apply to the entire election cycle for an office.''.

SEC. 10036. RESTRICTIONS ON FUNDRAISING BY CANDIDATES AND OFFICEHOLDERS.

(a) STATE FUNDRAISING ACTIVITIES.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 10031, is amended by adding at the end the following new subsection:

''(k) LIMITATIONS ON FUNDRAISING ACTIVITIES OF FEDERAL CANDIDATES AND OFFICEHOLDERS AND CERTAIN POLITICAL COMMITTEES.—(1) For purposes of this Act, a candidate for Federal office, an individual holding Federal office, or any agent of the candidate or individual may not solicit funds to, or receive funds on behalf of, any Federal or non-Federal candidate or political committee—

''(A) which are to be expended in connection with any election for Federal office unless such funds are subject to the limitations, prohibitions, and requirements of this Act; or

''(B) which are to be expended in connection with any election for other than Federal office unless such funds are not in excess of amounts permitted with respect to Federal candidates and political committees under subsections (a) (1) and (2), and are not from sources prohibited by such subsections with respect to elections to Federal office.

''(2)(A) The aggregate amount which a person described in subparagraph (B) may solicit from a multicandidate political committee for State committees described in subsection (a)(1)(C) (including subordinate committees) for any calendar year shall not exceed the dollar amount in effect under subsection (a)(2)(B) for the calendar year.

''(B) A person is described in this subparagraph if such person is a candidate for Federal office, an individual holding Federal office, an agent of such a candidate or individual, or any national, State, district, or local committee of a political party (including a subordinate committee) and any agent of such a committee.

''(3) The appearance or participation by a candidate for Federal office or individual holding Federal office in any fundraising event conducted by a committee of a political party or a candidate for other than Federal office shall not be treated as a solicitation for purposes of paragraph (1) if such candidate or individual does not solicit or receive, or make disbursements from, any funds resulting from such activity.

''(4) Paragraph (1) shall not apply to the solicitation or receipt of funds, or disbursements, by an individual who is a candidate for other than Federal office if such activity is permitted under State law.

''(5) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual—

''(A) holds a Federal office; or

''(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code.''.

(b) TAX-EXEMPT ORGANIZATIONS.—Section 315 of FECA (2 U.S.C. 441a), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

''(l) TAX-EXEMPT ORGANIZATIONS.—(1) If an individual is a candidate for, or holds, Federal office during any period, such individual may not during such period solicit contributions to, or on behalf of, any organization which is described in section 501(c) of the Internal Revenue Code of 1986 if a significant portion of the activities of such organization include voter registration or get-out-the-vote campaigns.

''(2) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual—

''(A) holds a Federal office; or

''(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code.''.

SEC. 10037. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of FECA (2 U.S.C. 434), as amended by section 10012(a), is amended by adding at the end thereof the following new subsection:

''(e) POLITICAL COMMITTEES.—(1) The national committee of a political party and any congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

''(2) A political committee (not described in paragraph (1)) to which section 324 applies shall report all receipts and disbursements including separate schedules for receipts and disbursements for State Grassroots Funds described in section 301(31).

''(3) Any political committee to which section 324 applies shall include in its report under paragraph (1) or (2) the amount of any transfer described in section 324(d)(2) and shall itemize such amounts to the extent required by section 304(b)(3)(A).

''(4) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements which are used in connection with a Federal election.

''(5) If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as subsection (b) (3)(A), (5), or (6).

''(6) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a).''.

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended by inserting at the end thereof the following:

''(C) The exclusion provided in clause (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions aggregating in excess of $200 shall be reported.''.

(c) REPORTS BY STATE COMMITTEES.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

''(f) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.''.

(d) OTHER REPORTING REQUIREMENTS.—

(1) AUTHORIZED COMMITTEES.—Paragraph (4) of section 304(b) of FECA (2 U.S.C. 434(b)(4)) is amended by striking ''and'' at the end of subparagraph (H), by inserting ''and'' at the end of subparagraph (I), and by adding at the end the following new subparagraph:

''(J) in the case of an authorized committee, disbursements for the primary election, the general election, and any other election in which the candidate participates;''.

(2) NAMES AND ADDRESSES.—Subparagraph (A) of section 304(b)(5) of FECA (2 U.S.C. 434(b)(5)(A)) is amended—

(A) by striking ''within the calendar year'', and

(B) by inserting '', and the election to which the operating expenditure relates'' after ''operating expenditure''.

Subtitle D—Contributions

SEC. 10041. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS; PROHIBITION ON CERTAIN CONTRIBUTIONS BY LOBBYISTS.

(a) CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.—Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended to read as follows:

''(8) For purposes of this subsection:

''(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate. If a contribution is made to a candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and to the intended recipient.

''(B) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions arranged to be made by an intermediary or conduit, shall be treated as contributions from the intermediary or conduit to the candidate if—

''(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the intermediary or conduit rather than the intended recipient; or

''(ii) the intermediary or conduit is—

''(I) a political committee which is not described in subparagraph (E), a political party, or an officer, employee, or agent of either;

''(II) an individual whose activities are required to be reported under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267), the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.), or any successor Federal law requiring a person who is a lobbyist or foreign agent to report its activities;

''(III) a person which is prohibited from making contributions under section 316 or which is a partnership; or

''(IV) an officer, employee, or agent of a person described in subclause (II) or (III) acting on behalf of such person.

''(C)(i) The term 'contributions arranged to be made' includes—

''(I) contributions delivered to a particular candidate or the candidate's authorized committee or agent by the person who arranged for the making of the contribution; and

''(II) contributions to a particular candidate or the candidate's authorized committee or agent that are made or arranged to be made so as to identify to the candidate or authorized committee or agent the person who arranged for the making of the contribution.

''(ii) The term 'acting on behalf of such person' includes the following activities by an officer, employee, or agent of a person described in subparagraph (B)(ii) (II) or (III):

''(I) Soliciting the making of a contribution to a particular candidate in the name of such a person.

''(II) Soliciting the making of a contribution to a particular candidate using other than incidental resources of such a person.

''(III) Soliciting contributions for a particular candidate by directing a substantial portion of the solicitations to other officers, employees, or agents of such a person.

''(iii) Except for purposes of subclauses (I) and (II) of clause (ii), an individual shall not be treated as an officer, employee, or agent of a person if—

''(I) in the case of a membership organization, the individual is a member of the organization, or

''(II) the individual serves on the board of the person and the individual does not receive any compensation from that person (or any subsidiary or affiliated person) by reason of serving in that capacity.

''(D) Nothing in this paragraph shall apply to—

''(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, in accordance with rules prescribed by the Commission, by 2 or more candidates acting on their own behalf;

''(ii) fundraising efforts for the benefit of a candidate that are conducted by another candidate or Federal officeholder; or

''(iii) the solicitation by an individual, using the individual's own resources and acting in the individual's own name, of contributions from other persons in a manner that does not identify the solicitor with the making of the contribution.

''(E)(i) For purposes of subparagraph (B)(ii)(I), a political committee described in this subparagraph is one which—

''(I) does not have a connected organization;

''(II) has not contracted for the services of, and does not employ on a full or part-time basis, any individual described in subparagraph (B)(ii)(II) during the same election cycle; and

''(III) is not affiliated with any person or organization that has contracted for the services of, or has employed on a full or part-time basis, any individual described in subparagraph (B)(ii)(II) during the same election cycle.

''(ii) For purposes of clause (i)(III), organizations are affiliated if they are established, financed, maintained, or controlled by the same person or group of persons. Evidence of such affiliation includes, but is not limited to—

''(I) common membership, employees, officers, or facilities;

''(II) the donation, contribution, or transfer of funds between the organizations;

''(III) the exchange, sharing, or disclosure of any membership, mailing, contributor, or other list of names; or

''(IV) the authority or ability to direct, or to participate in, the governance or decision-making of an organization.''

(b) REPORTING OF EARMARKED CONTRIBUTIONS.—Section 304, as amended by section 10037, is further amended by adding the following new subsection:

''(f) REPORTING OF EARMARKED CONTRIBUTIONS.—(1) An intermediary or conduit shall report the original source and the intended recipient of each contribution forwarded to a candidate in accordance with section 315(a)(8), and the identification of each contributor as required by subsection (b)(3). The intermediary or conduit shall also report the total amount of contributions made through the intermediary or conduit for each candidate to whom contributions were directed in the reporting period, the dates on which the contributions were received for that candidate, and the dates on which they were forwarded to the candidate.

''(2) An authorized committee which receives contributions through an intermediary or conduit shall report the total amount received through each intermediary or conduit in the reporting period, the dates the contributions were received, and the identification of each contributor as required by subsection (b)(3).''.

(c) PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 10036(b), is amended by adding at the end the following new subsection:

''(m)(1) A lobbyist, or a political committee controlled by a lobbyist, shall not make a contribution to—

''(A) a Federal officeholder or candidate for Federal office if, during the preceding 12 months, the lobbyist has made a lobbying contact with such officeholder or candidate; or

''(B) any authorized committee of the President or Vice President of the United States if, during the preceding 12 months, the lobbyist has made a lobbying contact with a covered executive branch official.

''(2) A lobbyist who, or a lobbyist whose political committee, has made any contribution to any member of Congress or candidate for Congress (or any authorized committee of the President) shall not, during the 12 months following such contribution, make a lobbying contact with such member or candidate who becomes a member of Congress or with a covered executive branch official.

''(3) For purposes of this subsection—

''(A) the term 'covered executive branch official' means the President, Vice President, any officer or employee of the executive office of the President other than a clerical or secretarial employee, any officer or employee serving in an Executive Level I, II, III, IV, or V position as designated in statute or Executive order, any officer or employee serving in a senior executive service position (as defined in section 3232(a)(2) of title 5, United States Code), any member of the uniformed services whose pay grade is at or in excess of 0-7 under section 201 of title 37, United States Code, and any officer or employee serving in a position of confidential or policy-determining character under schedule C of the excepted service pursuant to regulations implementing section 2103 of title 5, United States Code;

''(B) the term 'lobbyist' means—

''(i) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) or any successor Federal law requiring a person who is a lobbyist or foreign agent to register or a person to report its lobbying activities; or

''(C) the term 'lobbying contact'—

''(i) means an oral or written communication with or appearance before a member of Congress or covered executive branch official made by a lobbyist representing an interest of another person with regard to—

''(I) the formulation, modification, or adoption of Federal legislation (including a legislative proposal);

''(II) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy or position of the United States Government; or

''(III) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); but

''(ii) does not include a communication that is—

''(I) made by a public official acting in an official capacity;

''(II) made by a representative of a media organization who is primarily engaged in gathering and disseminating news and information to the public;

''(III) made in a speech, article, publication, or other material that is widely distributed to the public or through the media;

''(IV) a request for an appointment, a request for the status of a Federal action, or another similar ministerial contact, if there is no attempt to influence a member of Congress or covered executive branch official at the time of the contact;

''(V) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act (5 U.S.C. App.);

''(VI) testimony given before a committee, subcommittee, or office of Congress a Federal agency, or submitted for inclusion in the public record of a hearing conducted by the committee, subcommittee, or office;

''(VII) information provided in writing in response to a specific written request from a member of Congress or covered executive branch official;

''(VIII) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of Congress or a Federal agency;

''(IX) made to an agency official with regard to a judicial proceeding, criminal or civil law enforcement inquiry, investigation, or proceeding, or filing required by law;

''(X) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or substantially similar provisions;

''(XI) a written comment filed in a public docket and other communication that is made on the record in a public proceeding;

''(XII) a formal petition for agency action, made in writing pursuant to established agency procedures; or

''(XIII) made on behalf of a person with regard to the person's benefits, employment, other personal matters involving only that person, or disclosures pursuant to a whistleblower statute.''.

''(5) For purposes of this subsection, a lobbyist shall be considered to make a lobbying contact or communication with a member of Congress if the lobbyist makes a lobbying contact or communication with—

''(A) the member of Congress;

''(B) any person employed in the office of the member of Congress; or

''(C) any person employed by a committee, joint committee, or leadership office who, to the knowledge of the lobbyist, was employed at the request of or is employed at the pleasure of, reports primarily to, represents, or acts as the agent of the member of Congress.''.

SEC. 10042. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 10041(c), is amended by adding at the end the following new subsection:

''(n) For purposes of this section, any contribution by an individual who—

''(1) is a dependent of another individual; and

''(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them.''.

SEC. 10043. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

''(9) Notwithstanding paragraph (5)(B), a candidate for Federal office may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such committee), if such contribution, when added to the total of contributions previously accepted from all such committees of that political party, exceeds a limitation on contributions to a candidate under this section.''.

SEC. 10044. CONTRIBUTIONS AND EXPENDITURES USING MONEY SECURED BY PHYSICAL FORCE OR OTHER INTIMIDATION.

Title III of FECA, as amended by section 10054, is amended by adding at the end the following new section:

''CONTRIBUTIONS AND EXPENDITURES USING MONEY SECURED BY PHYSICAL FORCE OR OTHER INTIMIDATION

''SEC. 326. It shall be unlawful for any person to—

''(1) cause another person to make a contribution or expenditure by using physical

force, job discrimination, financial reprisals, or the threat of physical force, job discrimination, or financial reprisal; or

''(2) make a contribution or expenditure utilizing money or anything of value secured in the manner described in paragraph (1).''.

SEC. 10045. PROHIBITION OF ACCEPTANCE BY A CANDIDATE OF CASH CONTRIBUTIONS FROM ANY ONE PERSON AGGREGATING MORE THAN $100.

Section 321 of FECA (2 U.S.C. 441g) is amended by inserting '', and no candidate or authorized committee of a candidate shall accept from any one person,'' after ''make''.

Subtitle E—Miscellaneous

SEC. 10051. PROHIBITION OF LEADERSHIP COMMITTEES.

Section 302(e) of FECA (2 U.S.C. 432(e)) is amended—

(1) by amending paragraph (3) to read as follows:

''(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

''(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

''(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.''; and

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

''(6)(A) A candidate for Federal office or any individual holding Federal office may not establish, finance, maintain, or control any Federal or non-Federal political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office. This paragraph shall not preclude a Federal officeholder who is a candidate for State or local office from establishing, financing, maintaining, or controlling a political committee for election of the individual to such State or local office.

''(B) For one year after the effective date of this paragraph, any political committee established before such date but which is prohibited under subparagraph (A) may continue to make contributions. At the end of that period such political committee shall disburse all funds by one or more of the following means: making contributions to an entity qualified under section 501(c)(3) of the Internal Revenue Code of 1986; making a contribution to the treasury of the United States; contributing to the national, State or local committees of a political party; or making contributions not to exceed $1,000 to candidates for elective office.''.

SEC. 10052. TELEPHONE VOTING BY PERSONS WITH DISABILITIES.

(a) STUDY OF SYSTEMS TO PERMIT PERSONS WITH DISABILITIES TO VOTE BY TELEPHONE.—

(1) IN GENERAL.—The Federal Election Commission shall conduct a study to determine the feasibility of developing a system or systems by which persons with disabilities may be permitted to vote by telephone.

(2) CONSULTATION.—The Federal Election Commission shall conduct the study described in paragraph (1) in consultation with State and local election officials, representatives of the telecommunications industry, representatives of persons with disabilities, and other concerned members of the public.

(3) CRITERIA.—The system or systems developed pursuant to paragraph (1) shall—

(A) propose a description of the kinds of disabilities that impose such difficulty in travel to polling places that a person with a disability who may desire to vote is discouraged from undertaking such travel;

(B) propose procedures to identify persons who are so disabled; and

(C) describe procedures and equipment that may be used to ensure that—

(i) only those persons who are entitled to use the system are permitted to use it;

(ii) the votes of persons who use the system are recorded accurately and remain secret;

(iii) the system minimizes the possibility of vote fraud; and

(iv) the system minimizes the financial costs that State and local governments would incur in establishing and operating the system.

(4) REQUESTS FOR PROPOSALS.—In developing a system described in paragraph (1), the Federal Election Commission may request proposals from private contractors for the design of procedures and equipment to be used in the system.

(5) PHYSICAL ACCESS.—Nothing in this section is intended to supersede or supplant efforts by State and local governments to make polling places physically accessible to persons with disabilities.

(6) DEADLINE.—The Federal Election Commission shall submit to Congress the study required by this section not later than 1 year after the effective date of this Act.

SEC. 10053. CERTAIN TAX-EXEMPT ORGANIZATIONS NOT SUBJECT TO CORPORATE LIMITS.

Section 316 of FECA (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

''(c) PROHIBITIONS NOT TO APPLY TO INDEPENDENT EXPENDITURES OF CERTAIN TAX-EXEMPT ORGANIZATIONS.—(1) Nothing in this section shall preclude a qualified nonprofit corporation from making independent expenditures (as defined in section 301(17)).

''(2) For purposes of this subsection, the term 'qualified nonprofit corporation' means a corporation exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 which is described in section 501(c)(4) of such Code and which meets the following requirements:

''(A) Its only express purpose is the promotion of political ideas.

''(B) It cannot and does not engage in any activities that constitute a trade or business.

''(C) Its gross receipts for the calendar year have not (and will not) exceed $100,000, and the net value of its total assets at any time during the calendar year do not exceed $250,000.

''(D) It was not established by a person described in section 501(c)(6) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code, a corporation engaged in carrying out a trade or business, or a labor organization, and it cannot and does not directly or indirectly accept donations of anything of value from any such person, corporation, or labor organization.

''(E) It—

''(i) has no shareholder or other person affiliated with it that could make a claim on its assets or earnings, and

''(ii) offers no incentives or disincentives for associating or not associating with it other than on the basis of its position on any political issue.

''(3) If a major purpose of a qualified nonprofit corporation is the making of independent expenditures, and the requirements of section 301(4) are met with respect to the corporation, the corporation shall be treated as a political committee.

''(4) All solicitations by a qualified nonprofit corporation shall include a notice informing contributors that donations may be used by the corporation to make independent expenditures.

''(5) A qualified nonprofit corporation shall file reports as required by section 304 (c) and (d).

SEC. 10054. AIDING AND ABETTING VIOLATIONS OF FECA.

Title III of FECA, as amended by section 10035, is amended by adding at the end the following new section:

''AIDING AND ABETTING VIOLATIONS

''SEC. 325. With reference to any provision of this Act that places a requirement or prohibition on any person acting in a particular capacity, any person who knowingly aids or abets the person in that capacity in violating that provision may be proceeded against as a principal in the violation.''.

SEC. 10055. CAMPAIGN ADVERTISING THAT REFERS TO AN OPPONENT.

Title III of FECA, as amended by section 10002, is amended by adding at the end the following new section:

''CAMPAIGN ADVERTISING THAT REFERS TO AN OPPONENT

''SEC. 328. (a) CANDIDATES.—A candidate or candidate's authorized committee that places in the mail a campaign advertisement or any other communication to the general public that directly or indirectly refers to an opponent or the opponents of the candidate in an election, with or without identifying any opponent in particular, shall file an exact copy of the communication with the Commission and with the Secretary of State of the candidate's State by no later than 12:00 p.m. on the day on which the communication is first placed in the mail to the general public.

''(b) PERSONS OTHER THAN CANDIDATES.—A person other than a candidate or candidate's authorized committee that places in the mail a campaign advertisement or any other communication to the general public that—

''(1) advocates the election of a particular candidate in an election; and

''(2) directly or indirectly refers to an opponent or the opponents of the candidate in the election, with or without identifying any opponent in particular,

shall file an exact copy of the communication with the Commission and with the Secretary of State of the candidate's State by no later than 12:00 p.m. on the day on which the communication is first placed in the mail to the general public.''.

SEC. 10056. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6)(A) of title 39, United States Code, is amended to read as follows:

''(A) A Member of Congress may not mail any mass mailing as franked mail during a year in which there will be an election for the seat held by the Member during the period between January 1 of that year and the date of the general election for that office, unless the Member has made a public announcement that the Member will not be a candidate for reelection to that seat or for election to any other Federal office.''.

Subtitle F—Effective Dates; Authorizations

SEC. 10061. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by, and the provisions of, this title shall take effect on the date of the enactment of this title.

SEC. 10062. BUDGET NEUTRALITY.

(a) DELAYED EFFECTIVENESS.—The provisions of this title (other than this section) shall not be effective until the Director of

the Office of Management and Budget certifies that the estimated costs under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 have been offset by the enactment of legislation effectuating this title.

(b) FUNDING.—Legislation effectuating this title shall not provide for general revenue increases, reduce expenditures for any existing Federal program, or increase the Federal budget deficit.

SEC. 10063. SEVERABILITY.

Except as provided in section 10001(c), if any provision of this title (including any amendment made by this title), or the application of any such provision to any person or circumstance, is held invalid, the validity of any other provision of this title, or the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 10064. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this title or amendment made by this title.

(b) ACCEPTANCE AND EXPEDITION.—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

SEC. 10065. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out the provisions of this title within 9 months after the effective date of this title.

Mr. GLENN. Mr. President, Senator Sam Ervin, a great constitutional scholar, once said that Congress is ''like a doctor prescribing medicine for a patient that he himself would not take.'' I agree.

By enacting laws for others, and then exempting ourselves, we have done great damage to the public perception of Congress. When I travel in Ohio and other parts of the country, I find that people are especially irritated that we do not have to follow the rules like everybody else. Businessmen, especially, tell me that we in Congress cannot understand the real impact of our laws, because we do not have to follow them back here on Capitol Hill.

But there is an even more important principle at stake—to continue to deprive our employees of the full protection of the law is wrong. Let me be clear: I am not just talking about our legislative and administrative personnel—whom many people think of in terms of Capitol Hill staffers. There are also the cleaning crews, and the police, and the restaurant workers, and the parking lot attendants, and the plumbers, and the window washers—all of the workers who do not enjoy the same rights as every other American not employed by the Congress.

I am very pleased that, in these opening days of the 104th Congress, we can finally do what is right for these people, and eliminate this congressional double standard under which we have enacted laws that apply to everyone but ourselves.

This reform is long overdue. Our efforts to apply the law on Capitol Hill go back many years. In 1978—only a few years after I came to the Senate—I proposed a resolution to assure that all Senate employees would be protected against employment discrimination. In explaining why we needed this resolution, I said that Congress was The Last Plantation. Some of my colleagues were not happy with me for this. But the employees knew that what I said was true.

There resolution in 1978 did not pass, and it is only in the last few years that we have finally enacted substantial legal protection for Senate employees. Our Senate employees are now covered under the civil rights laws and certain other employment laws, and they can take their cases to the U.S. Court of Appeals. Despite this progress, however, we still have an unacceptable patchwork quilt of coverage and exemption here on Capitol Hill.

It has not been easy to solve this problem. My guiding principle has been that we in Congress should be subject to the same laws as apply to a business back in our home State. But many Members also believe that the Constitution requires us to preserve substantial independence of the Senate and of the House of Representatives.

This is not simply a matter of personal prerogative or ego. For the private sector, these laws are normally implemented by the executive branch and the judicial branch. But many Senators—both Democrats and Republicans—have expressed genuine concern about politically motivated prosecutions that might result if we ignore the principle of separation of powers as we apply these laws to Congress.

Last year, the majority leader, Senator MITCHELL, asked me—as chairman of the Governmental Affairs Committee—to try to find a bipartisan solution. I started with the excellent bill introduced last year by Senators LIEBERMAN and GRASSLEY. Then, together with Senator LIEBERMAN, Senator GRASSLEY, and other Senators from both sides of the aisle, we worked hard to reach a solution—and we succeeded. We included even stronger application of the laws to Congress, and we also included stronger protection of the constitutional independence of the Senate and the House. Our legislation won broad bipartisan support, but it was unfortunately blocked on the Senate floor in the closing days of the 103d Congress.

I am very gratified that our solution to congressional coverage now stands an excellent chance of being enacted by the new Congress. The new Democratic leader, Senator DASCHLE, is introducing our congressional accountability legislation, as part of a comprehensive congressional reform proposal.

This proposal includes a number of reforms of the way Congress does business, including measures on lobbying disclosure and gifts to Members. These essential measures, which I support, were also blocked—along with congressional coverage—at the end of the last Congress.

The first part of the Democratic leader's bill, which deals with congressional coverage, is entitled the Congressional Accountability Act of 1995. This legislation can be briefly summarized in five key elements.

First, all of the rights and protections under the civil rights laws, other employment statutes, and the public-access requirements of the Americans with Disabilities Act would apply to the legislative branch. This includes the Senate, the House of Representatives, and our support agencies.

Second, a new compliance office would be established within the legislative branch to handle claims and to issuerules. The compliance office would be headed by an independent five-person board of directors removable only for cause.

It is unfortunate that we have to create a new enforcement bureaucracy, at a time when we are more concerned about streamlining the government. But many Members believe that it would violate the constitutional separation of powers to have the executive branch enforce these laws against Congress.

Third, any employee who believes there has been a violation could receive counseling and mediation services from the new office. If the employee's claim is not resolved by counseling or mediation, the employee may file a complaint with the compliance office and receive a hearing and decision from a hearing officer. This decision may be appealed to the board and to the U.S. Court of Appeals.

Fourth, instead of filing a complaint with the compliance office after counseling and mediation, the employee may elect to sue in U.S. District Court. A jury trial may be requested under applicable law.

Fifth, the board will appoint a general counsel, who will enforce OSHA, collective bargaining requirements, and other laws.

A similar bill is being introduced as part of Senator DOLE's top-priority legislation. With this strong bipartisan support, I am very optimistic that congressional coverage legislation can now be promptly enacted.

So I am very pleased that there now appears to be bipartisan support for the Congressional Accountability Act. And I will be as pleased as anyone when it is finally adopted.

But make no mistake about it: There is nothing new about this measure. Congressional coverage legislation was adopted by the democratically controlled House of Representatives last year. Congressional coverage legislation was sent to the Senate floor by my democratically controlled Governmental Affairs Committee last year.

And, unfortunately, it died in the final days of the democratically controlled Congress in that scorched Earth atmosphere—the worst I have ever seen in my 20 years in the Senate—that saw

Members opposing for the sake of opposing—and even killing good legislation that they themselves supported—in order to deny credit to the majority party.

Well, I will tell you something. I was not proud of what went on in those final days, and I do not think the American people were either. For they know that America did not rise to become the greatest nation in the world by trying to out-delay, out-complain, and out-divide our political opposition.

And—although it is easier said than done—it is high time that Members started to put the national interest first. To calculate their actions based not on the narrow political calculations of today—but on what is best for the country tomorrow.

If Republicans and Democrats alike can just remember that, I believe that we can have a very productive session.

The Congressional Accountability Act is a good place to start. And I am very pleased that it is being introduced as part of Senator DASCHLE's comprehensive congressional reform proposal.

KEY ELEMENTS OF THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

1. Rights and Protections under Civil Rights and other employment statutes and Americans with Disabilities Act would apply fully to the House, the Senate, and all instrumentalities.

2. A new compliance office would be established within the Legislative Branch to handle claims and issue rules.

The compliance office would be headed by an independent 5-percent Board of Directors removable only for cause.

3. An employee who believes there has been a violation could receive counseling and mediation services from the new office.

4. If the employee's claim is not resolved by counseling or mediation, the employee may file a complaint with the compliance office and receive a hearing and decision from a hearing officer.

This decision may be appealed to the Board and to the United States Court of Appeals.

5. Instead of filing a complaint with the compliance office after counseling and medication, the employee may elect to sue in United States District Court. A jury trial may be requested under applicable law.

6. The General Counsel, to be appointed by the Board, will enforce OSHA, collective bargaining requirements, and other laws.

SUMMARY OF COSTS AND OTHER IMPACTS OF CONGRESSIONAL ACCOUNTABILITY ACT

The CBO letter, at pages 44–49 of the GAC Report (and the CBO letter for the House bill) describes the following costs:

1. New compliance office:

$1 million/year for 2 years, during start-up.

$2–3 million/year thereafter, including enforcement procedures and OSHA inspections.

2. Settlements and awards to employees:

$0.5–1 million/year.

3. Federal labor-management relations

$1 million/year for lawyers and personnel officers.

4. OSHA

Existing standards—will require change in practices rather than significant additional space or cost.

Possible future standards (e.g., ergonomic equipment; air quality)—without specific standards, cost cannot be predicted.

5. Fair Labor Standards

Capitol police—$0.8 million/year.

Other employees—CBO could not estimate. [CBO assumed the compliance office would have wide discretion in establishing rules and in allowing compensatory time instead of overtime. This is incorrect: bill requires private-sector rules.]

6. Anti-discrimination laws—no additional cost, because these requirements already apply under statutes or rules.

7. Polygraph protection—no effect; polygraphs are not used.

8. Plant closing—no effect; no mass layoffs are anticipated.

9. Veterans rehiring—not scored by CBO; added to the legislation this year.

TOTAL ESTIMATE: $1 million/year for the 2 years, $4–5 million/year thereafter.

SUMMARY OF LAWS AND PROCEDURES

1. APPLICABLE LAWS

a. Laws against employment discrimination:

Title VII of Civil Rights Act of 1964. (Race, religion, national origin)

Age Discrimination in Employment Act of 1967.

Title I of the Americans with Disabilities Act of 1990.

Rehabilitation Act of 1973. (Discrimination against disabled employees)

These laws already apply; the bill would strengthen enforcement.

b. Family and Medical Leave Act of 1993. (Employees may take up to 3 months off per year, for personal or family medical needs, including birth)

Already applies; the bill would strengthen enforcement.

c. Fair Labor Standards Act of 1938. (Minimum wage; overtime; sex discrimination in pay)

Use of volunteers would be allowed under the same standards as apply to state and local governments.

For employees whose work schedule depends on the schedule of house or Senate, special rules will be developed for overtime, comparable to statutory provisions for industries with irregular work schedule.

d. Americans with Disabilities Act of 1990 (access to public services and public accommodations.

Already applies; the bill would allow enforcement.

e. Occupational Safety and Health Act of 1970 (''OSHA'').

f. Federal Service Labor-Management Relations Statute.

Application to personal, committee, or other political offices would be deferred until rules are issued by the new Office and approved by Congress.

g. Employee Polygraph Protection Act. (Prohibits use of polygraphs for employees and job applicants, with exceptions like national security and policy)

h. Worker Adjustment and Retraining Act. (Requires 2 months advance written notice of plant closing or mass layoff, with exceptions like necessity.)

i. Law on veterans' employment and reemployment. (Veterans can get job back after up to 5 years' military service. They also get the right to RAMSPEK into the Executive Branch.)

2. PROCEDURES FOR REMEDY

a. For employee claims (discrimination, family/medical leave standards, fair labor standards, polygraph, plant closing, veterans rehiring) there would be a 5-step procedure:

counseling.

Mediation.

Trial before a hearing officer.

Appeal to the new Office's Board

Appeal to the U.S. Court of Appeals.or

Employees could elect to take case to Federal District Court after the mediation step, instead of the hearing officer.

b. For Americans with Disabilities Act:

A member of the public may submit a charge to the General Counsel of the Office.

Only the General Counsel may call for mediation, or file a complaint.

Appeal to the Board.

Appeal to the U.S. Court of Appeals.

c. For OSHA, the following procedural steps will be available:

The General Counsel will inspect all facilities, using OSHA detailees, and issue citations.

Disputes regarding citations will be referred to a hearing officer.

Appeal to the Board.

Appeal to the Court of Appeals.

The Board may also approve requests for temporary variances.

d. For collective bargaining law, the following procedural steps will be available:

Petitions (e.g., requesting recognition of an exclusive representative) will be considered by the Board, and could be referred by the Board to a hearing officer.

Unfair labor practice charges—would be submitted to the General Counsel, who will investigate and may file a complaint. The complaint would be referred to a hearing officer for decision, subject to appeal to the Board.

Negotiation impasses would be submitted to mediators.

court of Appeals review of Board decisions.

Mr. LEAHY. Mr. President, I am pleased to cosponsor S. 10. This bill could be called the Golden Rule bill because its premise boils down to Congress doing unto ourselves as we do unto others. I would be tempted to say that this is a reform whose time has come, if it were not already so painfully overdue.

When I first arrived in Washington as a newly elected Senator from Vermont, I was struck by the double standard of rights. Congress passed laws that applied to employers in this country—except Congress. It was alien to anything I had ever experienced.

Contrary to advice from older and far more senior Members of the Senate, in 1978 I introduced a bill that would extend coverage of several important civil rights and labor laws to Congress. It was a simple bill, founded on a simple premise: Congress, like everyone else in the country, must be governed by the law.

Congress was not the last plantation, where everyone except the master was subject to the master's rules. The Senate represented the very seat of our democracy—and it was imperative that it act like one.

I introduced the bill, explaining on the Senate floor why Congress must set an example to the public. The reaction of other Senators was not entirely friendly. As I was leaving the Senate floor, a senior Senator stopped to ask where I was rushing off to. I explained that I had a plane to catch back to Vermont. The Senator remarked, ''Good, I hope you stay there.''

My efforts to apply laws to Congress did not get much support in 1978. But I believed in it, and have continued to introduce it in the years since then. Now, almost 17 years after I first introduced congressional coverage legislation, we seem finally ready to act.

We have passed landmark legislation like the Civil Rights Act of 1964, the Fair Labor Standards Act, the Occupational Safety and Health Act and the Rehabilitation Act of 1973, to protect the civil, social, physical, and economic working rights for American workers. What we failed to do each time we passed legislation was make sure that Congress was covered. By exempting itself from important civil rights and labor laws, Congress denied to the men and women who serve us every day the rights and protections afforded to other American workers, simply because of the place of their employment.

The result has come home to roost. The American people question whether Congress understands their problems in part because Congress does not have to live under the same rules as other Americans. This bill is a step toward regaining the confidence of the American people.

Congress cannot be above the laws it passes. It must provide to all its employees the same protections it requires other employers to give. The American people want this body to play by the same rules and observe the same laws that we impose on everyone else.

Unlike the Republican version of the congressional coverage bill, the Democratic alternative (S. 10), which I am glad to cosponsor, contains provisions for lobbying reform, and limits on gifts to Members and congressional staff. The Republican version is called the Congressional Accountability Act, even though it fails to address matters that are necessary for it to amount to true accountability to the American people. In fact, that bill is limited to extending only a few employment laws to Congress but not other critical measures that we were stopped from approving last year by our Republican colleagues. That bill does not address the key issues needed for accountability that we have been trying to act on for some time.

In particular, I refer to lobbying reform, the gift ban and campaign finance reform legislation that was bottled up again last year. We should be moving on these important fronts if we are serious about accountability. The Republican bill merely lends some institutional responsibility to our remaining employees. Accountability should include responsibility to the rest of the American people, as well. That means reforming the way money can affect the legislative process. I am supporting S. 10 because it goes further than the Republican alternative and takes affirmative steps to provide that accountability.

I must observe, however, that this effort is deficient in one key regard for its failure to increase sunshine and public information about Congress. I have previously pressed to have principles of the Freedom of Information Act and Privacy Act apply to Congress. We need to have more open processes if we hope to restore Americans' belief in our representative legislative bodies. While it is true that simply applying FOIA questions, this bill does nothing to begin answering those questions and makes no effort toward increasing sunshine in our institutions of government.

I have no doubt that giving people greater access to information on how decisions are made in Congress would go a long way to reducing the cynicism that the American people have about what we do here. We must work to find ways to increase our openness and accessibility to the public.

By Mr. KYL:

S. 11. A bill to award grants to States to promote the development of alternative dispute resolution systems for medical malpractice claims, to generate knowledge about such systems through expert data gathering and assessment activities, to promote uniformity and to curb excesses in State liability systems through federally-mandated liability reforms, and for other purposes; to the Committee on the Judiciary.

MEDICAL CARE INJURY COMPENSATION ACT

Mr. KYL. Mr. President, I rise as the sponsor of S. 11, the ''Medical Care Injury Compensation Act of 1995.'' As the 104th Congress begins to consider targeted, market based health care reform options, we should remember that medical malpractice costs are an integral component of the high cost of medical care and health insurance. The current medical malpractice system encourages litigation and exorbitant out-of-court settlements. According to a Lewin-VHI study, direct liability costs have been growing at four times the rate of inflation. Defensive medicine is projected to add as much as $76 billion annually to national health care costs by the year 2000. Doctors' fear is reasonable when viewed in light of a study done by the Institute of Medicine which found that 40% of all doctors and 70% of all obstetrician-gynecologists will be sued during their careers.

Mr. President, medical liability costs do not result in the productive use of our national health care dollars. According to a study by the Hudson Institute, of the billions spent annually on medical liability costs, 57 cents out of each dollar goes to lawyers rather than injured patients. This study concluded that medical liability costs added $450 in direct and indirect costs to each hospital admission. Nationally, this represents more than 5% of the average hospital's operating expenses.

In an effort to address this problem through sensible targeted reform, I have introduced S. 11. This legislation caps non-economic damages such as pain and suffering at $250,000; imposes a limit on attorneys' fees of 25% of the first $150,000 recovered and 15% of any amount in excess of $150,000; provides for periodic payments where damages for future economic loss exceed $100,000; provides for mandatory offsets for damages paid by a ''collateral source;'' and reforms ''joint and several'' liability.

S. 11 also directs the Secretary of Health and Human Services to make grants to the states for the implementation and evaluation of alternative dispute resolution (ADR) systems.

Mr. President, I believe S. 11 offers an important legislative mechanism for controlling national health care expenditures. I hope may colleagues will join me in support S. 11.

By Mr. ROTH (for himself, Mr. BREAUX, Mr. PRYOR, and Mr. MURKOWSKI):

S. 12. A bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes; to the Committee on Finance.

THE RESTORATION OF THE IRA ACT OF 1995

Mr. ROTH. Mr. President, today we re-introduce the Super IRA, a savings plan that is well-known as the Bentsen-Roth IRA, and now the Roth-Breaux IRA. The former Chairman of the Finance Committee, and Secretary of the Treasury, Lloyd Bentsen, joined with me to offer his leadership on this almost four years ago—and now I believe we are on the verge of completing our work of seeing this bill adopted.

Today I'm proud to be joined by Senator JOHN BREAUX, in introducing this bill. I believe that this bill is extremely well conceived and promotes the two most important issues facing us today: the family and the failure of our economy.

It is clear, after passing the Bentsen-Roth IRA twice in 1992, that Congress not only understands the need to strengthen family and the economy, but that Congress is willing to work in bipartisan cooperation to pass this legislation. We have done it before; we can do it again.

This Super IRA will do much not only to serve our families and help our nation's savings rate, but it will also restore equity to spouses who want to participate in the program. The lack of savings in this country, as we all know, has reached crisis proportions. Chairman Alan Greenspan, at the Federal Reserve, has said that the single most important long-term economic issue for this country is savings—savings that are essential for jobs, opportunity, and growth. This bill will help bring new savers into the act.

Savings is not only important to our nation's economy, it is also important to create security and self-reliance in our families. This Super IRA will help Americans. It is flexible, allowing withdrawals to be made penalty-free to purchase first homes, to pay for unusually large medical bills, college educations, and to help families during extended periods of unemployment.

One of the primary benefits of this Super IRA is that parents and grandparents are able to draw down their IRAs without penalty to pay their children's college education, or contribute

toward their children's first home. Children and grandchildren can use their IRAs to help their parents and grandparents. This is what real ''opportunity'' is all about—''opportunity'' for the family—''opportunity'' because once again Americans can focus on self-reliance and prepare with greater certainty for their futures.

Let me stress, this Super IRA eliminates the unequal treatment of spouses that now exists under current law. This bill will allow spouses [husbands or wives] who work at home to make equal IRA contributions, up to $2,000, in their own accounts.

This promotes personal responsibility. The individual is enabled to provide for his or her family, and does not have to rely on the limited hand of government for their support.

Mr. President, it's clear to see why this is a bill whose time has come. We have passed it before—in both Houses of Congress—now we must pass it again. It serves the individual. It serves the family. It serves the nation. It is equitable, restoring spousal contributions to where they should be. It is flexible, offering penalty-free withdrawals for life's necessities. It promises the vital capital formation America needs to invest in its future. And it builds upon the very important concept of self-reliance. Mr. President, this bill must be passed, again.

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

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

S. 12

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Savings and Investment Incentive Act of 1995''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—RETIREMENT SAVINGS INCENTIVES

Subtitle A—Restoration of IRA Deduction

SEC. 101. RESTORATION OF IRA DEDUCTION.

(a) PHASE-UP OF INCOME LIMITS.—

(1) IN GENERAL.—Subparagraph (B) of section 219(g)(3) (relating to applicable dollar amount) is amended to read as follows:

''(B) APPLICABLE DOLLAR AMOUNT.—The term 'applicable dollar amount' means the following:

''(i) In the case of a taxpayer filing a joint return:

''For taxable years beginning in:	The applicable dollar amount is:
1995	$65,000
1996	$90,000
1997	$115,000
1998	$140,000.

''(ii) In the case of any other taxpayer (other than a married individual filing a separate return):

''For taxable years beginning in:	The applicable dollar amount is:
1995	$50,000
1996	$75,000
1997	$100,000
1998	$125,000.

''(iii) In the case of a married individual filing a separate return, zero.''.

(2) UNLINKING OF SPOUSAL RULE.—Paragraph (1) of section 219(g) (relating to limitation on deduction for active participants in certain pension plans) is amended by striking ''or the individual's spouse''.

(b) TERMINATION OF INCOME LIMITS.—

(1) IN GENERAL.—Section 219 (relating to deduction for retirement savings), as amended by section 102, is amended by striking subsection (g) and by redesignating subsections (h) and (i) as subsection (g) and (h), respectively.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Subsection (f) of section 219 is amended by striking paragraph (7).

(B) Paragraph (5) of section 408(d) is amended by striking the last sentence.

(C) Section 408(o) is amended by adding at the end the following new paragraph:

''(5) TERMINATION.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 1998.''.

(D) Section 408A(c)(2)(A), as added by section 111, is amended by striking ''(computed without regard to subsections (b)(4) and (g) of such section)'' and inserting ''(computed without regard to section 219(b)(4))''.

(E) Subsection (b) of section 4973 is amended by striking the last sentence.

(c) EFFECTIVE DATES.—

(1) PHASE-UP.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

(2) TERMINATION.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1998.

SEC. 102. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.

(a) IN GENERAL.—Section 219, as amended by section 101(a), is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) COST-OF-LIVING ADJUSTMENTS.—

''(1) DEDUCTION AMOUNT.—

''(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1995, the $2,000 amount under subsection (b)(1)(A) shall be increased by an amount equal to the product of $2,000 and the cost-of-living adjustment for the calendar year.

''(B) ROUNDING TO NEXT LOWEST $500.—If the amount to which $2,000 would be increased under subparagraph (A) is not a multiple of $500, such amount shall be rounded to the next lowest multiple of $500.

''(2) RELATED AMOUNTS.—Each of the dollar amounts contained in subsection (c)(2) shall be increased at the same time, and by the same amount, as the increase under paragraph (1).

''(3) COST-OF-LIVING ADJUSTMENT.—For purposes of this subsection:

''(A) IN GENERAL.—The cost-of-living adjustment for any calendar year is the percentage (if any) by which—

''(i) the CPI for such calendar year, exceeds

''(ii) the CPI for 1994.

''(B) CPI FOR ANY CALENDAR YEAR.—The CPI for any calendar year shall be determined in the same manner as under section 1(f)(4).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) is amended by striking ''in excess of $2,000 on behalf of any individual'' and inserting ''on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)''.

(2) Section 408(b)(2)(B) is amended by striking ''$2,000'' and inserting ''the dollar amount in effect under section 219(b)(1)(A)''.

(3) Section 408(j) is amended by striking ''$2,000''.

SEC. 103. HOMEMAKERS ELIGIBLE FOR FULL IRA DEDUCTION.

(a) SPOUSAL IRA COMPUTED ON BASIS OF COMPENSATION OF BOTH SPOUSES.—Subsection (c) of section 219 (relating to special rules for certain married individuals) is amended to read as follows:

''(c) SPECIAL RULES FOR CERTAIN MARRIED INDIVIDUALS.—

''(1) IN GENERAL.—In the case of an individual to whom this paragraph applies for the taxable year, the limitation of paragraph (1) of subsection (b) shall be equal to the lesser of—

''(A) $2,000, or

''(B) the sum of—

''(i) the compensation includible in such individual's gross income for the taxable year, plus

''(ii) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by the amount allowable as a deduction under subsection (a) to such spouse for such taxable year.

''(2) INDIVIDUALS TO WHOM PARAGRAPH (1) APPLIES.—Paragraph (1) shall apply to any individual if—

''(A) such individual files a joint return for the taxable year, and

''(B) the amount of compensation (if any) includible in such individual's gross income for the taxable year is less than the compensation includible in the gross income of such individual's spouse for the taxable year.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 219(f) (relating to other definitions and special rules) is amended by striking ''subsections (b) and (c)'' and inserting ''subsection (b)''.

(2) Paragraph (2) of section 219(h), as added by section 102, is amended by striking ''Each of the dollar amounts'' and inserting ''The dollar amount''.

(3) Section 408(d)(5) is amended by striking ''$2,250'' and inserting ''$2,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 104. CERTAIN COINS AND BULLION NOT TREATED AS COLLECTIBLES.

(a) IN GENERAL.—Paragraph (3) of section 408(m) (relating to exception for certain coin) is amended to read as follows:

''(3) EXCEPTION FOR CERTAIN COINS AND BULLION.—For purposes of this subsection, the term 'collectible' shall not include—

''(A) any coin certified by a recognized grading service and traded on a nationally recognized electronic network, or listed by a recognized wholesale reporting service, and—

''(i) which is or was at any time legal tender in the country of issuance, or

''(ii) issued under the laws of any State, and

''(B) any gold, silver, platinum, or palladium bullion (whether fabricated in the form of a coin or otherwise) of a fineness equal to or exceeding the minimum fineness required for metals which may be delivered in satisfaction of a regulated futures contract subject to regulation by the Commodity Futures Trading Commission under the Commodity Exchange Act,

if such coin or bullion is in the physical possession of a trustee described under subsection (a) of this section.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 105. COORDINATION OF IRA DEDUCTION LIMIT WITH ELECTIVE DEFERRAL LIMIT.

(a) IN GENERAL.—Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end the following new paragraph:

''(4) COORDINATION WITH ELECTIVE DEFERRAL LIMIT.—The amount determined under paragraph (1) or subsection (c)(1) with respect to any individual for any taxable year shall not exceed the excess (if any) of—

''(A) the maximum amount of elective deferrals of the individual which are excludable from gross income for the taxable year under section 402(g)(1), over

''(B) the amount so excluded.''.

(b) CONFORMING AMENDMENT.—Section 219(c), as amended by section 104, is amended by adding at the end the following new paragraph:

''(3) CROSS REFERENCE.—

''For reduction in paragraph (1) amount, see subsection (b)(4).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

Subtitle B—Nondeductible Tax-Free IRAs

SEC. 111. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

''SEC. 408A. IRA PLUS ACCOUNTS.

''(a) GENERAL RULE.—Except as provided in this section, an IRA Plus account shall be treated for purposes of this title in the same manner as an individual retirement plan.

''(b) IRA PLUS ACCOUNT.—For purposes of this title, the term 'IRA Plus account' means an individual retirement plan which is designated at the time of establishment of the plan as an IRA Plus account.

''(c) TREATMENT OF CONTRIBUTIONS.—

''(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an IRA Plus account.

''(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all IRA Plus accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

''(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year (computed without regard to subsections (b)(4) and (g) of such section), over

''(B) the amount so allowed.

''(3) ROLLOVER CONTRIBUTIONS.—

''(A) IN GENERAL.—No rollover contribution may be made to an IRA Plus account unless it is a qualified transfer.

''(B) COORDINATION WITH LIMIT.—A rollover contribution shall not be taken into account for purposes of paragraph (2).

''(d) TAX TREATMENT OF DISTRIBUTIONS.—

''(1) IN GENERAL.—Except as provided in this subsection, any amount paid or distributed out of an IRA Plus account shall not be included in the gross income of the distributee.

''(2) EXCEPTION FOR EARNINGS ON CONTRIBUTIONS HELD LESS THAN 5 YEARS.—

''(A) IN GENERAL.—Any amount distributed out of an IRA Plus account which consists of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution shall be included in the gross income of the distributee for the taxable year in which the distribution occurs.

''(B) CROSS REFERENCE.—

''For additional tax for early withdrawal, see section 72(t).

''(C) ORDERING RULE.—

''(i) FIRST-IN, FIRST-OUT RULE.—Distributions from an IRA Plus account shall be treated as having been made—

''(I) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

''(II) then from other contributions (and earnings allocable thereto) in the order in which made.

''(ii) ALLOCATIONS BETWEEN CONTRIBUTIONS AND EARNINGS.—Any portion of a distribution allocated to a contribution (and earnings allocable thereto) shall be treated as allocated first to the earnings and then to the contribution.

''(iii) ALLOCATION OF EARNINGS.—Earnings shall be allocated to a contribution in such manner as the Secretary may by regulations prescribe.

''(iv) CONTRIBUTIONS IN SAME YEAR.—Except as provided in regulations, all contributions made during the same taxable year may be treated as 1 contribution for purposes of this subparagraph.

''(3) ROLLOVERS.—

''(A) IN GENERAL.—Paragraph (2) shall not apply to any distribution which is transferred in a qualified transfer to another IRA Plus account.

''(B) CONTRIBUTION PERIOD.—For purposes of paragraph (2), the IRA Plus account to which any contributions are transferred from another IRA Plus account shall be treated as having held such contributions during any period such contributions were held (or are treated as held under this subparagraph) by the account from which transferred.

''(4) SPECIAL RULES RELATING TO CERTAIN TRANSFERS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a qualified transfer to an IRA Plus account from an individual retirement plan which is not an IRS Plus account—

''(i) there shall be included in gross income any amount which, but for the qualified transfer, would be includible in gross income, but

''(ii) section 72(t) shall not apply to such amount.

''(B) TIME FOR INCLUSION.—In the case of any qualified transfer which occurs before January 1, 1997, any amount includible in gross income under subparagraph (A) with respect to such contribution shall be includible ratably over the 4-taxable year period beginning in the taxable year in which the amount was paid or distributed out of the individual retirement plan.

''(e) QUALIFIED TRANSFER.—For purposes of this section, the term 'qualified transfer' means a transfer to an IRA Plus account from another such account or from an individual retirement plan but only if such transfer meets the requirements of section 408(d)(3).''.

(b) EARLY WITHDRAWAL PENALTY.—Section 72(t), as amended by section 201(c), is amended by adding at the end the following new paragraph:

''(8) RULES RELATING TO IRA PLUS ACCOUNTS.—In the case of an IRA Plus account under section 408A—

''(A) this subsection shall only apply to distributions out of such account which consist of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution, and

''(B) paragraph (2)(A)(i) shall not apply to any distribution described in subparagraph (A).''.

(c) EXCESS CONTRIBUTIONS.—Section 4973(b) is amended by adding at the end the following new sentence: ''For purposes of paragraphs (1)(B) and (2)(C), the amount allowable as a deduction under section 219 shall be computed without regard to section 408A.''

(d) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

''Sec. 408A. IRA Plus accounts.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1994.

(2) QUALIFIED TRANSFERS IN 1994.—The amendments made by this section shall apply to any qualified transfer during any taxable year beginning in 1994.

TITLE II—PENALTY-FREE DISTRIBUTIONS

SEC. 201. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES OR TO PAY HIGHER EDUCATION OR FINANCIALLY DEVASTATING MEDICAL EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

''(D) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii)—

''(i) which are qualified first-time homebuyer distributions (as defined in paragraph (6)), or

''(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year.''.

(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—

(1) IN GENERAL.—Section 72(t)(3)(A) is amended by striking ''(B),''.

(2) CERTAIN LINEAL DESCENDANTS AND ANCESTORS TREATED AS DEPENDENTS.—Subparagraph (B) of section 72(t)(2) is amended by striking ''medical care'' and all that follows and inserting ''medical care determined—

''(i) without regard to whether the employee itemizes deductions for such taxable year, and

''(ii) by treating such employee's dependents as including—

''(I) all children and grandchildren of the employee or such employee's spouse, and

''(II) all ancestors of the employee or such employee's spouse.''.

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking ''or (C)'' and inserting '', (C) or (D)''.

(c) DEFINITIONS.—Section 72(t) is amended by adding at the end the following new paragraphs:

''(6) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i):

''(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual, the spouse of such individual, or any child, grandchild, or ancestor of such individual or the individual's spouse.

''(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

''(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph:

''(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if—

''(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

''(II) subsection (a)(6), (h), or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

''(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

''(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

''(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

''(II) on which construction or reconstruction of such a principal residence is commenced.

''(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

''(i) section 408(d)(3)(B) shall not be applied to such contribution, and

''(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

''(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii):

''(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

''(i) the taxpayer,

''(ii) the taxpayer's spouse, or

''(iii) any child (as defined in section 151(c)(3)), grandchild, or ancestor of the taxpayer or the taxpayer's spouse,

at an eligible educational institution (as defined in section 135(c)(3)).

''(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135.''.

(d) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t) is amended by adding at the end the following new subparagraph:

''(E) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—A distribution from an individual retirement plan to an individual after separation from employment, if—

''(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

''(ii) such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year.

To the extent provided in regulations, a self-employed individual shall be treated as meeting the requirements of clause (i) if, under Federal or State law, the individual would have received unemployment compensation but for the fact the individual was self-employed.''.

(e) CONFORMING AMENDMENTS.—

(1) Section 401(k)(2)(B)(i) is amended by striking ''or'' at the end of subclause (III), by striking ''and'' at the end of subclause (IV) and inserting ''or'', and by inserting after subclause (IV) the following new subclause:

''(V) the date on which qualified first-time homebuyer distributions (as defined in section 72(t)(6)) or distributions for qualified higher education expenses (as defined in section 72(t)(7)) are made, and''.

(2) Section 403(b)(11) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', and by inserting after subparagraph (B) the following new subparagraph:

''(C) for qualified first-time homebuyer distributions (as defined in section 72(t)(6)) or for the payment of qualified higher education expenses (as defined in section 72(t)(7)).''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after the date of the enactment of this Act.

TITLE III—AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 301. DISREGARD OF INCOME AND RESOURCES DESIGNATED FOR EDUCATION, TRAINING, AND EMPLOYABILITY.

(a) DISREGARD AS RESOURCE.—Section 402(a)(7)(B) of the Social Security Act (42 U.S.C. 602(a)(7)(B)) is amended—

(1) by striking ''or'' before ''(iv)'', and

(2) by inserting '', or (v) at the option of the State, in the case of a family receiving aid under the State plan (and a family not receiving such aid but which received such aid in at least 1 of the preceding 4 months or became ineligible for such aid during the preceding 12 months because of excessive earnings), any amount not to exceed $8,000 in a qualified asset account (as defined in section 406(i)) of such family'' before ''; and''.

(b) DISREGARD AS INCOME.—

(1) IN GENERAL.—Section 402(a)(8)(A) of such Act (42 U.S.C. 602(a)(8)(A)) is amended—

(A) by striking ''and'' at the end of clause (vii), and

(B) by inserting after clause (viii) the following new clause:

''(ix) shall disregard any interest or income earned on a qualified asset account (as defined in section 406(i)); and''.

(2) NONRECURRING LUMP SUM EXEMPT FROM LUMP SUM RULE.—Section 402(a)(17) of such Act (42 U.S.C. 602(a)(17)) is amended by adding at the end the following: ''; and that this paragraph shall not apply to earned or unearned income received in a month on a nonrecurring basis to the extent that such income is placed in a qualified asset account (as defined in section 406(i)) the total amount in which, after such placement, does not exceed $8,000;''.

(3) TREATMENT AS INCOME.—Section 402(a)(7) of such Act (42 U.S.C. 602(a)(7)) is amended—

(A) by striking ''and'' at the end of subparagraph (B),

(B) by striking the semicolon at the end of subparagraph (C) and inserting ''; and'', and

(C) by adding at the end the following new subparagraph:

''(D) shall treat as income any distributions from a qualified asset account (as defined in section 406(i)(1)) which do not meet the definition of a qualified distribution under section 406(i)(2);''.

(c) QUALIFIED ASSET ACCOUNTS.—Section 406 of such Act (42 U.S.C. 606) is amended by adding at the end the following:

''(i)(1) The term 'qualified asset account' means a mechanism approved by the State (such as individual retirement accounts, escrow accounts, or savings bonds) that allows savings of a family receiving aid to families with dependent children to be used for qualified distributions.

''(2) The term 'qualified distributions' means distributions for expenses directly related to one or more of the following purposes:

''(A) The attendance of a member of the family at any education or training program.

''(B) The improvement of the employability (including self-employment) of a member of the family (such as through the purchase of an automobile).

''(C) The purchase of a home for the family.

''(D) A change of the family residence.''.

(d) STUDY OF USE OF QUALIFIED ASSET ACCOUNTS; REPORT.—The Secretary of Health and Human Services shall conduct a study of the use of qualified asset accounts established pursuant to the amendments made by this section, and shall report on such study and any recommendations for modifications of such amendments to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than January 1, 1998.

(e) REPORT ON AFDC ASSET LIMIT ON AUTOMOBILES.—Within 3 months after the date of the enactment of this section, the Secretary of Health and Human Services shall submit to the Congress a report on—

(1) the need to revise the limitation, established in regulations pursuant to section 402(a)(7)(B)(i) of the Social Security Act, on the value of a family automobile required to be disregarded by a State in determining the eligibility of the family for aid to families with dependent children under the State plan approved under part A of title IV of such Act, and

(2) the extent to which such a revision would increase the employability of recipients of such aid.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1995, with respect to accounts approved on or after such date and before October 1, 1998.

THE CASE FOR INDIVIDUAL RETIREMENT ACCOUNTS:

THE NEED FOR SAVINGS

There is a growing consensus in Congress that demonstrates Members agree Americans must save their money and become self-reliant. The lack of savings in this country has reached crisis proportions—THERE IS A SAVINGS CRISIS! The personal saving rate in America has decreased steadily over the past 25 years, falling from 8 percent in the 1960's and 70's, to less than 4 percent today. According to the Congressional Budget Office, the national saving rate was only 1.7 percent in 1993, down from 3 percent from 1981 to 1993. The Chairman of the Federal Reserve, Alan Greenspan, has said that the single most important long-term economic issue for this country is that of national savings. There is a growing consensus that it is the responsibility of Congress to help Americans save, to empower our families toward self-reliance. And I strongly believe that removing the savings penalties in the tax code is the best way to increase this nation's savings rate and self-reliance.

We all know the statistics: the British and Germans save twice as much, while the Japanese and French save at a rate more than

three times that of Americans, largely—I believe—because of their tax incentives. Consequently, Japan has the highest personal saving rate among advanced nations, and ample funds needed to finance capital investment in the best and most productive equipment. Thus Japanese business and workers have the most advanced tools available in the global marketplace. Meanwhile, the U.S. government levies a heavy tax burden on saving and capital. Though the American economy has many strengths, our tax policy hampers our ability to compete with the advantages offered by Japan. Our punitive antisavings and anti-investment tax code is crippling our competitiveness at a turning point in economic history. We must remember that we cannot tax ourselves into prosperity. By suppressing saving and capital investment now, we are crippling our economy for the challenges of the further.

Increase savings will produce more high paying jobs, increase productivity, stimulate economic growth and help enable us to compete with our competitors abroad.

ENCOURAGING SAVINGS

One of the most important questions is how to encourage Americans to save more. That is why we have crafted this bill to bring new savers into the act. We must recognize that there are other important reasons for Americans to save long-term, besides the pressing economic needs of our country and the need for retirement. For example, our young people today have an almost impossible time scraping together a down-payment for their first home. Our families find it more and more difficult to save for their children college education. And, our older Americans worry about their security as retirement approaches.

Consequently, the best answer to meet our savings needs is to allow Americans to save for what they need most. And that is the approach that we have taken in drafting this legislation. This legislation allows savers the chance to use the IRA to help them pay for a college education, buy their first home, pay for financially devastating health costs or cover family costs during an extraordinary period of unemployment. By allowing Americans the ability to withdrew IRA savings—savings once reserved for retirement only—for these four additional purposes, without a penalty for early withdrawal, we have greatly enhanced the flexibility of the IRA and strongly encouraged Americans to put more savings away. One of the primary benefits of this new withdrawal feature is that parents and grandparents would be allowed to draw down their IRA without penalty to pay their children's college education, or contribute toward their children's first home. Increased savings is essential in order to allow Americans to take greater control of their own economic future.

This is what ''personal responsibility'' is all about. The individual should provide for his or her family, and should not rely on the limited hand of government for their support. This government can not continue the course it is on by creating more and more programs to pay for every need, but it can afford to encourage individuals to provide for themselves.

As 76 million baby boomers move toward middle-age, it is essential that they purchase their own homes, be prepared to pay for their children's college costs, as well provide for their own retirement. A recent study has shown that baby boomers are savings only one-third the amount that they need for retirement. Another study has shown that American families headed by individuals age 45 to 54 have median financial assets of only $2,600. This is a course for declining living standards, as well as economic insecurity. The time to act is now!

INCREASING U.S. COMPETITIVENESS

I mentioned earlier that this new IRA offers a renewed opportunity to increase America's competitiveness in the emerging global economy. It's an opportunity born by the fact that savings equal investment, investment equals jobs, and jobs equal a strong, vibrant economy. It has been estimated that after the first year this legislation is enacted, IRA deposits will increase by as much as $40 billion. This represents long-awaited capital that the U.S. needs for investment, manufacturing, education, infrastructure and other important goals. With a Japanese savings rate of about three times the U.S. rate, and a cost of capital of about one-fourth that of the U.S., it is no wonder that we are lagging behind in the international race to compete in the world.

Added savings of $40 billion and more from increasing annual IRA deposits is likely to be the best solution. And don't forget the benefit to the already weakened financial infrastructure in this country. The estimated additional deposits in U.S. banks in the first year alone from this legislation would be about $16 billion—money needed to provide productive loans and investment in this country for years to come. I believe the IRA will go a long way toward helping our financial institutions provide the loans to business that they must.

Perhaps with the added savings from IRAs we can further our own investment in the U.S. rather than U.S. investments by others. In fact, in recent years, over half of net domestic investment has been financed by capital from abroad. While this foreign saving has contributed to U.S. economic growth over the years, we are beginning to see why continued reliance on these inflows is not a viable policy. Over long periods, for advanced countries, the rate of domestic investment tracks closely the supply of domestic saving. Ultimately, the U.S. must move from a position of current account deficit to surplus and capital outflow, as foreigners receive the returns on their investment in the U.S. If that is to happen without a relative reduction in U.S. living standards, U.S. productive capacity must be increased and so must U.S. savings.

THE MOST IMPORTANT REASON TO SAVE

It's clear to see why this is a bill whose time has come, however ... the most important reason to pass it is to meet the needs of the most basic unit of our society. It's time we get back to the family. Only by allowing American families the opportunity—and even the right—to strengthen themselves can we expect society to be strengthened as a whole. We've tried to work around this elementary truth for years now—some thinking that government programs can replace the basic family unit. Well, we've come full circle—back to the understanding that it was family and community values that built a strong America. The aging of our citizens brings an ever-increasing urgency to the need to encourage national savings. As the baby-boom bulge grows older and reaches retirement, the family cost of long-term care and other health costs as well as leisure activities during retirement will grow dramatically. At the same time the size of the working population will be declining. Our children cannot continue to pay the cost of our retirement—the answer is to begin planning now. Recent statistics show that the average American family is ill-prepared for retirement. A new analysis on the financial wealth of American families finds that half of American families currently have below $1,000 in net financial assets. In fact, the study found that families headed by individuals under the age of 45 have median net financial assets of just $700. Even those on the verge of retirement, aged 55 to 64, have median financial assets of only $6,880. Overall, the median level of net financial assets for all U.S. families amounts to only about $1,000.

A detailed study by two Princeton Economists, and released by Merrill Lynch, shows that members of the Baby Boom generation are saving at just one-third the rate needed to provide them with a secure retirement at age 65. The Baby Boom Index was determined to be 35.9 percent. This index measures the rate at which the oldest Baby Boomers, those born between 1946 and 1956, are accumulating the savings they will need to retire at age 65, and maintain a standard of living consistent with pre-retirement years. This study makes it absolutely clear that unless the 76 million Baby Boomers begin to save and invest at a far higher rate in the next few years, they will face an insecure retirement, that could last as long as the time they spent in the work force. This generation of Baby boomers will begin to retire in just 18 short years! President Clinton, a Baby Boomer himself, should be acutely aware of this problem, and I am pleased that he has adopted our legislation as part of his budget proposal this year.

The fact is, this study understates the severity of the Baby Boom savings shortfall! First, it assumes that all of a household's financial assets will be available to help pay for retirement, but in reality, these funds will be used for other things, like a child's education or a parent's health care. Secondly, Baby Boomers are expected to live longer in retirement than earlier generations and, therefore, will need more savings at the outset.

SUMMARY

So there are really two primary reasons to increase our country's national savings rate. First, it will allow the American Family to provide for themselves through their own resources, and second, it will allow our children and our children's children to become more productive because of badly needed new capital. The national crisis we face because of a decade of low savings rates will only grow worse if we fail to act—particularly as foreign investors begin to withdraw their funds for their own country's needs and as our ever-increasing aging population continues. We must agree that increasing our saving rate will lower interest rates, cut the cost of capital, reduce our reliance on foreign investment and improve our standard of living. Most importantly, now is the time to act, before it is too late.

DESCRIPTION OF PROVISIONS

MAKE DEDUCTIBLE IRAS AVAILABLE TO ALL AMERICANS

Under the bill, all Americans would be eligible for fully deductible IRAs. Current law only allows those taxpayers who are not covered by any other pension arrangement, and those income does not exceed $40,000 ($25,000 singles) to be eligible for a fully deductible IRA. These income limits would be gradually lifted over time.

The $2,000 contribution limit will be indexed for inflation in $500 increments in the year in which the indexed amount exceeds the next $500 increase.

No longer will a spouse be ''deemed'' to have a pension plan because their husband or wife has one. If the individual does not have a pension plan at work, regardless of their income level, they will qualify for an IRA to the extent of their ''earned income.''

The bill would allow all spouses who work at home—husbands or wives—to have an equal stake by having their own IRA on an equivalent basis. Thus, work at home

spouses would be allowed to contribute up to $2,000 to their own IRA, thus increasing the current $250 limit to the same level as other workers.

NEW KIND OF IRA OPTION

Taxpayers will be offered a new choice of IRA. Under this new ''IRA Plus'' Account, contributions will not be deductible, but if the assets remain in the account for at least 5 years, all income will be tax free when it is withdrawn. A 10 percent penalty will apply to early withdrawals, unless they meet one of the four exceptions below.

Taxpayers can contribute up to $2,000 to either a traditional IRA, or the new IRA. They can also allocate any portion of the $2,000 limit to the different accounts (e.g. $1,000 to a traditional IRA and $1,000 to the new IRA).

PENALTY-FREE IRA WITHDRAWALS FOR IMPORTANT PURPOSES

The 10 percent penalty on early withdrawals (those before age 59½ or 5 years for the new IRA) will be waived if the funds are used to buy a first home, to pay educational expenses, to cover catastrophic health care costs or during periods of unemployment after collecting 12 weeks or more of unemployment compensation. Taxpayers will still be liable for the income tax due on the withdrawal, but no penalty will apply.

Parents and grandparents can make penalty-free withdrawals for college or home expenses of a child or grandchild. Children and grandchildren can make penalty-free withdrawals for health costs in excess of 7½ percent of the income of their parents and grandparents. An individual wanting to go back to school after being in the workforce could use the IRA to save for anticipated education or retraining expenses. The withdrawal rules apply across generations and between spouses.

PENALTY-FREE 401(K) AND 403(B) WITHDRAWALS

Similar penalty-free withdrawal rules will apply to 401(k) and 403(b) employer sponsored plans for purposes of buying a first home, education or unemployment costs. Penalty-free withdrawals are already allowed for medical expenses for these plans.

Section 401(k) and 403(b) plans are employer-provided retirement plans allowing employees to make pre-tax contributions out of their paychecks. Currently, once an employee makes a contribution to a 401(k) or 403(b) plan, withdrawals are generally subject to a 10 percent penalty tax like that applied to early withdrawals from IRAs.

CONVERSION OF IRAS INTO IRA PLUS ACCOUNTS

Taxpayers will be allowed to ''convert'' their old IRA savings into IRA Plus Accounts without penalty. They must, however, pay the ordinary income tax due on previously deducted contributions, as well as any earnings transferred. If the conversion is made before 1997, the taxpayer can spread the tax payments out over a 4-year period.

By Ms. MOSELEY-BRAUN:

S. 13. A bill to require a Congressional Budget Office analysis of each bill or joint resolution reported in the Senate or House of Represenatives to determine the impact of any Federal mandates in the bill or joint resolution; to the Committee on the Budget and the committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, that if one committee reports, the other committee has 30 days to report or be discharged.

MANDATES COST DISCLOSURE LEGISLATION

● Ms. MOSELEY-BRAUN. Mr. President, 2 years ago, when I came to the Senate, I started asking Federal agencies for information about the cost of Federal mandates on State and local governments. The costs of Federal mandates was a significant issue when I served in State and local government in Illinois. State and local officials believe their budgets are unduly pressured because the Federal Government has pushed additional requirements on State and local governments, without the funding necessary to cover the additional costs.

To my surprise, most of the Federal establishment appeared to be totally unaware of the impact that Federal mandates have on State and local governments. There was almost a total absence of information on the mandates issues, and much of the government did not even known what a mandate was.

The first bill I introduced in the Senate in 1993 was designed to help ensure that this important issue was addressed. I am reintroducing this legislation today.

My bill was the first piece of legislation introduced in the 103d Congress to address the issue of unfunded mandates. It tried to ensure that Federal officials would be informed of the cost impact, in addition to the benefit, of any mandates they vote to enact. I am also cosponsoring S. 1 because it incorporates this component of my bill, and I will work for its passage.

Mr. President, this legislation does not prohibit the Federal Government for issuing new mandates, nor does it repeal any existing Federal mandates. Instead, it simply requires that the Senate have information on any mandates in proposed legislation before it when the legislation is considered by the full Senate.

The legislation adds a section to committee reports on proposed bills. This new section, which would be prepared by the Congressional Budget Office, would include information on: No. 1, the cost to State and local governments of complying with any Federal mandates in the reported bill, and No. 2, the extent to which Federal funds, either contained in the bill or otherwise, cover the costs of complying with the mandates.

In addition, the legislation requires the Congressional Budget Office to issue an annual report on the cumulative costs of complying with Federal mandates in all enacted bills, together with an analysis of the extent to which Federal funds cover the costs of complying with the mandates.

For purposes of the CBO analysis, a Federal mandate is a provision in a reported or enacted bill that: requires the creation or expansion of a State and/or local service or activity; requires standards different from existing State and/or local law or practice in delivering a service or in conducting an activity; creates additional personnel or other administrative costs for State and/or local governments; or requires contracting procedures different from or in addition to those required under existing State and/or local law or practice.

Senate reports already require a CBO analysis of the proposed reported bill's impact on the Federal budget. In addition, committee reports are required to contain information on the regulatory impact of proposed reported bills on businesses and individuals. This legislation fills in the remaining major gap—the impact of the legislation on State and local governments.

I am well aware, Mr. President, of the budget pressures that have encouraged the Federal Government to add mandates on State and local governments, and I am not suggesting that every mandate is inappropriate. I do believe, however, that the Senate should know what it is doing, that it should know the impact a proposed bill has on State and local governments, so that Senators can cast informed votes.

I think my colleagues will agree that the Senate should have information on the impact Federal mandates have on State and local governments, and that the time to have that information is before the Senate votes on bills on the floor. I urge the Senate to promptly enact this simple but necessary piece of legislation.

Mr. President, I ask unanimous consent that a copy of the bill be included in the RECORD.

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

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

SECTION 1. AMENDMENT TO THE CONGRESSIONAL BUDGET ACT OF 1974.

Section 202 of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following:

''(i) FEDERAL MANDATES.—

''(1) The Director shall analyze each bill or joint resolution reported in the Senate or the House of Representatives to determine—

''(A) the cost to State and local governments of complying with any Federal mandates in the reported bill or joint resolution; and

''(B) the extent to which Federal funds, either in the bill or joint resolution, or otherwise, cover the costs of complying with the mandates.

''(2) The Director shall annually determine the cumulative costs of complying with Federal mandates in all bills or joint resolutions enacted in the preceding year and the extent to which Federal funds cover the costs of complying with such mandates.

''(3) For purposes of this subsection, the term 'Federal mandate' means a provision that—

''(A) requires creation or expansion of a State or local service or activity;

''(B) requires standards different from State or local law or practice in delivering a service or in conducting an activity;

''(C) creates additional personnel or other administrative costs for State and local governments; or

''(D) requires contracting procedures different from or in addition to those required under State or local law or practice.''.

SEC. 2. REPORT REQUIRED FOR SENATE CONSIDERATION.

Paragraph 11 of rule XXVI of the Standing Rules of the Senate is amended—

(1) in subparagraph (c) by striking ''(a) and (b)'' and inserting ''(a), (b), and (c)'';

(2) by redesignating subparagraph (c) as subparagraph (d); and

(3) by inserting after subparagraph (b) the following:

''(c) Each such report shall also contain an evaluation by the Congressional Budget Office of any Federal mandates in the bill or joint resolution as required by section 202(i) of the Congressional Budget Act of 1974.''.●

N O T I C E

Incomplete record of Senate proceedings.

Today's Senate proceedings will be continued in the next issue of the Record.